

**Final Examination
Wills & Trusts
Professor Van Cleave
Spring 2007**

1. You have **four (4)** hours to complete this exam.
2. This is a **partially-closed** book exam. Students may bring into the exam **one** 8½x11 piece of paper with their **handwritten** notes on the front and back of the paper. Students may **not** bring into the exam **any** other materials.
3. This examination contains two parts:

Part I consists of 60 (sixty) multiple choice questions. Each question is worth one (1) **point** for a total of 60 (sixty) points. Please mark your responses to the multiple choice questions on the separate “ParSCORE TEST FORM” using pen or pencil and following the instructions on that form. If you change your answer, place a clear **X** through the wrong answer and mark the correct answer. A machine will score the exam and any ambiguities will be counted as a wrong answer. I recommend you spend approximately **two hours (120 minutes) on Part I**. Remember, your goal is to identify the **best** answer.

If you believe that any question or answer selection is unfairly ambiguous please articulate your concerns on the back of the last page of the exam. Be sure to identify clearly the relevant question. You should not ask anyone about a question during the exam. I strongly suggest that you not devote too much time to such endeavors.

Part II consists of one (1) essay question. The essay question is worth 60 (sixty) points. I strongly encourage you to spend 15-20 minutes outlining your answer before writing. I have allotted sufficient time for you to outline, write and review your answer. Read the questions carefully to ensure you address all the issues identified. I recommend that you spend approximately **two hours (120 minutes) on Part II**. Please write your response in the blue books provided. Please write clearly. Write on every other line and every other page to permit instructor comments.

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, each blue book, and the “ParSCORE TEST FORM.” **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, ParScore 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 be graded.

GOOD LUCK!

Part II: Essay Question (60 points)
Recommended Time: 2 hours

Samia immigrated to the United States from Jordan, with her three daughters, after her husband had abused her and threatened her life. Samia eventually became an American citizen. She received substantial assistance and support from a charity called Asylum Aid, whose main offices are located in New York, but has a number of offices across the country including in Greencastle, the city where Samia lives. Samia's English language skills were limited. Samia was legally blind and had to use a hearing aid. In 1995, her youngest daughter, Camila accompanied Samia to the certified public accountant who had worked for Samia in the past, to execute Samia's will. Samia's duly executed will left her entire estate to her three daughters, Amina, Becca, and Camila, equally.

In 1996, Samia went to a lawyer because she wanted to leave the proceeds of a \$500,000 life insurance policy to the charity that had helped her leave her abusive husband and settle in the United States. Samia told the lawyer, Lamar that she already had a will for her daughters, but that she wanted the proceeds from the life insurance policy to go to the charity. Lamar drafted an inter vivos trust, naming himself trustee, and Asylum Support as the beneficiary. The trust specified that the charity was to use the funds to assist "needy Jordanian, Muslim women who are trying to leave abusive relationships." Asylum Support is a charitable organization with its main office in Greencastle, but it is not affiliated with Asylum Aid. Lamar helped Samia to change the beneficiary of the life insurance policy to, "Lamar, as Trustee."

In 1999, Samia underwent heart surgery and Camila, who had been living in another state, moved back to be near her mother. Camila shared an apartment with a friend and ran errands for Samia, and took her to doctor appointments. In 2000, Samia closed out her checking and savings accounts with New Bank and opened new accounts in her and Camila's names as joint tenants with a right of survivorship. Samia also transferred her interest in her house to, "Samia and Camila as joint tenants with right of survivorship." Camila accompanied Samia on all of these occasions.

In 2003, Camila moved in with Samia and took care of her around-the-clock. Amina and Becca, who lived in the next state, called Samia often and visited when they could get time off from work. Beginning in about 2005 when Amina or Becca called to say they were about to visit, Samia told them that she and Camila would be traveling and would not be at home. Eventually, only Camila answered the phone and often told her sisters that Samia was resting, or otherwise unavailable to talk on the phone. Amina and Becca claim that when they were able to talk to Samia, she was not her chatty, talkative self and usually ended the conversation abruptly.

On November 1, 2006, Samia became very ill and was hospitalized. She died on November 4, 2006. Camila offered for probate the following handwritten document:

I, Samia, of sound mind, want to make sure that my wishes are clear. I want my daughter, Camila, who has taken care of me all this time to receive all of my property. I do not believe that my other daughters, Amina and Becca, are deserving of my property. I am not angry with Amina and Becca, but they have not sacrificed like Camila and I want to reward Camila.

The document was signed by Samia and dated November 2, 2006. Camila asserts that Samia tried to write the document herself but was having difficulty, both because of her poor eyesight and poor English, so she dictated it to Camila. Camila claims that after Samia signed and dated the document, Camila left the hospital room to look for nurses who could sign as witnesses. When Camila returned with two nurses, Samia was asleep with the document in her lap. Camila told the nurses that this was Samia's will and asked them to witness it. They each signed as witnesses.

Asylum Aid claims that it is the correct beneficiary of the 1996 trust, but has asked the court to strike the ethnic origin and religious restrictions; Asylum Aid's mission is to help women of all ethnicities and religions to leave abusive situations. Lamar is prepared to testify that he put in the incorrect name of the charity that Samia wanted to benefit. He will explain that Samia told him how grateful she was to this organization, but when he was drafting the trust he could not remember its exact name. Upon consulting the phone book, he found Asylum Support and used that name.

Fully analyze the following:

1. Did Samia create a valid inter vivos trust? Assuming she did, which charity is likely to receive the life insurance proceeds? Why?
2. Evaluate whether a court is likely to strike the ethnic origin and religious restrictions in the 1996 trust; how is a court likely to distribute this asset?
3. On what basis (or bases) might Amina and Becca challenge the November 2, 2006 document? How might they challenge the title of property held in joint tenancy?
4. How is a court likely to distribute Samia's property?

END OF EXAM