

WILLS, TRUSTS & ESTATES

LAW 650, SEC. 2, ON BLACKBOARD

FALL SEMESTER 2021

(UPDATED JULY 22, 2021)

PROFESSOR AITSEBAOMO

TABLE OF CONTENTS

The Professor	2
Course Books & Materials.....	3
Course Description & Objective	4
Student Learning Outcomes.....	5
Grading	6
Accommodations	7
Covid-19 Information Sheet.....	8
Participation, Attendance & Professionalism	11
Policies & Procedures	13
Calendar	14
Reading Assignments.....	15

THE PROFESSOR



NAME: GABRIEL AITSEBAOMO

CERTIFIED PUBLIC ACCOUNTANT

MASTER OF LAWS (LL.M) IN TAXATION

TELEPHONE: 713-313-1127

EMAIL: gabriel.aitsebaomo@tmslaw.tsu.edu

LOCATION: 236M

OFFICE HOURS: MWR 4.30PM -6PM OR BY APPT

ACKNOWLEDGMENT BY STUDENT

By signing up for and attending this class, you acknowledge that you have read and understood the content of this syllabus. If you have any questions, please contact me at your earliest convenience.

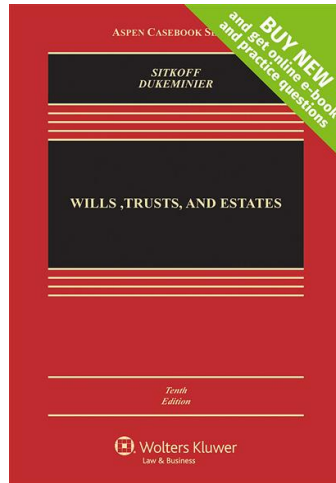
NOT A CONTRACT

This syllabus is not a contract. Accordingly, it is subject to change at any time with or without notice.

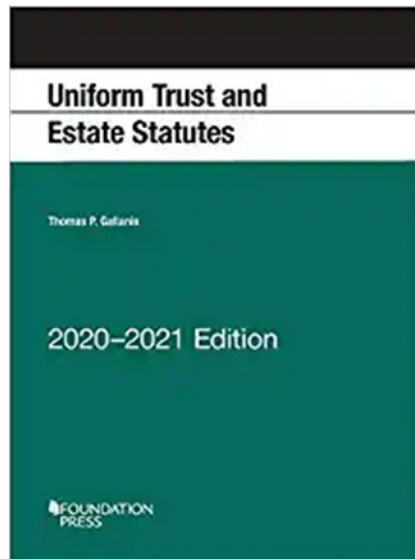
COURSE BOOKS & MATERIAL

Required Textbooks:

1. WILLS, TRUSTS, AND ESTATES, by SITKOFF, DUKEMINIER,
Aspen Casebook Series, Tenth Edition.
Available at TSU bookstore and online.



2. Uniform Trust and Estate Statutes, 2020-2021 Edition by Thomas P. Gallanis
West Academic ISBN 978-1-64708-062-4



COURSE DESCRIPTION & OBJECTIVE

DESCRIPTION:

This course covers, in scope, the various types of wills, execution of wills, the rules governing changes in beneficiaries after the will is executed, wills contests, revocation of wills, intestacy, probate administration, trusts, and trust administration.

OBJECTIVE:

The objective of this course is to introduce law students to the fundamentals of succession planning by learning the rules and acquiring the requisite knowledge and drafting skills necessary for utilizing planning instruments, such as wills and trusts, to effect family wealth transmission to heirs or beneficiaries.

STUDENT LEARNING OUTCOMES

At the conclusion of this course, students should have a working knowledge of the various types of wills, their execution and revocation, issues relating to changes in beneficiaries after will is executed, the procedures and grounds for contesting a will, intestacy, probate administration, trusts and trust administration.

To evaluate the students' progress in understanding the subject matter, the professor utilizes both formative and summative assessments. The goal of the assessments utilized in this course is to evaluate the student's critical thinking skills, test the student's ability to (1) identify legal issues raised by a hypothetical factual examination question; (2) separate material which is relevant from that which is not; (3) present a reasoned analysis of the relevant issues in a clear, concise, and well-organized composition; and (4) demonstrate an understanding of the fundamental legal principles relevant to the answer supplied to the issues raised by the factual examination question.

To that end, there will be two summative examinations in this course - a mid-term examination, valued at 20 percent of final letter grade and a cumulative final examination, valued at 70 percent of your final letter grade.

NOTE ABOUT MULTISTATE ESSAY EXAMINATION ADMINISTERED ON THE UBE.

Wills, Trusts, and Estates is featured on the Multistate Essay Examination (MEE) portion of the Uniform Bar Examination (UBE) administered by the NCBE. There is a total of about 12 MEE subject areas, including Decedents' Estates; Trusts, and Future Interests, that an examinee is required to prepare for when taking the UBE. However, the actual MEE questions on each administration consists of only 6 of the 12 subject areas and is administered on the Tuesday before the last Wednesday in February and July of each year. Accordingly, there is a chance Wills and Trust may not appear on a given exam.

The primary distinction between the MEE and the MBE is that the MEE requires the examinee to demonstrate an ability to communicate effectively in writing.

GRADING

Your syllabus reflects the reading assignments for each class. You are to read all assignments, including the cases, footnotes, and questions, before coming to class, and be ready to debrief the cases, if, and when, called upon by your professor.

Mid-Term: October 12, 2021	20%
Cumulative Final Exam	70%
<u>Possible</u> in-Class Practice Quizzes/Practice Problems at Professor's discretion	*Extra credit points may be given at <u>Professor's discretion only.</u>
Attendance and Participation, respectively, each would make up 5% of your grade.	10%

The grading and letter grades for this course will be computed using the TMSL 2nd year curve.

ACCOMMODATIONS

**PLEASE REFER TO THE STUDENT ACCOMMODATIONS
HANDBOOK FOR SPECIFIC PROCEDURES.**

Title IX information for course syllabus

Texas Southern University is committed towards encouraging and supporting a welcome inclusive university community where all community members enjoy a community free from sex discrimination, harassment and violence. As a result, you should know that university faculty members and staff are required to notify the University Title IX Coordinator of any instances of sex discrimination and harassment, sexual violence, dating violence, domestic violence, or stalking. Sharing this information ensures that those harmed are provided support resources. What this means is that as your professor, I am required to report any incidents that are directly disclosed to me, or of which I am somehow made aware. The University's Counseling Center is available to you if you want to speak with someone confidentially. Please visit the University's Counseling Center's website www.tsu.edu/ucc for additional information.



THURGOOD MARSHALL SCHOOL OF LAW

COVID-19 INFORMATION SHEET

HEALTH AND SAFETY ON CAMPUS

1. Students are expected to continuously self-screen for the symptoms of COVID-19. The Center for Disease Control has a list of COVID-19 symptoms: <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>. If you begin to show symptoms, notify your professor and leave the classroom. Limit contact with other individuals on campus and contact your healthcare provider for further guidance.
2. If, before coming to campus, a student starts exhibiting any symptoms of COVID-19 or does not feel well, the student should not attend class in person. The student should immediately notify the Assistant Dean for Student Development (virgie.mouton@tmslaw.tsu.edu) and attend classes online.
3. Students who have been sick with COVID-19 symptoms, tested positive for COVID-19, or have been potentially exposed to someone with COVID-19 should attend classes online until they are cleared by their healthcare provider. The following is taken from the TSU & Coronavirus FAQs, <http://www.tsu.edu/about/administration/marketing-and-communications/coronavirus/faqs.html>:

Those who have recently traveled internationally or believe they have been exposed to the virus and are experiencing influenza-like illness, with fever greater than 100.3, and symptoms, including cough, body aches, severe sore throat or runny nose, should seek medical attention, especially if symptoms worsen.

Students should contact TSU Health Services (713-313-7173) and identify themselves as having flu-like symptoms to obtain further recommendations and guidance. Students should also consult with their regular health care provider or seek treatment at a local health center if they are overseas. Please call ahead to your health care provider to notify them of the reason for your visit.

For additional information about COVID-19, including signs and symptoms, transmission and risk of exposure, and what to do if you are exhibiting symptoms, please refer to the resources section. The CDC's website and Texas Department of State Health Services (DSHS) will also issue guidance for those planning to travel or who have recently returned.

4. While on campus and in classrooms, students should observe the rules for social distancing, social health etiquette, and general cleanliness.
 - a. Students should practice hand hygiene, cough etiquette, and general cleanliness.
 - b. Students should maintain at least 6 feet separation in all directions from other individuals.
 - c. Face coverings (over the nose and mouth) are required for all students. Students without a face covering will not be allowed to enter the classroom. Students with an approved exemption and who notify their professor before the start of class may be allowed to wear a face shield instead of a face mask.
 - d. Students should wash or disinfect their hands before each class and after any physical interaction with other persons in the classroom.
 - e. Students should maintain classroom cleanliness. Students should create a clean classroom environment by putting away unnecessary personal items and cleaning their seating area intermittently.
 - f. Students should not expect to enter the Law Building on a day other than the designated day for in-person attendance for an enrolled course. Entry will be permitted only if administration can determine that the maximum occupancy for COVID-19 social distance protocol has not been exceeded.
 - g. Students who do not comply with the rules for social distancing, social health etiquette, and general cleanliness may be subject to discipline up to expulsion from law school.
-

ATTENDANCE POLICY

5. Students are required to attend classes consistent with the format of the enrolled course.
 - a. Hybrid – instruction for courses in this format is delivered in person and simultaneously online. Enrolled students are divided into groups and required to attend weekly in-person classes on the weekday(s) predetermined by administration for the designated group. Students may only attend in-person classes on the administration-determined day to ensure that all enrolled students are guaranteed a physical seat for the class. Other class days for the week are to be attended online. Students who have COVID-related health and safety concerns in attending in-person classes must obtain a remote-instruction waiver from the Office of Student Affairs. The waiver can be requested for the entire semester or temporary, based upon the personal circumstance of the affected student.
 - b. Online – instruction for courses in this format is delivered 100% online.
 - c. For the 100% online course and the hybrid course online instruction component, both the American Bar Association and the Law School rules obligate the professor to obtain assurance that the person who logs into the course online, participates in class, takes

quizzes and exams, and engages in collaborative exercises, is the student enrolled in the course. Without being limited to the following methods of attendance verification, professors may require attendance to be contingent upon confirmation of identity via webcam or require webcams to remain on for the entire class period.

ATTENDANCE & CLASS PREPARATION PROFESSIONALISM

Class Attendance: Mandatory

Class meets TR from 3PM – 4:15PM & W 3PM-3:50PM in RM 106. A student who misses more than 3 classes is subject to a grade reduction. You do not have to inform me of your absences or give any explanation for them. I may give no other notice to you that you are in danger of a grade reduction.

Class Preparation:

Prior to each class you are required to prepare for the class by reading and understanding all of the assigned materials for that class and be prepared to answer any hypothetical questions posed by the professor regarding the assigned materials

Professionalism

All students are required to stay in class (or signed in on-line), unless for restroom breaks or as otherwise directed, for the duration of each class period. Students are not permitted to sign in their names as present, but then leave the class. No side chats including blackboard chats, talks, or other distracting activities of any kind is permitted while professor is teaching. A student who wishes to speak during class may raise his or her hand indicating such, and then proceed to speak when acknowledge to do so by the professor. Students who violate these rules may be asked to leave the class or log-off, at the election of the professor.

POLICIES & PROCEDURES

Student Rules:

It is the responsibility of each student to know the rules and regulations of Thurgood Marshall School of Law. You can access the Rules and Regulations Handbook on TMSL's website, www.tsulaw.edu, and clicking on the **“Students” tab, then “Student Affairs,” “Student Rules and Regulations,”** and finally **“Student Rules and Regulations 2020-2021”** as amended.



THURGOOD MARSHALL SCHOOL OF LAW

TEXAS SOUTHERN UNIVERSITY ACADEMIC CALENDAR 2021 – 2022

FALL SEMESTER 2021 (SEVENTY DAYS OF CLASSES)

Orientation	Mon-Fri	August 9 – 13, 2021
First Day of Class	Monday	August 16, 2021
Last Day to ADD/DROP	Wednesday	August 18, 2021
Labor Day (NO CLASSES)	Monday	September 6, 2021
<i>Purge of all unpaid course selections</i>	Monday	September 15, 2021
Mid Term Examinations	Mon – Fri	October 11-15, 2021
Last Day to Drop a Class with grade of “W”	Friday	November 5, 2021
Last Day of Classes	Tuesday	November 23, 2021
First Year Professors’ Grades due	Tuesday	November 23, 2021
Reading Period (NO CLASS)	Wednesday	November 24, 2021
Thanksgiving Holiday	Thurs – Fri	November 25-26, 2021
Reading Period	Sat – Sun	November 27-28, 2021
Final Examinations	Mon – Fri	Nov 29 – Dec. 10, 2021
Commencement Exercises	Saturday	December 11, 2021

READING ASSIGNMENTS

I. EXECUTION OF WILLS

#1. What is a will?

- A. UPC §1-201(57)
- B. Wills: Formalities and forms
- C. Sitkoff/Dukeminier, pages 141-142

II. TYPES OF WILLS

#2. Attested Wills

- A. The core formalities. Sitkoff/Dukeminier, pages 141-144
- B. Requirements to make will.
 - 1. Age. UPC §2-501
 - 2. Testamentary capacity, Sitkoff/Dukeminier, pages 277-278
 - i. Mental Capacity (must be of sound mind). Sitkoff/Dukeminier, pages 264
 - ii. *In re Wrights's Estate*, Sitkoff/Dukeminier, pages 265-269
 - iii. *Wilson v. Lane*. Sitkoff/Dukeminier, pages 270-273.
 - iv. Insane delusion, Sitkoff/Dukeminier, pages 273
 - v. Insane delusion test, Sitkoff/Dukeminier, pages 278-281.
 - vi. *In re Strittmater's Estate*, Sitkoff/Dukeminier, pages 274-276.
 - vii. *Breeden v. Stone*, Sitkoff/Dukeminier, pages 276-277
 - 3. Writing. UPC §2-502(a)
 - 4. Signature requirement. UPC §2-502
 - 1. Testator's. UPC §2-502(a)(2)
 - 2. Witnesses'. UPC § 2-202(a)(3)

#3A. Substantial compliance with the wills Act.

- A. *John H. Langbein*, Sitkoff/Dukeminier, pages 145-146

#3B. The strict compliance rule, Sitkoff/Dukeminier, pages 146-149, top.

- A. *Stevens v. Casdorph*, Sitkoff/Dukeminier, pages 141-157.

#3C. Interested witnesses and purging statutes, Sitkoff/Dukeminier, pages 157-158.

#3D. Model execution ceremony, Sitkoff/Dukeminier, pages 158-160.

#4A. Self-proving affidavit, Sitkoff/Dukeminier, pages 161-163.

#4B. Ad hoc relief from strict compliance, Sitkoff/Dukeminier, pages 162-163, top.

- A. *In re Pavlinko's Estate*, Sitkoff/Dukeminier, pages 163-166.
- B. *In re Snide*, Sitkoff/Dukeminier, pages 166-169.

#4C. Switched (or crossed) wills, Curing defective execution and reformation, Sitkoff/Dukeminier, pages 169-170.

#4D. Substantial compliance doctrine, Sitkoff/Dukeminier, pages 171-176, top.

#4E. Harmless error rule, Sitkoff/Dukeminier, pages 176-178.

- A. *In re Estate of Hall*, Sitkoff/Dukeminier, pages 178-182.

- #5A. Clear and convincing evidence**, Sitkoff/Dukeminier, pages 182-183.
A. *In re Probate of Will and Codicil of Macool*, Sitkoff/Dukeminier, pages 183-190.
- #5B. Writings, documents, and electronic or digital wills**. Sitkoff/Dukeminier, pages 190-191.
A. *In re Estate of Javier Castro*, Sitkoff/Dukeminier, pages 191-195.
- #6A. Holographic wills**.
A. UPC §2-502(b)
B. Dukeminier, pages 198-199.
- #6B. Entirely in testator's handwriting requirement**.
1. Signature
2. Testamentary intent
3. Interlineations
4. *In re Kimmel's Estate*, Sitkoff/Dukeminier, pages 199-1204.
5. Preprinted will forms, Sitkoff/Dukeminier, pages 204.
6. *In re Estate of Gonzalez*, Sitkoff/Dukeminier, pages 204-210.
7. Extrinsic evidence.
8. *In re Estate of Kuralt*, Sitkoff/Dukeminier, pages 210-216.
- #6C. Oral wills**
A. Not recognized in majority of states
B. UPC §2-502(a)(1)
- #7 Conditional wills**
A. Sitkoff/Dukeminier, pages 210-216.
B. *Eaton v. Brown*, Supplement.
C. *In re Pascal's Estate*, Supplement.

III. COMPONENTS OF A WILL

- #8. Components of a will.**
- A. Integration
1. Sitkoff/Dukeminier, pages 241.
2. *In re Estate of Rigsby*, Sitkoff/Dukeminier, pages 241-243.
3. *Estate of Hall*, Supplement
- B. Incorporation by reference. UPC §2-510
1. Sitkoff/Dukeminier, pages 245.
2. *Clark v. Greenhalge*, Sitkoff/Dukeminier, pages 245-252
- C. Acts of independent significance. UPC §2.512
1. Sitkoff/Dukeminier, pages 254-255.
2. *Souder v. Johnson*, Supplement.

D.

Republication by codicil. UPC §2-507

IV.

CHANGES IN BENEFICIARIES AFTER WILL IS EXECUTED

#9. Lapsed gifts

A. Sitkoff/Dukeminier, pages 351 & 373.

1. In re Estate of Russell, Sitkoff/Dukeminier, pages 352-357.
2. Anti-Lapse Statute UPC §2-603; TX Estates Code §§255.153-154
 1. Sitkoff/Dukeminier, pages 357-362
 2. *Routolo v. Tietjen*, Sitkoff/Dukeminier, pages 362-368.

B. Class gifts

1. Sitkoff/Dukeminier, pages 368-369.
2. *Dawson v. Yucus*, Sitkoff/Dukeminier, pages 369-371
3. Class closure

C. Ademption

1. Sitkoff/Dukeminier, pages 373
2. *In re Estate of Anton*, Sitkoff/Dukeminier, pages 374-383.

V.

FREEDOM OF DISPOSITION AND RESTRICTIONS ON TESTAMENTARY POWER

#10A. Freedom of Disposition: dead hand control

- A. Introduction: Freedom of disposition, Sitkoff/Dukeminier, pages 1-5
- B. *Shapira v. Union National Bank*, Sitkoff/Dukeminier, pages 5-16.

#10B. Limits on Freedom of Disposition: Protection of the Spouse and Children

- A. Protection of surviving spouse, Sitkoff/Dukeminier, pages 519-520.
- B. Spouse elective share, Sitkoff/Dukeminier, pages 520-528.
- C. *Sulliva v. Burkin*, Sitkoff/Dukeminier, pages 528-535.
- D. Protection of children
- E. Unintentional Disinheritance of a Child Pretermitted child statutes
 1. Sitkoff/Dukeminier, pages 574-576. UPC §2-302
 2. *Gray v. Gray*, Sitkoff/Dukeminier, pages 576-582.

VI.

REVOCATION OF WILLS

#11. Methods of Revocation of wills

- A. UPC §2-507(a), Sitkoff/Dukeminier, pages 217-219.
- B. Revocation by subsequent written instrument
 1. *Thompson v. Royall*, Sitkoff/Dukeminier, pages 219-222.
- C. Revocation by physical
 1. *Harrison v. Bird*, Sitkoff/Dukeminier, pages 222-226.

- D. Harmless error in revocation
 - 1. *In re Estate of Stoker*, Sitkoff/Dukeminier, pages 226-231.
- E. Revocation by operation of law UPC §2-804(b)
 - 1. Sitkoff/Dukeminier, pages 238-240.
- F. Pour-over will. Sitkoff/Dukeminier, pages 466-467.

VII PROBATE OF WILLS & ADMINISTRATION

#12. The probate process

- A. Probate terminology Sitkoff/Dukeminier, pages 41-48.
- B. Proof of wills
 - 1. Presumptions and burden of proof, UPC §§ 3-407; 3-406(1), and §2-504
- C. Self-proving affidavit UPC §§3-407; 2-504; 3-406(2), (3)

VIII. NONPROBATE TRANSFERS

#13A. Probate and nonprobate property, Sitkoff/Dukeminier, pages 40-41.3

#13B. Planning for incapacity Sitkoff/Dukeminier, pages 439-444; 468

- A. Life insurance, Sitkoff/Dukeminier, pages 471- 472.
- B. Cook v. Equitable Life Assurance Society, Sitkoff/Dukeminier, pages 473-476.
- C. Pension and Retirement Plans, Sitkoff/Dukeminier, pages 478-481.
- D. Pay-on-death and transfer-on-death contracts, Sitkoff/Dukeminier, pages 492-493
- E. Nonprobate transfer of real property, Sitkoff/Dukeminier, pages 496-498.

IX WILLS CONTESTS

#14A. Procedures for contesting a will

- A. Wills: Capacity and Contests, Sitkoff/Dukeminier, pages 263--264.
- B. Time to contest a will
- C. Proper parties UPC §1-201(23)
- D. Burden of proof, Sitkoff/Dukeminier, pages 272-273. UPC§ 3-407.

#14B. Grounds for contesting a will

- A. Lack of testamentary capacity, Sitkoff/Dukeminier, pages 263-264; 277-278.
- B. Undue influence
 - 1. What is undue influence? Sitkoff/Dukeminier, pages 281-283.

2. *In re Estate of Sharis*, Sitkoff/Dukeminier, pages 283-289.
3. *In re Will of Moses*, Sitkoff/Dukeminier, pages 290-296, top.
4. *In Re Kaufmann's Will*, Sitkoff/Dukeminier pages 294-295
5. *Lipper v. Weslow*, Sitkoff/Dukeminier, pages 296-303.

#14C. Bequests to Lawyers

- A. Sitkoff/Dukeminier, pages 303-305
- B. Planning for and avoiding a will contest. Sitkoff/Dukeminier, pages 305-309.

#14D. Fraud

- A. Sitkoff/Dukeminier, pages 314-317.

X.

INTESTACY: AN ESTATE PLAN BY DEFAULT

#15A. Why do so many people die intestate?

- A. Sitkoff/Dukeminier, pages 64-69.
- B. Intestate share of surviving spouse, Sitkoff/Dukeminier, pages 69-70; 72-73.
- C. Unmarried cohabiting partners, Sitkoff/Dukeminier, pages 74-76.
- D. Intestate share of children and other descendants, Sitkoff/Dukeminier, pages 70-71.
- E. Majority rule: Per capital with representation. Sitkoff/Dukeminier, pages 81-83
- F. Strict per stirpes. Sitkoff/Dukeminier, pages 80-81.
- G. Per capital at each generation level: modern trend

#15B. Special issues relating to intestate distribution. Sitkoff/Dukeminier, pages 88-127.

1. Adopted children
2. Stepchildren and foster children
3. Posthumous children
4. Nonmarital children
5. Half bloods – whole blood
6. Disinheritance clause

X.

TRUSTS

CHARACTERISTICS AND CREATION

#16A. What is a Trust?

- A. Sitkoff/Dukeminier, pages 385-391.
 1. **Parties to a Trust**
- B. **Types of Trusts**
 1. Express trusts
 2. Implied trusts

#16B. Creation of express private trusts

- A. Sitkoff/Dukeminier, pages 401-407.
- B. Elements or Formal Requirements to Create Trust UPC §402
 - 1. Settlor
 - 2. Must have capacity
 - 3. Manifestation of present (not future) intent to create trust
 - i. Manifestation by writing, words, or conduct
 - ii. Precatory language. Sitkoff/Dukeminier, page 403.
 - iii. *Haltom v. Austin Nat'l Bank*, 487 S.W. 2d 201 (Tex Civ. App.—Austin 1972). Supplement.
 - 4. Trust property. Sitkoff/Dukeminier, page 414
 - i. There must be Trust res, to have a Trust.
 - ii. *Unthank v. Rippstein*, Sitkoff/Dukeminier, pages 414-418.
 - iii. Property may be tangible or intangible, present interest or future interest.
 - 5. Trustee
 - i. Acceptance by Trustee
 - 6. Beneficiary
 - i. Must be ascertainable. Sitkoff/Dukeminier, page 418
 - ii. *Clark v. Campbell*, Sitkoff/Dukeminier, pages 419-422.
 - iii. *In re Searight's Estate*. Sitkoff/Dukeminier, pages 423-428.
 - iv. Disclaimer by beneficiary
 - 7. Valid trust purpose
 - i. Trust purpose must be legal.

#17A. Methods of creating Express Trusts

- A. Self-declaration by settlor
- B. Transfer of property, in trust, to another
- C. Testamentary trust

XII. CHARITABLE TRUSTS

#17B. Distinguishing characteristics of charitable trusts from express private Trusts.

- A. Charitable purpose, for example: Sitkoff/Dukeminier, pages 760-767.
 - 1. Relief of poverty
 - 2. Advancement of education
 - 3. Advancement of religion
 - 4. Promotion of health
 - 5. Performance of government functions.

6. *Shenandoah Valley National Bank v. Taylor*, Sitkoff/Dukeminier, pages 760-766.
- B. Indefinite beneficiaries.
 1. Potential beneficiaries have no standing to enforce terms
 2. The state attorney general, as the people's representative, has duty and standing to sue to enforce terms of trust
- C. Exemption from rule against perpetuities.
 1. Can exist in perpetuity.
- D. Applicability of Cy pres doctrine
 1. If settlor's charitable purpose cannot be carried out. Sitkoff/Dukeminier, pages 767-768.
 2. *In re Neher's Will*, Sitkoff/Dukeminier, pages 768-772.
 3. *In English v. Johnson*, Supplement
 - 4.

XIII. SUPPORT TRUSTS

#18A. Support trust defined. UTC §504

- A. Support provision
- B. Non-assignability of beneficiary's interest
- C. Creditor's rights.
- D. *State v. Rubion*, 308 S.W. 2d 4 (Tex. 1957. Supplement.

XIV. DISCRETIONARY TRUSTS

#18B. Discretionary trusts defined. UTC §504(b)

- A. Beneficiary's rights.
 1. *Kolpack v. Torres*, 829 S.W. 2d 913. 915 (Tex. App.—Corpus Christi 1992). Supplement
- B. Creditor's rights

XV. SPENDTHRIFT TRUSTS

#19A. Spendthrift trust defined. UTC §103(16), §502. Tex. Prop. Code §112.035

- A. Rights of beneficiary
- B. Rights of creditors

- C. Exceptions to Spendthrift Provision, UTC §503
- D. *First National Bank of Beaumont v. Howard*, 229 S.W. 2d 781 (Tex. 1950). Supplement.

XVI. HONORARY TRUSTS

- A. Honorary trust defined. UTC§409(1)
- B. Examples of honorary trusts. UTC §408
- C. Trust for Care of Animal, & Rule Against Perpetuity Tex. Property Code §112.037; 112.036
- D. Rule against perpetuity.

XVII. POWERS & RESPONSIBILITIES OF TRUSTEE

#19B. Powers conferred by the terms of the trust instrument

- A. Powers granted by statute. UTC §815; Discretionary powers -- reasonable prudent person standard. UTC §814(a).
- B. Duty of loyalty – No self-dealing. UTC §§ 801, 802, 803. Tex. Prop. Code §§113.051
- C. No Further Inquiry Rule, Sitkoff/Dukeminier, pages 599-602.
 - 1. *Hartman v. Hartle*, Sitkoff/Dukeminier, pages 596 -597.
 - 2. *In re Gleeson's Will*, Sitkoff/Dukeminier, pages 597-599.
- D. Conflict of Interest.
 - 1. *In Re Rothko*, Sitkoff/Dukeminier, pages 602-610
- E. Duty of Prudence, Sitkoff/Dukeminier, pages 611-612.
 - 1. *Marsman v. Nasca*, Sitkoff/Dukeminier, pages 612-618
- F. Duty of Impartiality, Sitkoff/Dukeminier, pages 667-671.
 - 1. *In Re Heller*, Sitkoff/Dukeminier, pages 671-675
- G. Removal and resignation of trustee. TX Prop. Code §113.082; UTC § 706. Sitkoff/Dukeminier, pages 750-752.
 - 1. *Davis v. US Bank National Association*, Sitkoff/Dukeminier, pages 752-757.