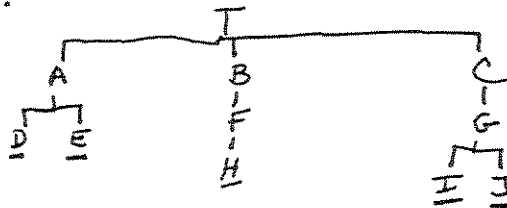


SHORT ANSWER  
10 QUESTIONS VALUE APPROXIMATELY 35%  
SUGGESTED TIME: 60-75 MINUTES

1. Identify and describe the purpose of a non-claim statute.
2. Assume testator dies intestate and leaving a family tree pictured below. The persons who are still alive are underlined. Describe what percentage share of the estate each person takes under a per stirpes, per capita, per capita with representation and per capita at each generation system of distribution.



3. Three siblings come to your office, seeking your advice. Their mother recently died intestate, leaving four children surviving her as her only heirs. Your prospective clients are upset because their mother deeded a farm to their sister (who is not one of the three visiting your office) during her lifetime. The farm is worth approximately \$75,000. The mother's estate without the farm is worth approximately \$50,000. They want to know if they can do anything about this blatantly unfair situation. What should you tell them?
4. An elderly widow, Wilma, comes to your office and asks you to draft a will. She indicates that she wants to leave everything to her niece, Nelly. She tells you that the niece lives with her, and cares for the house, does the cooking, cleaning, etc. She also informs you that Nelly moved in after Wilma promised to remember Nelly in her will. Wilma also brings a copy of her prior will. It is a joint will, executed with her deceased husband. The will leaves everything to each other for life, and a remainder to the Husband's nephew, Ned. Advise Wilma about her prospective will.
5. Describe the proposed reforms to resolve problems associated with the Rule Against Perpetuities. What are some of the advantages and disadvantages associated with these reforms?
6. Describe ante-mortem probate. What are some of the advantages and the disadvantages of the systems?

7. Describe the advantages and disadvantages of a spendthrift trust from both a practical and policy point of view.

8. Describe some of the main criticisms of the current portfolio management theory for trust property. How could trust management be improved?

9. Describe the UPC "dispensing power." What are the advantages and disadvantages of adopting this provision?

10. The Uniform Transfers to Minors Act is a widely adopted and used statute. Briefly describe the statute and discuss the advantages and disadvantages of its use, both generally and as a substitute for a will or a trust.

SHORT ANSWER - FUTURE INTERESTS AND RULES AFFECTING THEM  
6 QUESTIONS, VALUE APPROXIMATELY 20X  
SUGGESTED TIME: 60 MINUTES

Identify the present or future interests created by the following conveyances, and discuss the impact of any common law rules and modern interpretations of the rules on the effectiveness of the creation of the interest. Assume all transfers are from O, the owner of the property, and are inter-vivos, unless otherwise indicated.

1. \$100,000 in trust, income to be paid to my spouse for life, then the principal to be distributed to Dolly and her children.

At the time of the conveyance, the spouse and Dolly are alive, but Dolly has no children. At the spouse's death, two children, Alice and Bob, have been born to Dolly. After the death of the spouse, Dolly has another child, Carla. Alice dies before Dolly dies. When Dolly dies, she leaves all of her property to her husband.

2. Blackacre to Amy for life, remainder to her children who reach the age of 30, and if they do not reach the age of 30, then to the still living children of Frank and Martha White.

3. \$100,000 in trust, income to my spouse for life, then to my children for their lives, remainder of the principal to be paid to my eldest grandchild when he or she reaches the age of 30.

4. Blackacre to Audrey for life, then to my surviving children for their lives, then to the heirs of each child on the death of that child.

5. \$100,000 in trust, income to my son Sam for his life. I also give Sam a special testamentary power of appointment, he may appoint the principal in his will to my grandchildren.

At the creation of the trust, O has one son Sam and one daughter, Delia. He does not have any other children before his death.

6. Blackacre to the San Antonio School District, for so long as the property is used for school purposes, and when the property is no longer used for school purposes, to Adam and his heirs.

In his will, O left all his property to Adam. O's legal heirs are Barbara and Charles.

ESSAY  
3 QUESTIONS, VALUE APPROXIMATELY 45%  
SUGGESTED TIME: 90-120 MINUTES

1. Tom, your client, has been named trustee under a testamentary trust. The trust portion of the will indicates the following:

First, the trustee shall use such of the trust assets as are necessary to provide for the maintenance and care during the lifetime of my rare, prize-winning, and valuable fish, located in the aquarium in my home.

Second, the trustee shall give a scholarship to a Moslem student who is enrolled at St. Mary's University School of Law each year. The scholarship shall be for the full tuition amount.

Third, the trustee shall distribute \$200 each year to each St. Mary's law student who gives up smoking and drinking for the academic year.

Fourth, the trustee shall make distributions to my adopted son, in accordance with instructions that I have previously given to the trustee.

The other portions of the will simply leave everything to the son. The testator also died holding a general power of appointment over the assets of another trust. The will also purports to exercise the power of appointment in favor of the son. The takers in default under the power are the "issue" of the testator.

Tom also tells you that the testator was Moslem, and has one "son", who will be attending St. Mary's law school next year, and that the testator instructed him to provide for the support and education of his son. The son is neither the biological son of the testator nor was he ever formally adopted, but he lived with testator and testator held him out to the world as his son. The testator also had a daughter, who is both legitimate and biologically his.

Finally, Tom tells you that the trust assets presently consist of stock, which is not now paying dividends, but is steadily increasing in value, and of real estate, which is generating a good rental income, but has decreased dramatically in value in the last five years.

Advise Tom about the legality and enforceability of the trust and the will provisions. What responsibilities does Tom have in this situation? Note: you may discuss aspects of Tom's responsibilities as trustee that are not directly raised by the facts.

3. Your clients are the disinherited children of Terry Testator. They tell you the following story:

When Terry was 75 years old the children decided to hire a nurse companion. Lee, a 25-year old nurse, came to live with Terry. After Lee lived with and cared for Terry for 6 months, Terry wrote a will, leaving most of the property to Lee, and some small bequests of personal property to the children. This was a formally executed will, witnessed by Lee, the mailman, who happened to come by at the time they were doing the will, and Ned, a neighbor of Terry. Ned has indicated to the children that Terry did not tell him (Ned) that it was a will he was signing and that he (Ned) did not see Terry sign the will.

Later, Terry executed a codicil containing a no-contest clause, stating that the children would get nothing if they contested the will. The codicil was witnessed by the mailman and Ned.

Terry later became convinced that Lee was having an affair with one of the children. Terry became resentful, then executed a holographic will, revoking all previous wills, and leaving most property to "my neighbors at the time of my death." The holographic will also directs the executor to go to Terry's safety deposit box and to follow the instructions in letter that the executor will find there. The letter in question establishes a trust for the study of whether alien life forms really exist, and whether they really visit the Earth.

At Terry's death, both wills and the letter were found, but the holographic will had the word "cancelled" written across the top.

Advise the children about the legal issues involved in the case. Note that the sex of Terry, Lee, and the children is deliberately unstated. Does the sex of the parties in question make any difference to your analysis?