WILLS, TRUSTS, and ESTATES
SYLLABUS

Professor Akilah N. Folami  Fall 2022

REQUIRED TEXTS

Casebook: Dukeminier, Johanson, Lindgren & Sitkoff, WILLS, TRUSTS, & ESTATES (11th Ed.) (“CB”).

AVAILABILITY/CONTACT INFORMATION

Via Zoom online livestream platform (by scheduled appointment).
Via email (Akilah.Folami@Hofstra.edu): Emails answered generally on Tuesdays and Fridays.

COURSE OVERVIEW

(a) Learning Objectives:

The purpose of this class is to provide you with a solid overview of the law regarding wills, trusts, and estates (intestacy). Through case analysis, and statutory interpretation, you will become familiar with many of the core concepts of estate planning and estate administration.

(b) Learning Outcomes:

Upon completion of this course, each student should have acquired:

(1) a demonstrated and advanced knowledge of the rules and policies contained in this particular area of law related to wills, trusts, and estates (intestacy);

(2) a demonstrated and advanced knowledge of the roles and differing characteristics of sources of law, such as the common law, uniform law, and legislation; and of the roles of at least some of the perspective analysis of law, such as historical and jurisprudential analytical perspectives;

(3) a demonstrated and advanced knowledge of extracting rules and policy from cases and statutes, and of analyzing, interpreting and arguing differing interpretations of rules and statutes.
(4) a demonstrated and advanced knowledge of conducting investigation of facts and constructing a coherent narrative based on that investigation;

(5) a demonstrated and advanced knowledge of identifying legal issues in facts and applying rules and policy to facts; of weighing evidence to reach factual inferences; of constructing arguments and identifying flaws in an argument; of presenting analysis orally and arguing orally; and of using policy to analyze and persuade.

GRADING POLICY

Your grade will be based upon the score that you earn on your final exam. Subject to my discretion however, grades may be adjusted up to account for consistent and exceptional class participation, or down to account for repeated absences, lateness, or failures to be properly prepared.

(c) Workload:

The Law School has adopted a “Credit Hour Policy.” A “credit hour” is an amount of work that reasonably approximates not less than one hour of classroom or direct faculty instruction (calculated as 50 minutes of classroom time) and two hours (120 minutes) of out-of-class student work per week for fifteen weeks (including one week for final exams), or the equivalent amount of work over a different amount of time. These requirements apply equally to all courses taught in the Law School, including distance education courses.

(d) Grade:

The final examination is closed-book and may consist of a combination of multiple-choice/true-false questions, short or long essay questions. It will be graded anonymously.

If applicable, each multiple-choice question will be worth a set value (yet to be determined), as will the long and/or short essay questions (yet to be determined).

CLASS PARTICIPATION AND ATTENDANCE

(e) Location:

Wednesdays and Fridays, 8:10-10:00 a.m. For the most part, all classes will meet in person and for a few students with prior permission, on-line. To the extent, I schedule a class or classes on-line, I will provide a week to two weeks’ notice in advance*. Recordings of such class will be made immediately available. The release of any other class recordings must be requested and is subject to my approval. For all classes, there will be one or more built in 5 to 10 minute breaks within the class session.
*The course’s TWEN site will contain a forum where all announcements regarding the class will be contained. Please check this location daily, often more than once, as any changes or adjustments to the class session, reading assignment, etc., will be there.

For those students with prior approval to attend on-line:

Among other things, it is critical that each student have access to a PC or Mac with (1) speakers, (2) a microphone, (3) a webcam, and (4) a stable, solid Internet connection for each of the class meeting times. A complete list of technical requirements can be found here: [https://support.zoom.us/hc/en-us/articles/201362023-System-Requirements-for-PC-Mac-and-Linux](https://support.zoom.us/hc/en-us/articles/201362023-System-Requirements-for-PC-Mac-and-Linux). While a cellphone may be used, continued use may prove difficult for class participation and engagement.

NOTE: Students unable to fully participate in the Zoom* class sessions, via both video and audio feed, on a regular and consistent basis may not be permitted to remain in the course.

*Please adhere to the following rules for our Zoom Video Classes:

- Arrive to the live session at least 10 minutes early to make sure you can log in and that your equipment is working properly.
- When initiating your Zoom session, please provide Zoom with your full first and last name.
- Mute your microphone when you are not speaking and upon entering the Zoom class session.
- To prevent audio echo, please mute your speakers and use earbuds or a headset if possible.
- Avoid using the chat feature – please ask your questions orally. You may also email your questions to me outside of class or set up a conference to meet with me directly, virtually.
- Use the chat feature ONLY to type in your first and last name in the first 15 minutes of class for attendance recording purposes. Do not use the chat feature to engage in communications with me or other classmates as it may be distracting.

For help with Zoom, please contact the Law School’s helpdesk via lawhelp@hofstra.edu or phone (516-463-4192).

For those students attending class in-person:

Class will be held in a classroom assigned by the administration. We will be adhering to all requirements regarding face masks and distancing, as required by the administration.
and in accordance with my own in-class protocol, which will attempt to take into consideration our class culture and community.

(f) **Attendance:**

The rules of the New York State Court of Appeals and the American Bar Association require law students to be in good and regular attendance in the courses for which they are registered. To comply with these rules, you must attend at least 85% of the regularly-scheduled classes in this course. Thus, you may not have more than **four (4)** absences of this class. More than that can result in a mandatory grade reduction or dismissal of this class.

**For those students with prior approval to attend on-line:**

In addition to me noting attendance at the beginning of class of those logged in and visibly present, it is more dispositive that you sign your first and last name in the Chat Section of the Zoom class in the first 15 minutes class.

Signing in **after** that will count as an absence (see Tardiness section below).

**For those students attending class in-person:**

I will provide sign-in sheets for each regularly-scheduled class, which shall be the dispositive evidence regarding your absence from a given class. Each student is responsible for signing in. Falsification of sign-in sheets is a violation of the Code of Academic Conduct.

**NOTE:** Make-Up Classes, Extra Review Classes, or Conference Calls will be held via Zoom Conference or via Podcast lecture but will not be mandatory in terms of attendance. Recordings of such Make-Up or Review Classes scheduled by me will be released immediately.

If you exceed the permitted absences, you may be administratively withdrawn from the course. No prior notice may be given, and you will receive notification from the appropriate administrative office indicating the withdrawal. Any such withdrawal may have serious ramifications for your financial aid, academic standing, and date of graduation. If you are excessively absent from several classes, you may face additional sanctions, including, but not limited to, denial of certification of good and regular attendance to the New York State Board of Law Examiners, or other state bar examiners.

If you believe you must be absent from class for more than the permitted number of classes, you should contact the appropriate administrative office as soon as possible.

**NOTE:** You are responsible for keeping track of your own absences and for notifying the appropriate administrative office (i.e., Office of Student Affairs), as
soon as possible, if you believe you must be absent from class for more than the permitted number of classes.

Accommodation may be made for students who must be absent for religious reasons and in cases of truly compelling hardship. Any request for an exception to this attendance requirements must be accompanied with appropriate documentation and provided to the appropriate administrative office.

(g) **Tardiness:**

For those students with permission to attend on-line, you must sign your first and last name in the Chat Section of the Zoom class within 15 minutes of the beginning of our class session. Similarly, for those students attending class in-person, you must sign the sign in sheet within 15 minutes of the beginning of our class session.

If you are not present (as reflected by signing in) at that time, you will be marked absent. If you are late, you may send an email so noting and requesting your absence be changed to a tardy, which shall be granted by me only and at my discretion, pursuant to the reason given. For purposes of this policy, more than two (2) tardies may be counted as an absence and might affect your final grade as it relates to class participation.

(h) **Participation:**

Each of you should be prepared to participate* in every class discussion. By random selection, I will call on students to answer some questions and ask for volunteers for others. In the event of an emergency or if you are not prepared for class on a given day, please email me at least one (1) hour prior to class that you do not wish to participate** on that day.

*Being prepared for class shall include not only reading the designated reading assignment but also completing any handouts/exercises OR hypotheticals that may be distributed, announced, or discussed during the class time or otherwise.

**Even if you volunteer in and end up participating in class discussion on a day that you have requested to not be called on, it will still count as one of your requested passes. More than two (2) requested passes might affect your final grade as it relates to class participation.

If I do not receive such email, I will presume that you are prepared for class discussion and receptive to being called on. Again, it is at my discretion to determine to what extent, the repeated submission of such emails may have on your final grade.

If you have a question during our class sessions, please be sure, if you are on-line, to virtually raise your hand located at the bottom or top of your screen. For in-person students, please be sure to raise your hands in class during our session.
While I would like to recognize each student who has a question or comment, sometimes we must move forward to another topic when there are hands still in the air. When this happens, please feel free to ask me your question after class, via email, or to contact me to set up a virtual appointment to discuss your question further.

For substantive questions or concerns* regarding the class material, please email me (at the email address above). If you prefer to meet live, or if I believe a live discussion would be more appropriate given your questions or concerns, we will do so via Zoom. To do so, I will set up a mutually convenient time for the session, and thereafter, you’ll receive a link to click at the appropriate time to commence the meeting.

*I encourage you to take full advantage of this opportunity to meet with me (albeit virtually). And please do not feel as though you need to limit the subject of our meetings to class matters per se -- I would be happy to discuss with you more general law school concerns, career questions, or anything else that would be appropriate.

**TWEN SITE**

The class TWEN (The West Education Network) site contains the class syllabus, PowerPoint slides, and will contain any updates/announcements. To access the TWEN site, go to the lawschool.westlaw.com website and follow the links through TWEN to the Folami Wills, Trusts, and Estates class page. I may post other items to TWEN, so it is incumbent upon you to register on the class TWEN site with a working e-mail address so that you will receive all of the necessary class materials and updates.

**ASSIGNMENTS**

You may often find that you need to read the material more than once, so plan accordingly. The following is an outline of the topics and readings that we will cover in class.

As a general guideline, we will cover approximately twenty (20) to forty (40) pages* a week.

*In the event that I do not cover all of the reading assigned in the syllabus or as otherwise assigned or announced by me, please be sure to read ahead (given what is provided in the syllabus) twenty (20) pages, unless I announce otherwise.

**NOTE:** I reserve the right to change and adjust this outline and assignments based on the pace and progress of the class, the topics of particular interest to the class, and otherwise, as I deem necessary.

Any changes will be announced in class, posted on TWEN, and/or emailed to you via the email address you have provided on TWEN. The pages listed for each assignment refer to the Dukeminier casebook, except where otherwise noted.
The scheduled assignments below is a rough estimate of what topics will be covered at what hour. I will attempt to abide by this schedule but reserve the right to implement and make adjustments as deemed necessary based on the class constitution.

**NOTE:** I typically run behind for the first one or two classes (first 4 hours) as I take my time modeling my teaching style, which will always include laying down the foundation before we jump into the law and its parameters.

The 1-2 and 3-4 hour below designations are loose predictions of the topics to be covered within those hours of class for that week of class.

**Week of 1/9**

Hours 1 & 2  1/11

WEALTH TRANSFER UPON DEATH: THE FUNDAMENTALS

I. Introduction

   a. Wescot v. Robbins, 40 S.E.2d 461 (N.C. 1946). (You may download the case off of TWEN from the “Other Course Materials” link).

Hours 3 & 4  1/13


**Week of 1/16**

Hours 1 & 2, 3 & 4  1/18 & 1/20

II. WILLS: TESTAMENTARY CAPACITY