



TEXAS SOUTHERN UNIVERSITY
THURGOOD MARSHALL SCHOOL *of* LAW

CIVIL TRIAL PRACTICE
WILLS, PROBATE, & GUARDIANSHIP

LAW 932

SPRING 2018

T/TH

1:00 PM TO 1:50 PM

RM 212

MARTINA E. CARTWRIGHT

ASSOCIATE PROFESSOR



Professor/Managing Attorney

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LOCATION: Suite 100L

OFFICE HOURS: Tuesday: 10:00 AM – 12:00 Noon
 Wednesday: 10:00 AM – 1:00 PM
 Thursday: 10:00 AM – 1:00 PM
 All other times by appointment only

COURSE BOOKS & MATERIAL

REQUIRED TEXT/MANUAL:

1. Krieger, et al., Essential Lawyering Skills, 5th Edition
2. O'Connors, Estates Code Plus, 2016-17, O'Connor's Texas Litigation Series

RECOMMENDED READING:

Epstein, et. al, The Clinic Seminar, 1st Edition

RECOMMENDED WEBSITES/BLOGS:

1. Glenn Karisch's Texas Probate – <http://www.texasprobate.com>
2. Texas Estate Planning and Probate blog-- <http://texprobateblog.blogspot.com/>
3. Texas Probate & Guardianship Blog-- <http://blog.fordbergner.com/>

TWEN

There is a TWEN site on which announcements and course materials will be posted.

COURSE DESCRIPTION, REQUIREMENTS, EXPECTATIONS, AND LEARNING OUTCOMES

DESCRIPTION:

Civil Trial Practice is a 2 credit-hour skills course, designed to supplement the Civil Trial Clinic. The course is designed for advanced students, approaching the completion of their legal training. The course will assist the student in bridging the gap between law school and the practice of law by easing the transition from classroom to courtroom. The goals of the class are two-fold. First, it will provide the student with practical knowledge and practice techniques in the following areas: fact investigation, interviewing, counseling and negotiation. Second, instruction in this course (in combination with the practicum) will familiarize and assist the student in preparing for the Wills, Probate, Estate Administration, and Guardianship essay part of the bar examination. Throughout the semester, there will be assignments—both in class and out of class. Some of these assignments will not receive a letter grade, but will require your full participation. The course will focus specifically on developing practice skills and a rudimentary understanding of the Texas Estates Code.

REQUIREMENTS:

Students are required to attend class. Students are expected to prepare for each and every class, by reading the assigned texts. Finally, students are expected to participate in each class, in-class assignment and to timely submit any papers required for this course.

EXPECTATIONS:

My expectations of you—as an advanced to student—is that you begin to take control of your own development. Seek out challenging assignments, ask questions in class. Delve into the whats, whys, and hows and whys of lawyering. And most importantly, develop and/or improve your skill set and grow into a provider of legal services

STUDENT LEARNING OUTCOMES:

After completion of the seminar, students will be able to:

- (a) conduct effective client and witness interviews;
- (b) conduct thorough and comprehensive factual investigation;
- (c) effectively negotiate with opposing counsel on clients' behalf; and
- (d) effectively counsel clients on potential risks and options

GRADING

A. Grading:

Tasks to be Assessed	Weight
Class Preparation and Participation/Rounds	15%
Students are required to complete (3) reflective essays. The first reflective essay follows the student's review of two (2) episodes of the Discovery Channel's documentary series: "The Will: Family Secrets Revealed." The second reflective essay documents the student's thoughts on the semester topic, following a number of readings on the issue. The final reflective essay documents the student's experience in the clinic. Students are provided with questions to guide their draft of the essay.	15%
Guardianship Pleadings Preparation	10%
Heirship Pleadings Preparation	10%
Will Preparation	10%
Quiz #1 (guardianship)	10%
Quiz #2 (heirship)	10%
Quiz #3 (probate—wills)	10%
Reflection piece	10%

A	90-100	Excellent
B	80- 89	Above Average
C	70-79	Average
D	60-69	Needs Improvement
F	59 & below	Poor

PARTICIPATION, ATTENDANCE & PROFESSIONALISM

1. There will be no admittance to class after 1:05 p.m. You will be considered late and it will be counted as a missed class.
2. All cell phones, pagers, AND computers must be turned off before entering class.
3. Attendance is MANDATORY. There are no EXCUSED ABSENCES. Pursuant to Article III.9 of the Student Rules and Regulations, if you miss more than the allotted number of classes in accordance with Article III.9, your grade may be reduced up to two



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4. (2) letter grades. A dismissal from class for lack of proper preparation will count as a missed class.
5. All assignments must be turned in timely. No assignment will be accepted late. No exceptions.
6. This syllabus is NOT a contract and is subject to change with or without notice.

POLICIES & PROCEDURES

ADA Policy

The Law School will make reasonable accommodations to individuals with documented disabilities. Such accommodations will not be provided, however, if they fundamentally alter the nature of the program or if they would be unduly burdensome either financially or administratively.

The term “disability” is defined by the Americans with Disabilities Act of 1990, the Americans with Disabilities Act Amendments Act of 2008, and Section 504 of the Rehabilitation Act of 1973. These federal acts mandate equal opportunities for qualified persons with disabilities in all public facilities, programs, activities, services, and benefits derived from them. In order to receive accommodations a student must have a documented mental or physical disability that substantially limits a major life activity. Some examples of major life activities that would impact learning are: seeing, hearing, concentrating, communicating, reading, and writing. Reasonable accommodations are recommended based on the application review process and supporting documentation.

For more information about the accommodation process, please contact the Office of Assistant Dean for Student Development.



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SEMINAR SCHEDULE AND READING ASSIGNMENTS

Classes meet every Tuesday and Thursday, 1:00 pm to 1:50 pm in the Clinic Conference room in STE 100. This seminar is devoted to both instruction in substantive law and skills training. Tuesday classes are lectures, consisting primarily of discussion on the Estates Code, with Thursday classes devoted to skills training and “rounds” or discussion of cases and/or case matters.

This schedule may be changed, depending upon individual caseload.

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| WK 1 | (T) Ethics & Professionalism--Practice in the Probate Courts (Lecture)
(Th) Professionalism (Essential Lawyering (E/L), p.7-19) |
| WK 2 | (T) Estate Planning—Drafting testamentary instruments
(Th) Client Centered Lawyering (E/L, p. 21-31) |
| WK 3 | (T) Intestate Estates—Heirship Determination (Doing the math!!)
(Th) Communication Skills Clinic (E/L, p. 47-57) |
| WK 4 | (T) Intestate Estates—Heirship Determination (In class exercises)
(Th) Multi-cultural Lawyering (E/L, p. 59-68) |
| WK 5 | (T) Intestate Estates—Small Estate Affidavit and Order
(Th) Interviewing: Observation, Memory (E/L, p. 71-87) |
| WK 6 | (T) Estate Administration—Intes. Estates; Duties of the Administrator/rix (Dep.)
(Th) Interviewing: Interviewing the Client (E/L, p. 90-116) |
| WK 7 | (T) Estate Administration—Duties of the Executor/Executrix
(Th) Interview Exercise—Guardianship |
| WK 8 | (T) Testate Estates—Muniment of Title v. Issuance of Letters Testamentary
(Th) Organizing Facts (E/L, Chpt. 10-13, p. 139-190) |
| WK 9 | Guardianship—Incapacity (adult)
(Th) Organizing Facts—Exercise |
| WK 10 | (T) Emergency Mental Health Care (HCPC)
(Th) Investigating the Facts (E/L, Chpt. 16, p. 209-223) |



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- WK 11 (T) Wills: Secrets Revealed
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- WK 12 (T) Discussion of Semester Topic
(Th) What Happens When A Lawyer Counsels a Client (E/L, p. 233-41)
- WK 13 (T) Discussion of Semester Topic
(Th) Negotiation Preparation: Assessing the Parties (E/L, p. 403-427)
- WK 14 (T) Final Rounds
(Th) Negotiation Strategies & Tactics (E/L, p. 369-385)
- WK 15 Last Day of Class--REFLECTIONS