

# FINAL EXAMINATION

## WILLS AND TRUSTS

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### Fall 2006

## Instructions

1. This is a **closed book** examination. No materials are allowed.
2. You have **two (2) hours** to complete this exam.
3. This exam consists of 30 multiple-choice questions and one essay question. The multiple-choice section will account for one-half of your exam grade. The essay question will also account for one-half of your exam grade.
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.** Devote no more than one hour in answering the multiple-choice questions. If you have time, you can go back to the multiple-choice section 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 questions, 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 question provides otherwise.
9. If you are writing your exam, use dark ink (black or blue) and 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

In 1999, shortly after the death of her son George, Tessa, a 75-year-old widow, was diagnosed with a serious heart ailment. As a result she tired easily, had mobility problems, and had difficulties caring for herself in her Palo Alto home. Tessa's recently divorced daughter, Doris, and Doris' two children, Alice and Ben, moved into the Palo Alto home and help care for Tessa

Doris continued to work as a legal secretary, but as Tessa's health deteriorated, Doris found it impossible to both care for her mother and work, so she left her job in 2002. Tessa told Doris that she appreciated Doris' efforts and would leave Doris her Palo Alto home when she, Tessa, died. At Tessa's request, Doris called an attorney for whom she had worked, explained her mother's wishes to the attorney, and made an appointment to have her mother meet the attorney. In late December of 2002, Tessa drove her mother to the attorney's office. The attorney spoke to Tessa and determined that the will he had prepared for her based on Doris' oral instructions reflected Tessa's intent. The will provided in part: Upon my death, my home is to pass to my Daughter Doris Smith and the rest of my estate shall be distributed equally among my living sons. Because a Christmas party was in progress, Tessa signed the will in the presence of the attorney, his secretary, and Doris. The will was witnessed by the lawyer's secretary and by Doris.

In 2004 Tessa had her grandson Ben call the attorney and make an appointment with him. Ben drove Tessa to the attorney's office. Tessa told the attorney that she wanted to change her will. She still wanted to leave her home to Tessa but she also wanted to place \$100,000 in trust for the education of Alice and Ben. Finally she wanted the remainder of her estate to pass to her living children equally. The attorney drafted a new will giving effect to these desires. The will named Tessa's stock broker son, Chad, as executor and as trustee of the trust to be established for Alice and Ben. At a subsequent meeting, Tessa reviewed the will and signed it in the presence of two employees of the law firm.

In 2004 Chad died survived by his wife, to whom he left his estate, and by his son Chad, Jr.

Tessa recently died and both wills were found in her desk in an envelope marked My will, May 2006. On the back of the 2004 will Tessa had written: *This will is cancelled and I want my property to pass according to my 2002 will. Tessa Jackson*

Tessa's estate consists of her Palo Alto home valued at \$1.5M and securities worth \$500,000. Tessa is survived by Doris, Alice, Ben, Chad Jr. and by Tessa's sons, Edward and Frank, and by Gloria, the daughter of Tessa's deceased son George.

How should Tessa's estate be distributed? Assume that each of the above named survivors wants to maximize his/her share of the estate. What arguments would they make?

**END OF EXAM**