

ST. MARY'S UNIVERSITY SCHOOL OF LAW

WILLS & ESTATES (LW7327)
Professor Aloysius A. Leopold

FINAL EXAMINATION
Spring 1997

STUDENT EXAMINATION CONFIDENTIAL NUMBER _____

1. This examination consists of seven (7) pages, including this page as the first, 25 direct questions worth 50% of the examination and 1 essay worth 50% of the examination.
2. You will have three (3) hours in which to complete the examination.
3. St. Mary's Law School prohibits the disclosure of information that might aid a professor in identifying the author of an examination. Any attempt by a student to identify himself or herself in an examination is a violation of this policy and of the Code of Student Conduct.
4. A student shall not remove the examination from the examination room during the exam time.
5. Answer the 25 direct questions on this examination in the space provided and the essay on the paper (bluebooks, etc.) provided. You may not have any other paper with you. This is a closed book exam. You may not have any study material with you in the examination room.
6. Turn in all papers including your written answers, all scratch and trashed paper AND THIS COMPLETE EXAMINATION with the pledge signed.
7. Answer the direct questions tersely, concisely, to the point and abstractly, that is not by example! Your answers on the essay will be considered complete if you delineate the specific legal issues including all reasonable legal alternatives raised by the facts, showing why each is a legal problem, stating the law applicable and applying the law to a conclusion. You must make reasonable assumptions of fact to explore reasonable alternatives if there are ambiguities or incomplete facts. You may mark up and make notes on the examination as you wish but you must turn it in as a part of your completed work. You may use a reasonable number of standard abbreviations if you let me know the first time what the abbreviation means.
8. After reading the oath, place your exam number in the space below. If you are prevented by the oath from placing your exam number in the space below, notify the student proctor of your reason when you turn in the examination.

I HAVE NEITHER GIVEN NOR RECEIVED AID IN TAKING THIS
EXAMINATION, NOR HAVE I SEEN ANYONE ELSE DO SO.

EXAM NUMBER

I.
(Value - 2% each [Total - 50%])

This part of the examination consists of 25 direct questions each worth 2% of the examination. See numbers 5 and 7 on page one for instructions.

1. Name three ways in which a community property survivorship agreement may be totally revoked.

2. When may a "Pay on Death" account be liable for the decedent depositor's debts?

3. What is the rule regarding intestate inheritance by those of the half blood?

4. What are the requirements to have an equitable adoption?

5. Name three situations in which a man would be presumed the biological father of a child.

6. Define the term survival for purposes of inheritance.

7. How does a prepayment of a legacy differ from an advancement to an heir?

8. What is the effect of a disclaimer on the creditors of the disclaimant?

9. What is the doctrine of "Equitable Conversion" as used in the law of wills?

10. Name three possibilities for showing legal capacity to make a will.

11. Name three of the five "traditional" elements used to prove testamentary capacity.

12. Define "Insane Delusion."

13. What are the statutory requirements for witnesses to a will?

14. In oral wills, define the term "in extremis."

15. How is a contractual will established?

16. Define "exhonoration."

17. Under what conditions will the antilapse statute operate to prevent lapse?

18. Define the term "external integration."

19. What are the requirements to probate a Last Will?

20. Explain the statute of limitations concerning a claim presented to an ordinary administrator.

21. What choices does a secured creditor have in presenting a claim and what are the consequences?

22. Explain the effect of "insolvency" on exempt property in the estate.

23. What is the effect of notice given by a personal representative to an unsecured creditor of the estate?

24. How is the amount of the bond required from an administrator determined?
25. Under what circumstances may a personal representative purchase a claim against the representative estate?

II.
(Value - 50%)

This part of the examination is one essay question. Please refer to #7 on page 1 for guidance in formulating your discussion of this essay question.

When testatrix (T) died in 1997, her husband (H) obtained an order probating the following instruments, and appointing himself independent executor:

First Instrument dated January 1, 1990, as follows:

"I, T, mindful of death, make the following disposition of my property:

1. 100 shares GM stock to A;
2. Blackacre (B/A) to B;
3. Whiteacre (W/A) to C.

I appoint H as my independent executor without bond."

Second Instrument entirely in T's handwriting and signed by her, but unwitnessed, dated April 1, 1995, as follows:

"Codicil to my last will. I give my brother, D, \$10,000 to be taken from the proceeds of the sale of W/A. I want Q to have nothing from my estate. All the rest of my property I give to A and D."

A child (Q) was born to X and T in 1978. In 1996 a child (R) was born to H & W.

B and C are T's sisters. A is T's father who is also the father of B, C, D and E. In 1990 when the will was made, T owned 100 shares GM stock. In 1996, GM split the stock 2 for 1.

In 1996, T sold W/A to N for a cash down payment and a note payable to T in the amount of \$8,000, payable April 1, 1997.

In March 1997, T gave D \$5,000 to assist him in a business venture.

At her death, on April 15, 1997, T owned the following property:

1. B/A, on which \$1,000 was still owing to Z.
2. 150 shares GM stock.
3. \$30,000 cash
4. Greenacre (G/A), community property worth \$10,000.
5. \$8,000 note payable from the sale of W/A.
6. Household furniture.

Greenacre was the family home.

After T's death, the estate has received the \$8,000 from N.

At her death, T also left surviving, her husband (H), whom she married in 1991.

At her death, T owed \$20,000 to unsecured creditors.

All property except G/A was T's separate property.

Advise Executor to properly administer T's estate with legal explanation. (Do not overly concern yourself with precise dollar amounts. The legal principles and their application are of the essence.)