

FINAL EXAMINATION

WILLS & TRUSTS

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SUMMER 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 16 multiple-choice questions and two essay questions. The multiple-choice section will account for one-quarter of your final grade, essay Question 1 will account for one-half of your grade and essay question 2 for one-quarter.
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 30 minutes in answering the multiple-choice questions. If you have time, you can go back to the multiple-choice section after answering the essay questions. 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 questions 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.

Question 2 (Recommended: 30 minutes)

Rachel's 1995 will established a trust for her criminal lawyer son Harris for life and on his death to his lawful issue. The trustee named was Rachel's sister Tess. The trust provided that the trustee was to distributed quarterly or at more frequent intervals all of the income earned by the trust to Harris. Harris' interest in the income of the trust was subject to a provision which provided: The interest of the income beneficiary cannot be assigned voluntarily or involuntarily.

The trust also gave the trustee the discretion to invade corpus for Harris's support. The decision of the trustee to invade or not invade corpus for Harris was final and could not be attacked except if the trustee acted in bad faith.

Harris, who has a serious drug problem, has gotten into major financial problems. Not only does he owe general creditors, including the drug rehabilitation clinic at which he was treated, sizable amounts, but he recently divorced and now owes child support of \$1,000 per month to his daughter. Prior to his marriage, Harris was found to have sired a son, and a child support judgment was entered against him in 1998. Since then Tess has been paying all of the income earned by the trust (approximately \$15,000 per year) to Harris and paying his son's support claim (\$450 per month) out of the corpus of the trust, which now stands at \$200,000.

Harris has moved out of the country and neither Tess, his creditors, nor his children can find him. . With so many creditors and both Harris' son and daughter seeking to have their judgment claims paid directly from trust assets, Tess has come to you for advice. What are Tess' obligations to the various claimants and to the beneficiaries of the trust? Advise her.

END OF EXAM