

# ***Trusts & Estates Syllabus***

*(subject to change)*

**Spring 2018**

**Wednesday 5:00 p.m–7:30 p.m.**

**Room 102**

**Law 531-3 § 001 & 002**

Prof. Drennan

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Room 220

Office Hours: Wed 11:30 – 2 pm

**Required Materials:** Andersen & Bloom, Fundamentals of Trusts and Estates (5<sup>th</sup> ed. 2017) (published by Carolina Academic Press,LLC).

**Writing Assignments:** We likely will have two writing assignments during the semester. One writing assignment will be drafting all or part of a Last Will and Testament. The other writing assignment will be a bar exam type exercise. Satisfactory completion of the writing assignments is required to be eligible to take the exam and complete the course.

**Attendance Policy:** Attendance will be taken at the beginning of class by passing around a roll sheet for you to sign. Under the Rules of the School of Law, a student may not accumulate absences in a course numbering in excess of three times the credit hours for the course during the semester. Thus, because we meet once a week, the maximum number of absences in this course is three (3) classes. The Rules provide for three options if a student accumulates absences in excess of the allowable number. The professor may recommend that: (a) the student be given the lowest possible grade; (b) the student be given a “W”; or (c) the student be allowed to continue in the course with a grade reduction.

**Final Exam & Grading:** There will be one exam at the end of the semester. Your grade for the course will be based on the final exam. The final exam is scheduled for Tuesday, May 7, 2019 at 1:15 p.m.

**Course Description:** The course deals with problems arising in the administration of estates, including who inherits property when a decedent leaves no will; the formal requisites of wills; will substitutes; the nature, creation and termination of trusts; charitable trusts, and fiduciary administration.

**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 an 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.

**Recording of Classes:** Students and the professor may record classes from their regular location in the classroom, unless the professor announces in class that this policy has changed. Recordings of the class may not be shared with persons who are not enrolled in this class without the professor's prior consent. The professor may share recordings with members of the Law School's IT department or as otherwise necessary.

**Disability Policy:** The School of Law no longer makes determinations about appropriate accommodations for disabilities. Those decision are now made by the University Disability Support Services ("DSS") Office. In regards to these procedures: 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 come 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 Registrar's Office to ensure the School of Law provides the proper classroom and examination accommodations.

**Plagiarism:** Plagiarizing another's work, in whole or in part, is a violation of the Honor Code and can lead to serious penalties, including expulsion. An Honor Code investigation must also be reported to the Bar Examiners, even if you are cleared of any violation. The Honor Code defines plagiarism as: passing off another's ideas, words, or work as one's own, including written, oral, multimedia, or other work, either word for word or in substance, unless the student author credits the original author and identifies the original author's work with quotation marks, footnotes, or other appropriate designation in such a way as to make clear the true author of the work.

**Workload Expectation:** 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 one 150-minute block of time together each week on Wednesday. ABA Interpretation 310-1 states that 50 minutes suffices



for an hour of classroom instruction, but an “hour” for out-of-class work is 60 minutes. The amount of assigned reading and out of class preparation should take you about 6 hours for each class session. 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 (3 in class and 6 preparing for class) on course-related work.

**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: (618) 453-5714 or [siucares@siu.edu](mailto:siucares@siu.edu), <http://salukicare.siu.edu/index.html>. 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.

**Student Learning Outcomes:** At the end of this course, students will be able to:

- Explain who inherits property if an individual dies with property in his or her name alone.
- Describe when an estate must “go through probate” and know essential questions that an attorney needs to ask in order to create a probate estate.
- Explain the potential disadvantages for a family if a probate estate must be established to pass property to other family members, friends, or charities.
- Advise a client on the various methods that can be used to avoid probate, including but not limited to the use of a revocable trust.
- Draft substantive sections of a Last Will and Testament.
- Analyze an existing Last Will and Testament and determine whether it is valid.
- Explain the potential disadvantages of using a guardianship for the management of someone’s property if they become mentally incapacitated and the potential advantages of a financial durable power of attorney.
- Analyze problems that can occur when the facts change between the time a client prepares estate planning documents and the client’s death, including problems addressed by the anti-lapse statute, and the doctrine of ademption.
- Explain the potential advantages of having a durable health care power of attorney, living will, or advance directive.
- Advise a client regarding the essential elements of a trust, how to make a trust effective, and the methods for interpreting, amending, or revoking a trust.
- Analyze a trust and determine whether it is revocable or irrevocable and whether it is valid and enforceable.