

## TRUSTS AND ESTATES

LAW 531

Fall 2019

Professor Patricia Hoke  
Monday and Wednesday 5:30 – 6:45 p.m.  
e-mail: [patricia.hoke@siu.edu](mailto:patricia.hoke@siu.edu)

We will be using Wills, Trusts, and Estates, Dukeminier, Sitkoff, Tenth Edition, 2017. I will also be referring to Illinois statutes which you can find in the Illinois Probate Act, published by West, and the Uniform Probate Code and Uniform Trust Code which you can find in Uniform Trust and Estate Statutes, published by Foundation Press. You may also use Westlaw or Lexis.

The goal of this class is to provide you with the opportunity to become familiar with and identify the drafting, administration, and ethical concepts and issues which arise in the practice of wills, trust, and estate law. You are expected to:

1. learn to read statutes governing wills and trusts,
2. research and analyze case law regarding wills and trust,
3. apply the statutes and case law to specific problems,
4. explain both orally and in writing how the statutes and case law apply to specific problems,
5. produce well written, logical, professional documents.

Your initiative and commitment to adequate preparation and active participation in this class will be required in order for you to accomplish this goal. You are responsible for your own work, which must be done independently of other students.

I would suggest that when you are preparing for class that you read the entire case from one of the case reporters in addition to going over the portions selected by the authors. This will not only give you more experience reading complete cases but will also give you a better understanding of the case we are discussing.

You should take your own notes and prepare your own outline. I am aware that outlines from prior classes and other sources are available but I caution you that they may not be well-prepared or appropriate for this course. You will absorb and retain the information from this class better if you do your own work.

You are permitted 6 absences during this course.

Attendance will be taken during each class. You are responsible for insuring that your attendance is recorded. If you did not sign the attendance sheet, you should check with me prior to leaving class to be sure your attendance is recorded. A failure to sign the attendance sheet will be counted as an absence.

Please come to class prepared to participate in class discussions and remain for the entire class period. It is disturbing to the remainder of the class for students to leave the classroom and then come back in during class. If you need to leave the classroom for some reason, please do so quietly and do not reenter the classroom until the class is over.

If you come to class and are not prepared when called on, you will not receive points for attendance for that day.

Your grade will be based on the following factors:

- 10% - Class attendance and participation
- 50% - Written assignments and quizzes
- 40% - Final exam

Written assignments are due at the beginning of class. You may email them to me so long as it reaches my email prior to class. I do not accept late assignments. Quizzes will not be announced in advance, will be conducted during class and will be turned in at that time.

You are not permitted to audio- or video-tape this class without my prior permission. If you have some specific need that requires audio- or video-taping, please discuss this with me in sufficient time to make arrangements for taping.

You should check TWEN prior to each class as I will occasionally add additional material to be referenced or prepared.

As an adjunct professor, I do not have regular office hours. You may reach me by e-mail at: [patricia.hoke@siu.edu](mailto:patricia.hoke@siu.edu). My cell phone number is 618-527-8314 and you may leave a message there also. I will be available after class and at other times by appointment.

The American Bar Association standards for accrediting law schools contain a formula for calculating the amount of work that constitutes one credit hour. According to ABA Standard 310(b)(1), "a 'credit hour' is an amount of work that reasonably approximates: (1) not less than one hour of classroom or direct faculty instruction and two hours of out-of-class student work per week for fifteen weeks, or the equivalent amount of work over a different amount of time." This is a 3-credit hour class, meaning that we will spend two 75-minute blocks of time together each week. The amount of assigned reading and out of class preparation should take you about 3 hours for each class session and 6 hours for the week. All told, applying the ABA standard to

the number of credits offered for this class, you should plan on spending a total of 9 hours per week minimum on course-related work.

**Emergency Procedures.** Southern Illinois University Carbondale is committed to providing a safe and healthy environment for study and work. Because some health and safety circumstances are beyond our control, we ask that you become familiar with the SIUC Emergency Response Plan and Building Emergency Response Team (BERT) program. Emergency response information is available on posters in buildings on campus, available on BERT's website at [www.bert.siu.edu](http://www.bert.siu.edu), Department of Safety's website [www.dps.siu.edu](http://www.dps.siu.edu) (disaster drop down) and in Emergency Response Guideline pamphlet. Know how to respond to each type of emergency.

Instructors will provide guidance and direction to students in the classroom in the event of an emergency affecting your location. **It is important that you follow these instructions and stay with your instructor during an evacuation or sheltering emergency.** The Building Emergency Response Team will provide assistance to your instructor in evacuating the building or sheltering within the facility.

**Disability Policy.** Disability Support Services provides the required academic and programmatic support services to students with permanent and temporary disabilities. DSS provides centralized coordination and referral services. To utilize DSS services, students must go to the DSS to open cases. The process involves interviews, reviews of student-supplied documentation, and completion of Disability Accommodation Agreements. <http://disabilityservices.siu.edu/>. Upon completion of a Disability Accommodation Agreement with DSS, students should bring the agreement to the School of Law's Registrar's Office to ensure the School of Law provides the proper classroom and examination accommodations.

**Saluki Cares.** The purpose of Saluki Cares is to develop, facilitate and coordinate a university-wide program of care and support for students in any type of distress – physical, emotional, financial, or personal. By working closely with faculty, staff, students and their families, SIU will continue to display a culture of care and demonstrate to our students and their families that they are an important part of the community at the School of Law, Assistant Dean Judi Ray is also available to help students access university resources. Her email is [judiray@siu.edu](mailto:judiray@siu.edu), and her phone number is 618-453-3135.



August 19 – CLASS 1

Chapter 1, Pages 1 through 65

August 21 – CLASS 2

Chapter 2, Pages 63 through 107

755 ILCS 5/2-1

750 ILCS 5/201

755 ILCS 5/3-1

755 ILCS 5/2-4

*Janus v. Tarasewicz*, 482 N.E.2 418 (Ill. App. 1985)

*DeHart v. DeHart*, 986 N.E.2d 85 (Ill. 2013)

August 26 – CLASS 3

Chapter 2, Pages 107 through 140

755 ILCS 5/2-3

755 ILCS 5/2-2

755 ILCS 5/2-5

755 ILCS 5/2-6

755 ILCS 5/2-6.5

*Woodward v. Commissioner of Social Security*, 760 N.E.2d 257 (Mass. 2002)

*In re Estate of Mahoney*, 220 A.2d 475 (Vt. 1966)

*Drye v. United States*, 528 U.S. 49 (1999) (not in book)

Heirship Assignment Posted – due September 9

August 28 – CLASS 4

Chapter 3, Pages 141 through 197

*In re Groffman*, 1 W.L.R. 733 (PC 1969)

*Stevens v. Casdorph*, 508 S.E.2d 618 (W. Va. 1998)

*In re Pavlinko's Estate*, 148 A.2d 528 (Pa. 1959)

*In re Snide*, 418 N.E.2d 656 (N.Y. 1981)

*In re Estate of Hall*, 51 P.3d 1134 (Mont. 2002)

*In re Probate of Will and Codicil of Macool*, N.J. App. Div., 3 A.3d 1258 (2010)

*In re Estate of Javier Castro*, No. 2013ES00140 (Ohio C.P. June 19, 2013)

Uniform Electronic Wills Act (TWEN)

#### September 4 – CLASS 5

Chapter 3, Pages 197 through 216

*In re Kimmel's Estate*, 123 A. 405 (Pa. 1924)

*In re Estate of Gonzalez*, 855 A.2d 1146 (Me. 2004)

*In re Estate of Kuralt*, 15 P.3d 931 (Mont. 2000)

#### September 9 – CLASS 6

Chapter 3, Pages 217 through 240

*Thompson v. Royall*, 175 S.E. 748 (Va. 1934)

*Harrison v. Bird*, 621 So.2d 972 (Ala. 1993)

*In re Estate of Stoker*, 122 Cal. Rptr. 3d 529 (App. 2011)

*LaCroix v. Senecal*, 99 A.2d 115 (Conn. 1953)

Heirship Assignment due

September 11 – CLASS 7

Chapter 3, Pages 240 through 263

*In re Estate of Rigsby*, 843 P.2d 856 (Okla. App. 1992)

*Clark v. Greenhalge*, 582 N.E.2d 959 (Mass. 1991)

*Keith v. Lulofs*, 724 S.E.2d 695 (Va. 2012)

September 16 – CLASS 8

Chapter 4, Pages 263 through 324

*In re Wright's Estate*, 60 P.2d 434 (Cal. 1936)

*Wilson v. Lane*, 614 S.E.2d 88 (Ga. 2005)

*In re Strittmater's Estate*, 53 A.2d 205 (N.J. Ct. Errors & Appeals (1947)

*Breeden v. Stone*, 992 P.2d 1167 (Colo. 2000)

*In re Estate of Sharis*, 990 N.E.2d 98 (Mass. App. 2013)

*In re Will of Moses*, 227 So.2d 829 (Miss. 1969)

*Lipper v. Weslow*, 369 S.W.2d 698 (Tex. App. 1963)

*Latham v. Father Divine*, 85 N.E.2d 168 (N.Y. 1949)

*Schilling v. Herrera*, 952 So.2d 1231 (Fla. App. 2007)

755 ILCS 5/4a-10

755 ILCS 5/4a-15

Post Writing Assignment 1.

September 18 – CLASS 9

Chapter 5, Pages 325 through 351

*Mahoney v. Grainger*, 186 N.E. 86 (Mass. 1933)

*In re Estate of Cole*, 621 N.W.2d 816 (Minn. App. 2001)

*Arnheiter v. Arnheiter*, 125 A.2d 914 (N. J. Super. Ch. Div. 1956)

*In re Estate of Gibbs*, 111 N.W.2d 413 (Wis. 1961)

*In re Estate of Duke*, 352 P.3d 863 (Cal. 2015)

September 23 – CLASS 10

Chapter 5, Pages 351 through 384

*In re Estate of Russell*, 444 P.2d 353 (Cal. 1968)

*Ruotolo v. Tietjen*, 890 A.2d 166 (Conn. App. 2006)

*Dawson v. Yucas*, 239 N.E.2d 305 (Ill. App. 1968)

*In re Estate of Anton*, 731 N.W.2d 19 (Iowa 2007)

755 ILCS 5/4-11

September 25 – CLASS 11

Chapter 6, Pages 385 through 439

*Jimenez v. Lee*, 547 P.2d 126 (Or. 1976)

*Hebrew University Ass'n v. Nye*, 169 A.2d 641 (Conn. 1961)

*Hebrew University Ass'n v. Nye*, 223 A.2d 397 (Conn. 1966)

*Unthank v. Rippstein*, 386 S.W.2d 134 (Tex. 1964)

*Clark v. Campbell*, 133 A. 166 (N.H. 1926)

*In re Searight's Estate*, 95 N.E.2d 779 (Ohio App. 1950)

*In re Estate of Fournier*, 902 A.2d 852 (Me. 2006)

*Olliffe v. Wells*, 130 Mass. 221 (1881)

755 ILCS 5/15.2

#### September 30 – CLASS 12

Chapter 7, Pages 439 through 471

*Fulp v. Gilliland*, 998 N.E. 2d 204 (Ind. 2013)

*Patterson v. Patterson*, 266 P.3d 828 (Utah 2011)

*Clymer v. Mayo*, 473 N.E.2d 1084 (Mass. 1985)

755 ILCS 5/25-1

Writing Assignment 1 due.

#### October 2 – CLASS 13

Chapter 7, Pages 471 through 498

*Cook v. Equitable Life Assurance Society*, 428 N.E.2d 110 (Ind. App. 1981)

*Nunnenman v. Estate of Grubbs*, 374 S.W.3d 75 (Ark. App. 2010)

*Egelhoff v. Egelhoff*, 532 U.S. 141 (2001)

*Varela v. Bernachea*, 917 So.2d 295 (Fla. App. 2005)

755 ILCS 5/503(b-5)

755 ILCS 5/4-7(b)

205 ILCS 625/1 to 625/5

755 ILCS 27/1



October 7 – CLASS 14

Chapter 8, Pages 519 through 553 and Pages 560 through 564

*Sullivan v. Burkin*, 460 N.E.2d 574 (Mass. 1984)

*In re Estate of Myers*, 825 N.W. 2d 1 (Iowa 2012)

*Reece v. Elliott*, 208 S.W.3d 419 (Tenn. App. 2006)

755 ILCS 5/2-8

755 ILCS 5/12-901

755 ILCS 5/15-1

755 ILCS 5/15-2

October 9 – CLASS 15

Chapter 8, Pages 564 through 585

*Lambeff v. Farmers Co-operative Executors*, 56 SASR 323 (S. Austl. 1991)

*In re Estate of Prestie*, 138 P.3d 520 (Nev. 2006)

*Gray v. Gray*, 947 So.2d 1045 (Ala. 2006)

*In re Estate of Jackson*, 194 P.3d 1269 (Okla. 2008)

755 ILCS 5/4-10

Post Writing Assignment 2

October 14 – CLASS 16

Chapter 9, Pages 587 through 611

*Hartman v. Hartle*, 122 A. 615 (N.J. Ct. Ch. 1923)

*In re Gleeson's Will*, 124 N.E.2d 624 (Ill. App. 1955)

*In re Rothko*, 372 N.E.2d 291 (N.Y. 1977)

October 16 – CLASS 17

Chapter 9, Pages 611 through 654

*Marsman v. Nasca*, 573 N.E.2d 1025 (Mass. App. 1991)

*In re Estate of Janes*, 681 N.E.2d 332 (N.Y. 1997)

*Woods v. U.S. Bank, N.A.*, 828 N.E.2d 1072 (Ohio App. 2005)

760 ILCS 5/16.3

October 21 – CLASS 18

Chapter 9, Pages 654 through 674

*In re Heller*, 849 N.E.2d 262 (N.Y. 2006)

760 ILCS 5/16.3

760 ILCS 5/5.3

October 23 – CLASS 19

Chapter 9, Pages 675 through 693

*Wilson v. Wilson*, 690 S.E.2d 710 (N.C. 2010)

*Allard v. Pacific National Bank*, 663 P.2d 104 (Wash. 1983)

*National Academy of Sciences v. Cambridge Trust Co.*, 346 N.E. 2d 879 (Mass. 1976)

October 28 – CLASS 20

Chapter 10, Pages 695 through 727

*Scheffel v. Krueger*, 782 A.2d 410 (N.H. 2001)

*Federal Trade Commission v. Affordable Media, LLC*, 179 F.3d 1228 (9<sup>th</sup> Cir. 1999)

Writing Assignment 2 due

October 30 – CLASS 21

Chapter 10, Pages 727 through 757

*Claflin v. Claflin*, 20 N.E. 454 (Mass. 1889)

*In re Estate of Brown*, 528 A.2d 752 (Vt. 1987)

*In re Riddell*, 157 P.3d 888 (Wash. App. 2007)

*Harrell v. Badger*, 171 So.3d 764 (Fla. App. 2015)

*Davis v. U.S. Bank National Association*, 243 S.W.3d 425 (Mo. App. 2007)

760 ILCS 5/16.4

760 ILCS 5/16.1

Handout: Sample Trustee Removal Provisions

November 4 – CLASS 22

Chapter 11, Pages 759 through 806

*Shenandoah Valley National Bank v. Taylor*, 63 S.E.2d 786 (Va. 1951)

*In re Neher's Will*, 18 N.E.2d 625 (N.Y. 1939)

*Smithers v. St. Luke's-Roosevelt Hospital Center*, 723 N.Y.S.2d 426 (App. Div. 2001)

November 6 – CLASS 23

Chapter 12, Pages 807 through 844

*Irwin Union Bank & Trust Co. v. Long*, 312 N.E.2d 908 (Ind. App. 1974)

*Beals v. State Street Bank & Trust Co.*, 326 N.E.2d 896 (Mass. 1975)

*Timmons v. Ingraham*, 36 So.2d 861 (Fla. App. 2010)

*Brown v. Miller*, 2 So. 3d 321 (Fla. App. 2008)

November 13 – CLASS 24

Chapter 13, Pages 845 through 869

*Tait v. Community First Trust Co.*, 425 S.W.3d 684 (Ark. 2012)

November 18 – CLASS 25

Chapter 13, Pages 869 through 885

*Dewire v. Haveles*, 534 N.E.2d 782 (Mass. 1989)

*Estate of Woodworth*, 22 Cal. Rptr. 2d 676 (App. 1993)

November 20 – Class 26

Chapter 14, Pages 887 through 928

765 ILCS 305/4(c)

December 9 – FINAL EXAM – 1:15 p.m.



# Syllabus Attachment

Fall 2019

MISSION STATEMENT FOR SOUTHERN ILLINOIS UNIVERSITY CARBONDALE

SIU embraces a unique tradition of access and opportunity, inclusive excellence, innovation in research and creativity, and outstanding teaching focused on nurturing student success. As a nationally ranked public research university and regional economic catalyst, we create and exchange knowledge to shape future leaders, improve our communities, and transform lives.

## IMPORTANT DATES \*

Semester Classes Begin:	08/19/2019
Last day to add full-term course (without Dean's signature):	08/25/2019
Last day to withdraw from the University with a full refund:	08/30/2019
Last day to drop a full-term course for a credit/refund:	09/01/2019
Last day to drop a full-term course (W grade, no refund):	10/27/2019
Final examinations:	12/9—12/13/2019

Note: Please verify the above dates with the Registrar calendar and find more detailed information on deadlines at <https://registrar.siu.edu/calendars>. For add/drop dates that apply to shorter-than-full-term courses, please look at the Schedule of Classes search results at <https://registrar.siu.edu/schedclass/index.php>

## FALL SEMESTER HOLIDAYS

Labor Day Holiday 09/02/2019  
Veterans Day Holiday 11/11/2019  
Thanksgiving Break 11/23—12/1/2019

## DIVERSITY

Southern Illinois University Carbondale's goal is to provide a welcoming campus where all of our students, faculty and staff can study and work in a respectful, positive environment free from racism and intimidation. For more information visit: <https://diversity.siu.edu/#>

## DISABILITY SUPPORT SERVICES

SIU Carbondale is committed to providing an inclusive and accessible experience for all students with disabilities. Disability Support Services coordinates the implementation of accommodations. If you think you may be eligible for accommodations but have not yet obtained approval please contact DSS immediately at 618-453-5738 or <https://disabilityservices.siu.edu>. You may request accommodations at any time, but timely requests help to insure accommodations are in place when needed. Accommodations and services are determined through an interactive process with students and may involve consideration of specific course design and learning objectives in consultation with faculty.

## MILITARY COMMUNITY

There are complexities of being a member of the military community and also a student, and military and veteran related developments can complicate academic life. If you are a member of the military community and in need of accommodations please visit Veterans Services at <https://veterans.siu.edu/>

## STUDENT MULTICULTURAL RESOURCE CENTER

The Student Multicultural Resource Center serves as a catalyst for inclusion, diversity and innovation. As the Center continues its work, we are here to ensure that you think, grow and succeed. We encourage you to stop by the Center, located in the Student Services Building Room 140, to see the resources available and discover ways you can get involved on the campus. Visit us at <https://smrc.siu.edu/>

## SALUKI CARES

The purpose of Saluki Cares is to develop, facilitate and coordinate a university-wide program of care and support for students in any type of distress—physical, emotional, financial, or personal. By working closely with faculty, staff, students and their families, SIU will continue to display a culture of care and demonstrate to our students and their families that they are an important part of the community. For Information on Saluki Cares: call(618) 453-2461, email [siucares@siu.edu](mailto:siucares@siu.edu), or <https://salukicare.siu.edu/>

## SAFETY AWARENESS FACTS AND EDUCATION

Title IX makes it clear that violence and harassment based on sex and gender is a Civil Rights offense subject to the same kinds of accountability and the same kinds of support applied to offenses against other protected categories such as race, national origin, etc. If you or someone you know has been harassed or assaulted, you can find the appropriate resources here:

<https://safe.siu.edu>

MORRIS LIBRARY HOURS: <https://libguides.lib.siu.edu/hours>

ADVISEMENT: <https://advisement.siu.edu/>

SIU ONLINE: <https://online.siu.edu/>

## WITHDRAWAL POLICY ~ Undergraduate only

Students who officially register for a session must officially withdraw from that registration in a timely manner to avoid being charged as well as receiving a failing grade for those classes. An official withdrawal must be initiated by the student, or on behalf of the student through the academic unit, and be processed by the Registrar's office. For the proper procedures to follow when dropping courses and when withdrawing from SIU visit:

<https://registrar.siu.edu/students/withdrawal.php>

## INCOMPLETE POLICY~ Undergraduate only

An INC grade may be assigned when, for reasons beyond their control, students engaged in passing work are unable to complete all class assignments for the course. An INC must be changed to a completed grade within one full semester (undergraduates), and one full year (graduate students), from the close of the term in which the course was taken or graduation, whichever occurs first. Should the student fail to complete the remaining course requirements within the time period designated, the incomplete will be converted to a grade of F and such grade will be computed in the student's grade point average. For more information visit:

<https://registrar.siu.edu/grades/incomplete.php>

## REPEAT POLICY

An undergraduate student may, for the purpose of raising a grade, enroll in a course for credit more than once. For students receiving a letter grade of A, B, C, D, or F, the course repetition must occur at Southern Illinois University Carbondale. Effective for courses taken Summer 2013 or later, only the most recent (last) grade will be calculated in the overall GPA and count toward hours earned.

This policy will be applied to all transferrable credit in that only the last grade will be used to calculate grade point average. Only those courses taken at the same institution are considered repeats under this policy. See full policy at

<https://registrar.siu.edu/students/repeatclasses.php>

## SIU's EARLY WARNING INTERVENTION PROGRAM (EWIP)

Students enrolled in courses participating in SIU's Early Warning Intervention Program might be contacted by University staff during a semester. More information can be found at the Core Curriculum's Overview webpage:

<https://corecurriculum.siu.edu/program-overview/>

## EMERGENCY PROCEDURES

We ask that you become familiar with **Emergency Preparedness @ SIU**. Emergency response information is available on posters in buildings on campus, on the Emergency Preparedness @ SIU website, and through text and email alerts. To register for alerts visit: <https://emergency.siu.edu/>

## CENTER FOR LEARNING AND SUPPORT SERVICES

Help is within reach. Learning support services offers free tutoring on campus and math labs. To find more information please visit the Center for Learning and Support Services website:

Tutoring: <https://clss.siu.edu/tutoring/>

Math Labs <https://math.siu.edu/courses/course-help.php>

## WRITING CENTER

The Writing Center offers free tutoring services to all SIU students and faculty. To find a Center or Schedule an appointment please visit:

<https://write.siu.edu/>

## GRADUATE POLICIES

Graduate policies often vary from Undergraduate policies. To view the applicable policies for graduate students, please refer to the graduate catalog at

<https://gradschool.siu.edu/about-us/grad-catalog/>

Need help with an issue? Please visit SALUKI SOLUTION FINDER at

<https://solutionfinder.siu.edu/>

## PLAGIARISM

See the Student Conduct Code <https://srr.siu.edu/student-conduct-code/>