



TEXAS SOUTHERN UNIVERSITY
THURGOOD MARSHALL SCHOOL *of* LAW

CIVIL TRIAL CLINIC
WILLS, PROBATE, & GUARDIANSHIP
LAW 935
FALL 2019

MARTINA E. CARTWRIGHT
ASSOCIATE PROFESSOR

Professor/Managing Attorney

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WEDNESDAY: 9:00 AM– NOON

THURSDAY: 9:00 AM – 11:00 AM, NOON TO 1:00 PM

ALL OTHER TIMES BY APPOINTMENT ONLY

COURSE BOOKS & MATERIAL

REQUIRED TEXT/MANUAL:

1. Martina E. Cartwright, Wills, Probate, & Guardianship Clinic Manual, (TWEN).
2. O'Connors, Estates Code Plus, 2016-17, O'Connor's Texas Litigation Series

TRAINING MATERIALS:

All training materials are either provided on the Clinic's TWEN page or located in the "Student Training Materials" file folder on the Wills, Probate, and Guardianship subdirectory on the "K" Drive. Additional training materials can be found on the TexasbarCLE website.

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

The Clinic will have a TWEN site on which announcements and course materials will be posted.

COURSE DESCRIPTION, REQUIREMENTS, EXPECTATIONS, AND LEARNING OUTCOMES

DESCRIPTION:

The Wills, Probate, & Guardianship Clinic is a semester long, four credit-hour experiential learning course. Individuals enrolled in the Clinic serve as student attorneys, with student bar licenses from the Texas Supreme Court. All activities within the Clinic, including but not limited to: interviewing, drafting of pleadings, and all aspects of client representation, will be supervised by Professor Martina E. Cartwright.

REQUIREMENTS:

The Clinic will focus on legal problems individuals encounter related to estate planning, probate, and guardianship. Student attorneys have an opportunity to observe the practice of others and to represent clients, whether in drafting testamentary instruments, durable powers of attorney, physician's directives or handling matters related to guardianship (seeking to be appointed the legal guardian of an individual determined to be incapacitated—as defined by the Texas Estates Code), or representing clients in cases involving testate or intestate estates.

Cases are assigned to you. However, you can request certain types of cases in order to enhance skills you wish to develop during your semester-long clinical experience. As a student attorney, you will have the opportunity to develop the following skills: interviewing and counseling, legal research and analysis, fact investigation, writing in a range of contexts, law office management, evidentiary hearings, recognizing and resolving ethical issues and – perhaps the core lawyering skill – problem solving.

Students are required to attend weekly staff meeting to discuss the progress of their cases. As a student attorney, you are expected to meet/consult with your clients, confer with court personnel—as needed, and generally work on your cases—learning the requisite skills necessary for excellent representation. A student attorney is expected to devote an average of 10-12 hours per week, excluding CLE training and courtroom observation, towards your successful completion of the clinical course.

EXPECTATIONS:

My expectations of you as future professionals are different from my expectations of you as student attorneys. As future professionals, I hope that you leave the Clinic relatively secure in your lawyering and decision-making skills. I hope that you have developed sensitivity to the particular needs of the clients you may represent in the future if you choose probate or elder law as a career path. I hope you are an ethical and understanding member of the bar. I hope that you have developed keen problem solving, analytical skills.



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As a student attorney, my expectations are that you commit yourself to be an able and enthusiastic advocate for your client. I expect you to be prepared for each weekly seminar and staff meeting. I expect you to be respectful and courteous to all who seek help, regardless of their status or socioeconomic background. I expect you to expend the maximum amount of effort in representing your client's interest.

On a more basic level, my expectations of the work you produce in the clinic is as follows: draft at least one (1) will, represent an applicant in one (1) guardianship proceeding, and represent one (or more clients) in matters involving testate or intestate estates. As a student attorney, you are expected to comply with the rules and regulations set out in the Clinical Legal Studies Program Student Attorney/Intern Office Policies and Procedures Manual, the Student Rules and Regulations, and the Texas Disciplinary Rules of Professional Conduct. As an emerging professional, I expect you to take control of your own development. Do not wait to be assigned task, seek challenging opportunities to improve on your skill set and grow as a provider of legal services

STUDENT LEARNING OUTCOMES:

After completion of the practicum and 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;
- (d) identify and execute client objectives in either a transactional or litigation setting;
- (e) draft appropriate pleadings for proceedings in probate courts;
- (f) effectively advocate for clients in either a hearing (uncontested) or trial (contested) setting; and
- (g) work collaboratively with other counsel, in executing client objectives.

GRADING

A. Assessment: See Student Evaluation

B. Grading: FINAL GRADES ARE SUBJECT TO THE COMPLETION OF THE 180-HOUR MINIMUM REQUIREMENT BY THE STUDENT. IF THE MINIMUM 180-HOUR REQUIREMENT IS NOT COMPLETED BY THE END OF THE SEMESTER, THE STUDENT WILL RECEIVE AN “F” GRADE.

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

C. Skills Training/Professional Development

Your time in the clinic will be devoted to developing and honing professional skills which define the lawyering profession. Throughout the semester, there will be discussion on and lectures about ethics and professional responsibility. However, the chart below demonstrates the % of time devoted to various lawyering skills.



PARTICIPATION, ATTENDANCE & PROFESSIONALISM

STAFF MEETINGS: 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 staff meetings in accordance with Article III.9, your grade may be



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reduced up to one (1) letter grade. There will be approximately 1 staff meeting a week, NOT to exceed thirty (30) minutes! Staff meetings are for the purpose of discussing court hearings, pleadings, deadlines, and client concerns and issues. PLEASE BE PREPARED FOR EVERY STAFF MEETING WITH CLIENT FILES AND UPDATES!!!!

CLINIC: You will be assigned “work hours” in the Clinic. You are required to be in attendance at the Clinic during your work hours. NO EXCUSES. If you are unable to perform your duties as required, due to an emergency or unforeseen circumstances, you **MUST** call your supervising attorney and inform them of your absence and the reason. Except in extraordinary circumstances discussed in advance, you must attend every court appearance, deposition, meeting, etc., on behalf of your clients.

OBSERVATION: Each student is required to complete a minimum of 15 hours of observation in either one of the four Harris County Probate Courts or the HCPC Mental Health Docket.

TRAINING MODULES: Each student is required to complete a minimum of 50 hours of online CLE training modules. See TEXASBARCLE sheet on registering as a “user” on the site.



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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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STUDENT EVALUATION

As a student attorney, your work will be continuously evaluated throughout your semester-long “internship.” A fundamental part of learning is a feedback. Feedback is how we improve, develop new skills and competency.

The evaluation of student performance in the Clinic has three parts: (a) self-evaluation/ feedback; (b) mid semester evaluation; and (c) final evaluation.

The first stage of the process will occur in September. You will be responsible for completing a self-evaluation, focusing largely on your performance as it relates to the 10 categories upon which you are graded for the semester. You will then meet with the Managing Attorney to discuss your self-evaluation and to receive feedback about your work in the clinic.

The second stage of the process will occur in October. You will meet with the Managing Attorney to discuss your performance at the mid-semester point. In order to do so, you must prepare a mid-semester report, detailing your work to date. The managing attorney will rate your mid-semester performance—within the requisite categories of student learnings outcomes, and provide you with feedback to assist you or help you improve in the clinic.

The final stage occurs at the end of the semester, following your submission of the student reflection piece, detailing your clinic experience. You are expected to meet with the Managing Attorney to discuss each of the performance measures, your reflection on the impact the clinic has had on your professional development, and your future goals.



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EVALUATIVE CRITERIA

Below is an outline of the criteria used to evaluate your performance as a student attorney in the Wills, Probate, & Guardianship clinic. This is not exhaustive list of all of the skills that you will be exposed to or develop while in the Clinic, however, this list should serve as guide regarding the expectations you as a student attorney and the standards by which you can evaluate yourself once you begin the practice of law.

The listed criteria and the points assessed for each of the categories is how you will be evaluated throughout your semester long internship and will be utilized to demonstrate competence and/or improvement.

I. Attorney-Client Relationship

- develops relationship and maintains contact with clients
- prompt response to client inquiries
- builds rapport with client; shows concern for client and client's needs
- listening skills (including empathy, reflective listening)
- explains applicable law in a digestible manner (plain English!!)
- uses appropriate words and tone when speaking to client

II. Professional Responsibility/ Ethical Considerations/ Professionalism

- zealously represents client
- identifies potential ethical issues in cases
- conducts one's self with candor, honesty and courtesy in relationships with clients, adversary, opposing counsel, court staff and personnel

III. Investigation/Analysis

- conducts effective interviews
- identifies and develops factual issues of case
- identifies, researches and develops legal issues in case
- demonstrates creativity, flexibility, innovation in problem-solving
- integrates client's concerns and needs

IV. Execution of Lawyering Objectives

- follows a course of action, adapting to changes in facts and/or circumstances
- carries out lawyering tasks skillfully and with adequate preparation
- organizes and facilitates effective client meetings



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V. Oral & Written Product

- written work product is clear, precise, and concise
- written work product is free of grammatical and spelling errors
- prepares thoroughly for all hearings, trials, and client meetings

VI. Reflective/Self Evaluation Skills

- ability to critique self, accept constructive suggestions and feedback; applies appropriately
- ability to reflect on own strengths and weaknesses
- takes responsibility for own learning

VII. Law Practice Management

- ability to manage time, meets time requirements
- timesheet entries thorough, completed on a timely basis
- consistently follows office procedures outlined in WPG Manual
- meets deadlines
- thorough, clear closing memos and transfer memos
- case file organized
- initiates contact with supervisor on a regular basis

VIII. Collegial Responsibility

- ability to collaborate with colleagues on cases and projects
- develops positive working relationships with supervisor, administrative staff and colleagues
- accessible to supervisors, administrative staff and colleagues
- proactive in accepting and handling team responsibilities

IX. Improvement and Effort

- demonstrates improvement in the above criteria over the course of semester
- demonstrates a commitment to providing high-quality legal services and addressing needs of client
- incorporates self-critique, supervisory feedback and concepts learned in classroom discussion into clinical work