

WILLS and TRUSTS
FINAL EXAMINATION
PROFESSOR ANTHONY PAGANO
FALL 2005

Instructions

1. This is a **closed book** examination. No materials are allowed.
2. You have **three (3) hours** to complete this exam.
3. This exam consists of 60 multiple-choice questions and one essay question. The multiple-choice section will account for two-thirds (2/3) of your final grade, and the essay question one-third (1/3).
4. Use only your **exam number** on the ParSCORE answer sheet and on the blue books. **Do not use your name, social security number or student id number on any exam materials.**
5. Apply California law in answering the multiple-choice questions, unless the question asks otherwise. I suggest that you devote no more than 120 minutes in answering the multiple-choice questions. If you have time, you can go back to the multiple-choice section of this examination after answering the essay question. Mark your answers to the multiple-choice section of the exam on the ParSCORE answer sheet provided - not on the exam itself.
6. In grading the essay question considerable weight is given to the organization of your answer. I therefore suggest that you devote time to analyzing and outlining your answer before you begin writing. Your answer should be directed to an intelligent person who is NOT expert in the area of wills and trusts.
7. In answering the essay question, if you believe that any material fact is lacking, state explicitly the assumption of fact you are making in answering the question and why it is necessary to make such an assumption. Do not assume facts that will preclude the discussion of possible issues.
8. Assume all parties resided in California, unless the questions provides otherwise.
9. Write clearly or if you cannot write clearly, write on every other line. Use only one side of each sheet of paper.

10. At the conclusion of the exam, return all test materials, including blue books, scratch paper, the ParSCORE answer sheet and this exam question packet to the envelope and submit it to the proctor.

Essay Question (one hour)

Molly, a retired nurse, died in 1995. Her will left \$300,000 to Saint Vincent's College (a private college operating a nursing school and chiropractic college) to be used to help support male nursing students. The school used the income from this fund for its stated purpose until recently. This year, Saint Vincent's nursing school was merged with that of the nursing school of State University and Saint Vincent's changed its name to Vincent Chiropractic College. What should happen to the \$300,000 left to the college?

The remainder of Molly's sizable estate was to be placed in three separate trusts, one for each of her children, Arnold, Betty, and Charlie and for their children. Molly's younger sister, Sally, was named trustee. Each trust provided that the trustee was to distribute so much of the income annually to the three income beneficiaries (Arnold, Betty and Charlie) as needed for their support. Any income not distributed was to be added to the corpus of the trust. In addition the trustee was given the discretion to invade corpus for the support and comfort of the income beneficiaries. Upon the death of each income beneficiary, his/her trust was to terminate and the corpus of the trust was to be distributed, free of trust, to the issue of the deceased income beneficiary.

Arnold, who never got along with her mother, disclaimed his interest in Molly's will. At the time he disclaimed Arnold was unmarried and had no children. He has since married and now has two children, Dan and Dave. What issues does his disclaimer raise?

Betty is high school teacher married to a dentist. They have no children. Betty is upset because, though her trust earns in excess of \$70,000 per year, her aunt, the trustee, has been distributing only \$25,000 to Betty. The undistributed income has been added to the corpus of the trust. Betty asks whether she can compel the trustee to pay her more each year. Can she sue her aunt and win? Can she terminate her trust? What happens to the trust corpus upon her death if she has no children?

Charlie had three children by his first marriage, Rock, Cliff and River. His daughter River died recently survived by a daughter named Dawn. Charlie's second marriage was dissolved three years ago and he has not paid the child and spousal support he was ordered to pay. He is now over \$90,000 in arrears. His former wife has obtained a judgment against him and has levied on the trustee and demands immediate payment in full. What are the rights of Charlie's former wife with respect to the trust assets? What would happen to the trust corpus if Charlie were to die?

Aunt Sally died last week. Will the trust terminate?

END OF EXAM