

**Final Examination
Wills and Trusts
Professor Kelly
Spring 2007**

1. You have three (3) hours to complete this exam.
2. This is an open book exam. You may use any written materials you wish during this exam. This includes your casebook, statutes, hornbooks, class notes, outlines, etc. This does not include telephones, tape recorders, or human advisors.
3. This exam consists of TWO PARTS. PART I contains 6 problems. Answer each as thoroughly, but quickly, as possible. PART II contains 1 problem. In each PART, your answers should include explanations as well as conclusions.

PART I is worth 2/3 of the exam and should consume about 2 hours of your time (20 minutes per problem). Each of the 6 questions within PART I is of equal value. PART II is worth 1/3 of the exam and should consume approximately 1 hour of your time. In addition, you are allowed 10 minutes of administrative time (walking to room, printing exam, etc.).

Unless stated, all events are to be analyzed under current UPC, UTC and general principles of law. If you prefer, you may answer according to California law. However, where UPC and California differ, you must indicate your use of California law EACH TIME you use it. Bear in mind that questions will be separately graded; therefore, your statements in any one answer will not be read into others. Unless otherwise stated, assume all property is separate (i.e., not jointly-owned or community) property, also assume all parties are adults and that all capital letters standing alone are proper names. Also, unless facts specifically suggest otherwise, assume “estate” means beneficial estate available for distribution after payment of creditors and expenses.

4. Write your exam number on your exam envelope. Put your correct class section and student exam # at the top of this page, each page of questions, and each blue book. **Do not** use your name, student ID number or Social Security Number on any exam materials.
5. At the conclusion of the exam, return all test materials, including blue books, answer sheet, scratch paper, and this exam packet to the envelope and submit it to the proctor. **DO NOT** seal the envelope. Students who do not Return all exam materials at the end of the exam may not have their exams graded.

GOOD LUCK!

Part I
(2 Hours)
(6 problems = 20 min. each)

1. Not trusting marriage in general nor her husband (H) in particular, T cautiously worded her valid will as follows: "I leave my entire estate to H if he stays with me until I die. If he does not, then I leave my entire estate to unrelated X." Over several years, T discovered that H was a liar and a cheater, as well as the father of several non-marital children by various women. T and H did not live together for most of the ten years prior to T's death in 2007, although H did return to visit T occasionally. Upon learning of T's terminal illness, H returned home and cared for T for three months until she died. Unfortunately, T was unaware of H's loving care as she was heavily drugged or comatose throughout this period before her death. H and X survive T. Who is entitled to T's estate?
2. A, B and C were close friends. None had any spouse, children or close relatives. Each independently decided to leave his estate to the other two. A's valid will left his estate "to B and C equally if they both survive me; if not, to the survivor of B and C." B's valid will left his estate "one-half to A and one-half to C." C's valid will left his estate "one-half to A or A's heirs and one-half to B or B's heirs." A, B and C were together in a fatal car accident. A and B apparently both died on impact. C initially survived the accident, but died six months later of his injuries. A's intestate heir would be AA, B's intestate heir would be BB, and C's intestate heir would be CC. Who is entitled to the estates of A, B and C respectively?
3. T died in 1985, survived by C (her only child, age 10), H (her husband, who was NOT C's father) and S (her sister and C's aunt). T's valid will left her entire estate to H. Shortly before she died, T gave a check for \$100,000 to S and said: "Give this to C when she's old enough to not waste it." S used the check to open an interest-bearing money market account in her name. In 1993, when C was 18 years old, S withdrew \$20,000 from the account and gave it to C as a high school graduation gift. Other than that withdrawal, S never added to nor withdrew from the account. S died this year (2007), leaving her entire estate to her husband (Mr. S) by valid will. The money market account (less the 1993 withdrawal and plus accumulated interest) is now worth \$200,000. H, C and Mr. S each claim the money market account. Who is entitled to the funds in the account?
4. T could not resist purchasing designer handbags. Over the years, T amassed a large collection. She continued to acquire new purses until her death. She occasionally discarded damaged purses, and she sometimes gave a purse to various friends who admired her good taste. T died in 2007. Among its other provisions, T's valid will left "all my purses to my dear friend F, who shares my addiction." T left behind a closet-full of purses collectively valued at \$40,000. F believes she is entitled to all the purses, as well as \$5,000 worth of leather suitcases stored in the same closet. F claims the suitcases should be included in her inheritance as part of T's collection of designer leather goods. R, the residuary beneficiary of T's will, believes F is entitled to nothing because it is impossible to identify which pieces T had in mind when she executed her will. To what, if anything, is F entitled from T's estate?

5. A and B sat across the table from T in T's kitchen. They watched as T signed a document he intended to execute as his will. Immediately after T signed, A signed her name as a witness. T and B both saw A sign her name. B did not sign immediately. Instead, B said he needed time to read the document so he would know what he was signing. The relevant jurisdiction did not require full publication. However, T agreed to B's request, thinking it was prudent to have B proofread and review the document. B sat in T's kitchen reading the document, while A ate a snack and T went to take a bath. B finished reading and called out to T. Still in the bathtub, T shouted that B should enter the bathroom to sign the document in T's presence. B was not comfortable doing that. Instead, B signed the document in the kitchen while A watched. B then shouted through the bathroom door, "I signed it and left it on the kitchen table." A and B then left T's house. A few minutes later, T slipped and fell when exiting the bathtub. T died from the fall, having never seen B's signature on the document. Is the document a valid will?
6. In 1990, T validly executed his only will, leaving everything to his sister (S). T married in 1996, acquiring a wife (W) and a stepdaughter (D). Shortly after his marriage, T verbally declared to W and D: "\$500,000 cash plus my house shall henceforth be held in trust for the benefit of immediate family, by which I mean me, W and D. I, T, shall serve as trustee." The next day, T used \$500,000 of his own money to open a bank account which he titled as, "T, as trustee for the T Family Trust." T did not formally retitle his house in which he, W and D resided. For ten years, T invested and managed the funds in this account, but made no distributions to anyone, including himself. T occasionally used some of the earning to pay expenses of home maintenance. T died in 2007, leaving an estate valued at \$800,000. This value is EXCLUSIVE of the house (now valued at \$300,000) and the bank account (with a balance of \$700,000). What should be included in T's estate, and who is entitled to what?

Part II
(1 Hour)

H and W married in 1976 and had three children, A (born in 1978), B (born in 1980) and C (born in 1982). In 1981, W executed a valid will which stated: "I leave my entire estate to H if he survives me. If H dies before me, I leave half of my estate to A and half of my estate to B." W died in 1990 survived by H, A, B and C.

Shortly after W's death, H executed a valid will. H had no previous will or other testamentary documents. In his 1990 will, H left his estate "in equal shares to A, B and C."

H met X in 1995. H and X married in 1998 and had a child (D) together in 2000. Just after D's birth, H took his original 1990 will from his desk. In his own handwriting, he added "D" after "A, B and C" in his list of beneficiaries. H made no other changes or marks on the document.

In 2001, H wrote "Attachment to My Will" on a sheet of paper. Under this label, H handwrote the following: "X gets one-third of my estate, my friend F gets my car, and the rest goes to my children as my will already provides." H signed his name on this document.

Over the years, A, B, and C all reached adulthood. Each married and each had one child, conveniently named A Jr., B Jr., and C Jr. respectively. Sadly, A became ill and died in 2004. D is still a minor and, therefore, has yet to acquire any spouse or children.

H was involved in an automobile accident in 2007 which totaled H and his only car. Unfortunately, H died. Fortunately, his car was insured. The insurance company paid \$15,000 to H's estate. H was survived by X, F, B, C, D, the spouses of A, B and C, and his grandchildren (A Jr., B Jr., and C Jr.)

Who was entitled to W's estate and who is now entitled to H's estate, and why?

END OF EXAM