

EXAM # _____

FINAL Examination

WILLS & TRUSTS

Professor VAN CLEAVE

FALL 2007

1. You have **three (3)** hours to complete this exam.
2. This is a **partially-closed** book exam. Students may bring into the exam one (1) 8-½ x 11 (eight and a half by eleven) inch piece of paper with their own handwritten notes on the front and back. No typewritten notes are allowed. No attachments to either side of the piece of paper are allowed. You may not bring in two pieces of paper that are attached together. You may not bring in a copy of a piece of paper with handwritten notes. You will be required to put your one piece of paper with your handwritten notes into the exam envelope. Put your exam number on the piece of paper. You may reclaim your paper with your handwritten notes when you pick up your essay answer. I will not grade you on the contents of your piece of paper. However, I will check that your piece of paper complies with the above requirements. Students may **not** bring into the exam **any** other materials.
3. Please make sure you have all **seventeen (17)** pages of the exam.
4. This examination contains two parts:
 - **Part I** consists of forty (40) multiple-choice questions. 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 no more than **one and one-half hours (90 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. I strongly encourage you to spend 10-15 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 **one and one-half hours (90 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.

5. Write your student exam number on your exam envelope. Put your correct class section and student exam number 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.
6. At the conclusion of the exam, all examination papers—including the Part I ParSCORE test form, your answers for Part II, the examination questions, these instructions, and all notes—must be placed back in the exam envelope. Failure to return all materials will result, among other sanctions, in a failing grade of “F” for the course. **Do not** seal the envelope.

GOOD LUCK!

PART II: ONE ESSAY QUESTION ONE & ONE-HALF HOURS

Recommended time: 90 MINUTES

Damir, a successful surgeon, served on the Board of Directors for a charity, the Black Hills Wild Horse Sanctuary, along with a lawyer named Lilah. In 1998, after Damir’s first wife died, he asked Lilah to help him with an estate plan. Lilah drafted a will and a revocable inter vivos trust (hereinafter “trust”) for Damir.

The will named Damir’s sister, Sabina the executor of Damir’s estate. Damir devised the following family heirlooms to Sabina:

Grandmother’s china cabinet and collection of teacups.

Mother’s wedding ring.

Item V of the will provided:

All the rest and residue of my property to Lilah, as Trustee of the DAMIR REVOCABLE INTER VIVOS TRUST. This property is to be added to the rest of my trust and used in accordance with the terms of that trust.

The trust named Lilah as Trustee and stated that “the trustee was to pay to my children, Anya and Brant so much of the income of the trust as the trustee deems appropriate in the trustee’s absolute discretion.” The trust further provided that upon the death of Damir’s children the trustee is to distribute the remaining trust assets to the Black Hills Wild Horse Sanctuary.

Anya and Brant are Damir's children from his first marriage. Shortly after the execution of the 1998 Will and Trust, Damir transferred \$100,000 to the trust.

Lilah placed this money in a savings account, earning 1.75% interest.

Damir owned the home that he lived in, as well as three townhouses that he rented out.

In 2001 Damir married Wynona, giving her "mother's wedding ring." In 2002 their child, Cory was born. Soon after Cory's birth, Damir handwrote the following:

I hereby declare this to be my last will and testament and hereby revoke all prior wills. I leave all of my property to my wife, Wynona. 5/1/2002

Damir. In 2005 Wynona and Damir divorced. Damir died in 2006.

1). How Damir's estate should be distributed? Consider and evaluate the different arguments of the possible claimants and come to a conclusion about how a court is likely to distribute Damir's estate and why.

2). Evaluate the actions of the attorney, Lilah.

END OF EXAM