

PART I - SHORT ANSWER

(9 questions, suggested total time: 30-45 minutes)

A. Definitions: Briefly explain the following terms. Page limit is one side of a page per definition, **writing on every other line**. Typists: one-third of a standard double-spaced page. You may want to give an example, if appropriate. **Hint:** You can often earn full credit for your answers in less than the full page limit for this section.

1. doctrine of virtual representation
2. efficient market hypothesis
3. dead hand control
4. Uniform Statutory Rule Against Perpetuities
5. universal succession

B. Short Answer: Page limit is one side of a page, **writing on every other line**.

1. Our audio "guest speaker" mentioned two significant changes or trends in reproductive technology that will change the way the law will deal with families and inheritance rights. What are those changes, and give one example of how they may change the law of wills, or inheritance rights.
2. What are some reasons for the increased use of inter-vivos trusts since World War II?
- 3 - 4. Kelly, your client, is gay. Kelly wants to leave a will in favor of Kelly's partner, Pat. Kelly anticipates a will contest from family members, and would like to discourage this. Also, Kelly has a testamentary special power of appointment, to appoint to Kelly's "spouse or children," Kelly would also like to exercise the power in favor of Pat. Advise Kelly on both issues (one page on each issue).

PART II - FUTURE INTERESTS AND RULES AFFECTING THEM

(9 questions, suggested time: 60-70 minutes)

(Page limit is one side of a page per question, **writing on every other line**. Answer the question without restating the problem.)

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 Owen, the owner of the property, and are inter-vivos, unless otherwise indicated. Assume the named parties are alive, unless otherwise indicated.

1. Redacre to Connie for life, then to Don's children, but if Don's children do not survive him, then to Don's grandchildren, each grandchild to take through his or her deceased parent. At the time of the conveyance, Don has one child, Donna. Later a son, David is born. Donna and David predecease Don, each leaving children (Don's grandchildren).

2. \$100,000 in trust, income to Ellie for life, then income to Ellie's children for their lives, and Ellie's children are granted the power to appoint the principal at their death to Ellie's grandchildren.

At the time the trust is created, Ellie has 2 children. No other children are born to her. What happens if Ellie's children attempt to exercise the power? What happens if they fail to exercise the power?

3. \$150,000 in trust, income to Frank for life, then principal to be distributed to Grace and her children.

At the time the trust is created, Grace has two children.

4. \$200,000 in trust, income to Herbert, principal to be paid to the children of Herbert at age 25.

At the time the trust is created, Herbert has two (2) children, ages 1 and 3.

5. Greenacre to Inez for life, then to Inez's oldest child if he or she reaches age 25, and if he or she does not reach age 25, to the Red Cross.

At the time the conveyance is made, Inez has two (2) children, ages 1 and 3.

6. Blueacre to Jack for life, then to Jack's sister Kathy if she marries Lon, but if Kathy does not marry Lon, then to Jack's brother Mel and sister Nellie.

Mel predeceases Kathy and Jack. He leaves his property to his wife, Wilma. Kathy does not marry Lon. Kathy dies, Jack dies. There is a dispute about ownership of Blueacre, between Wilma and Nellie.

7. Whiteacre to Peter for life, then to Peter's children when they reach the age of 30 or when Peter's brother Quinn dies.

When the conveyance is made, Peter has two (2) children, ages 1 and 3.

8. \$250,000 in trust, income to Rose for life, then income to Rose's husband for his life, then the principal to be paid to my (Owen's) heirs.

9. \$300,000 in trust, income to Steve for life, then the principal to Steve's children who reach age 21.

Steve has one child, Terry, at the time of the conveyance. Later Ursula is born to Steve and his wife. Terry reaches 21. Then Victor is born to Steve and his wife. Steve then dies.

PART III - ESSAY

(3 questions, suggested total time: 90 minutes. Note that the questions are not of equal weight.)

(Page limits are listed after each question. A page is one side of one page, with writing on every other line. Typists: Assume that a typewritten standard-size, double-spaced page is the equivalent of 3 blue book sides of a page.)

A. The United States Supreme Court has held that the right to transfer property by will is a valuable property right itself. Explain why you believe the Court ruled this way. (2 pages)

B. Explain some ways in which Texas law is unusual, or different from the majority view, in the areas of wills, estates, intestate succession, or trust law. Your comments can be general or specific. (2 pages)

C. (Page limit for this question is 5 sides of a page)

Donna Decedent dies recently. She left a will, dated April 1, 1990; a codicil dated April 1, 1993; and an earlier will (dated April 1, 1980) was found among her papers. Both wills name Frank Friend as executor, and Frank comes to your office with the documents and the other information.

The 1980 will left everything to Donna's husband's nephew Ned. Ned died in 1991, leaving one child, Nathaniel.

The 1990 will states that it revokes the prior will because Ned is dead. Ned was not dead at that time. Frank informs you that he was present early in 1990 when Ned's sister Nancy told Donna that Ned was keeping company with evil companions and engaging in nefarious activities. The 1990 will leaves most of Donna's large estate to Nancy, subject to the other provisions discussed below.

The 1990 will also includes:

- * a gift of 100 shares of Hexon stock to Albert Andrews,
- * a gift of "my diamond necklace" to Betty Bower,
- * a gift of "all of the items found in the cookie jar in the kitchen" to Carlos Cantu,
- * a gift of \$1000 to "Dumbo".

The 1990 will also directs that Frank is to serve as trustee under a trust established by a separate writing found in Donna's safety deposit box.

The 1990 will is a fill-in-the-blank version, and is signed by Donna, and witnessed by Albert Andrews and Carlos Cantu.

The 1993 codicil is a holograph. It simply states that the gift to Dumbo is changed to \$2000.

At Donna's death, Frank discovers that the Hexon stock has been sold. Donna gave her diamond necklace to Betty for her birthday. The cookie jar contained miscellaneous stock, bonds and cash. Frank thinks that "Dumbo" is a name for Donna's brother David. The writing in Donna's safety deposit box is dated June 30, 1992. It directs Frank to set up a trust in the