**ESSEX COUNTY COLLEGE**

**Social Sciences Division**

**PLS 203 *–* Wills and Estate Administration**

**Course Outline**

**Course Number & Name:**  PLS 203 Wills and Estate Administration

**Credit Hours:**  3.0 **Contact Hours:**  3.0 **Lecture:** 3.0 **Lab:**  N/A **Other:**  N/A

**Prerequisites**:  Grade of “C” or better in PLS 101

**Co-requisites:** None **Concurrent Courses:** None

**Course Outline Revision Date:**  Fall 2010

**Course Description**: Students are introduced to the basic provisions of the law of wills and estates. They learn to draft wills and other appropriate instruments. The laws of intestate succession and the law of trusts are also examined*.* The course also examines the role of the paralegal, the Code of Professional Ethics, and other related standards of proper conduct.

**Course Goals:** Upon successful completion of this course, students should be able to do the following:

1. discuss and examine the codes of professional conduct;

2. describe the development and history of wills and estates;

3. explain the process of descent and distribution;

1. describe the treatment of the various categories of potential heirs;
2. describe and/or explain other intestate succession issues;
3. describe and explain the requirements for a valid will;
4. discuss changing circumstances after will execution regarding property;
5. discuss changing circumstances after will execution regarding persons;
6. describe the process involved in the revocation of wills;
7. describe the process involved in the interpretation and construction of wills;
8. describe and explain the requirements for will contests;
9. identify and describe will issues such as conditions wills, combination wills, election wills, and disclaimer;
10. describe and discuss the process of estate administration;
11. identify, describe, and discuss non-probate transfers;

**Course Goals** (continued)**:**

1. describe and explain inter vivos transfers;
2. define and describe the various types of co-ownership of property;
3. list, define, and describe multiple-party accounts;
4. describe the impact of contracts on wills and estates;
5. define, describe, and explain how trusts operate;
6. describe and discuss the creation of a trust;
7. describe and discuss trust administration;
8. identify, describe, and discuss trust enforcement;
9. define and describe the purpose for a resulting trust;
10. describe and discuss constructive trusts;
11. describe and discuss the transfer of wealth through taxation;
12. discuss disability and death planning; and
13. discuss malpractice and professional responsibility.

**Measurable Course Performance Objectives (MPOs)**: Upon successful completion of this course, students should specifically be able to do the following:

1. Discuss and examine the codes of professional conduct:

1.1 *discuss and examine judicial conduct;*

1.2 *discuss and examine attorney ethical standards;* and

1.3 *discuss and examine paralegal professionalism*

2. Describe the development and history of wills and estates:

2.1 *define and explain the basic terminology of wills and estates;* and

2.2 *identify and describe ether laws applicable to wills and estates*

3. Explain the process of descent and distribution:

3.1 *list and explain the reasons most individuals die intestate;*

3.2 *describe the historical development of descent and distribution;*

3.3 *describe the rights of the surviving spouse;*

3.4 *describe the rights of descendants;*

3.5 *describe the rights of ancestors and collaterals;* and

3.6 *describe the process of escheat*

**Measurable Course Performance Objectives (MPOs)** (continued):

4. Describe the treatment of the various categories of potential heirs:

4.1 *define and describe posthumous or after-born heirs*;

4.2 *define and describe the rights of adopted individuals;*

4.3 *define and describe the rights of non-marital children;*

4.4 *define and describe the rights of children from alternative reproduction technologies;*

4.5 *define and describe the rights of step children;*

4.6 *define and describe the rights of half-blooded collateral heirs;*

4.7 *define and describe the rights of non-United States citizens;*

4.8 *define and describe the rights of unworthy heirs;* and

4.9 *define and describe the rights of non-marital partners*

5. Describe and/or explain other intestate succession issues:

5.1 *describe the doctrine of ancestral property*;

5.2 *define and describe advancements;*

5.3 *define and describe the survival period*;

5.4 *define and explain all aspects of disclaimers;*

5.5 *explain assignment or release of expectancy to inherit;*

5.6 *define and describe the process of equitable conversion;*

5.7 *describe liability for debts of predeceased intermediary;*

5.8 *describe heir designation;* and

5.9 *describe choice of law*

6. Describe and explain the requirements for a valid will:

6.1 *define and describe legal capacity*;

6.2 *define and describe testamentary capacity (i.e., sound mind);*

6.3 *define and describe testamentary intent;* and

6.4 *define and explain the requirements for will formalities*

7. Discuss changing circumstances after will execution regarding property:

7.1 *identify, define, and describe the classifications of testamentary gifts;*

7.2 *describe the concept of ademption by extinction and satisfaction;*

7.3 *describe the concept of changes in value;*

7.4 *describe the concept of exoneration;*

7.5 *define and describe abatement;* and

7.6 *explain tax appointment*

8. Discuss changing circumstances after will execution regarding persons:

8.1 *describe the historical background involving the marriage of testator;*

8.2 *describe the historical background involving the divorce of testator;*

8.3 *define and describe pretermitted heirs;*

8.4 *describe the impact of the death of beneficiary – lapse;*

8.5 *describe the impact of the failure of charitable gift – cy pres;* and

8.6 *describe the concept of survival*

**Measurable Course Performance Objectives (MPOs)** (continued):

9. Describe the process involved in the revocation of wills:

9.1 *define and describe the revocation of wills by operation of law;*

9.2 *define and describe the revocation of wills by physical act;*

9.3 *define and describe the revocation of wills by subsequent writing;*

9.4 *define and describe presumptions;*

9.5 *define and describe revival;*

9.6 *define and describe conditional revocation;* and

9.7 *define and describe multiple originals*

10. Describe the process involved in the interpretation and construction of wills:

10.1 *define and describe ambiguity;*

10.2 *define and describe the process of integration;*

10.3 *explain incorporation by reference;*

10.4 *explain the doctrine of facts of independent significance;*

10.5 *describe the requirement for tangible personal property document;*

10.6 *describe and discuss pour-over provisions;*

10.7 *define and describe precatory language;*

10.8 *define and describe class gifts;* and

10.9 *define and describe the purpose of the Dead Person’s Statute*

11. Describe and explain the requirements for will contests:

11.1 *describe and discuss the general requirements to satisfy a valid will;*

11.2 *define and describe insane delusions;*

11.3 *identify and describe the elements of undue influence;*

11.4 *identify, define, and describe duress;*

11.5 *identify, define, and describe fraud;*

11.6 *identify, define, and describe mistake;*

11.7 *identify, define, and discuss remedies;* and

11.8 *describe potential actions to prevent will contests*

12. Identify and describe will issues such as conditions wills, combination wills, election wills, and disclaimer:

12.1 *define and describe conditional wills;*

12.2 *define and describe conditional gifts;*

12.3 *define and describe combination wills;*

12.4 *define and describe election wills;* and

12.5 *define and describe disclaimer*

13. Describe and discuss the process of estate administration:

13.1 *describe and discuss the probate and administration process;* and

13.2 *define, describe, and discuss the appointment, qualification, and role of personal representation*

**Measurable Course Performance Objectives (MPOs)** (continued):

14. Identify, describe, and discuss non-probate transfers:

14.1 *list, describe, and discuss reasons for using non-probate transfers*

15. Describe and explain inter vivos transfers:

15.1 *identify and describe the elements of outright inter vivos gifts;*

15.2 *define and discuss gifts causa mortis;*

15.3 *define and discuss gifts in trust;*

15.4 *discuss the purpose of transfers of future interests;*

15.5 *define and discuss the powers of appointment;* and

15.6 *discuss transfers to minors*

16. Define and describe the various types of co-ownership of property:

16.1 *identify, define, and describe tenancy in common;*

16.2 *identify, define, and discuss joint tenancy;*

16.3 *identify, define, and discuss tenancy by the entirety;* and

16.4 *identify, define, and discuss community property*

17. List, define, and describe multiple-party accounts:

17.1 *define and describe joint accounts;*

17.2 *define and describe agency or convenience accounts;*

17.3 *define and describe payable-on-death accounts;*

17.4 *define and describe trust accounts;* and

17.5 *define and describe other multiple-party account issues such as gifting account funds, creditors, divorce, survival, and effect of depositor’s incapacity*

18. Describe the impact of contracts on wills and estates:

18.1 *describe and discuss the impact of life insurance;*

18.2 *describe and discuss the impact of annuities;*

18.3 *describe and discuss the impact of employee benefit and retirement plans;* and

18.4 *describe and discuss the impact of transfer-on-death arrangements*

19. Define, describe, and explain how trusts operate:

19.1 *describe the purposes and uses of trusts;* and

19.2 *explain why the public should be warned about inter vivos over-promotion*

20. Describe and discuss the creation of a trust:

20.1 *define and describe trust intent;*

20.2 *describe and explain the methods of trust creation;*

20.3 *describe and explain the role of the settlor;*

20.4 *describe the impact of the statute of frauds;*

20.5 *explain the significance of the trust purposes;*

20.6 *describe trust property;*

**Measurable Course Performance Objectives (MPOs)** (continued):

20.7 *define and describe the role of the trustee;*

20.8 *define and describe the role of the beneficiary;*

20.9 *define and describe the rule against perpetuities;* and

20.10 *define and describe the charitable trusts*

21. Describe and discuss trust administration:

21.1 *discuss the standard of care for trust investments;*

21.2 *describe the powers of a trustee;*

21.3 *describe the trustee’s responsibilities related to distributions;*

21.4 *describe the duty of loyalty;*

21.5 *describe the liability of trustee to third parties;*

21.6 *describe the allocation of receipts and expenses;*

21.7 *describe and discuss the purpose of an accounting for a trust;*

21.8 *define and describe compensation;*

21.9 *discuss the purpose for trust modifications;*

21.10 *discuss the process for trust termination;* and

21.11 *describe reformation*

22. Identify, describe, and discuss trust enforcement:

22.1 *describe procedural matters concerning trust enforcement;*

22.2 *list and describe the remedies against the trustee;*

22.3 *list and describe the remedies involving trust property;*

22.4 *list and describe the remedies against the beneficiary;*

22.5 *describe the causes of action against third parties;* and

22.6 *describe the reasons for barring of remedies*

23. Define and describe the purpose for a resulting trust:

23.1 *describe a failure to create express trust;*

23.2 *describe a failure of express trust to dispose of all trust property;* and

23.3 *describe a purchase-money resulting trust*

24. Describe and discuss constructive trusts:

24.1 *describe fraudulent conduct;*

24.2 *explain abuse of confidential relationships;* and

24.3 *explain unperformed promises made in contemplation of death*

25. Describe and discuss the transfer of wealth through taxation:

25.1 *describe the federal gift tax;*

25.2 *describe the federal estate tax;*

25.3 *describe marital deduction and bypass planning;*

25.4 *describe charitable deduction;*

25.5 *describe the federal generation-skipping transfer tax;*

25.6 *describe and discuss federal income tax ramifications of gratuitous transfers;* and

25.7 *describe the transfer of wealth through state taxation*

**Measurable Course Performance Objectives (MPOs)** (continued):

26. Discuss disability and death planning:

26.1 *describe and discuss property management;*

26.2 *discuss concerns related to health care;* and

26.3 *describe and discuss preparation for the event of death*

27. Discuss malpractice and professional responsibility:

27.1 *describe and discuss professional negligence;*

27.2 *describe and discuss ethical concerns;*

27.3 *describe and discuss the ethical obligations of a legal assistant;*

27.4 *describe and discuss appropriate tasks for legal assistants in estate planning;*

27.5 *discuss NALA code of ethics and professional responsibility;* and

27.6 *discuss NFPA model disciplinary rules*

**Methods of Instruction**: Instruction will consist of a combination of any of the following instructional methods: legal case reviews, lectures, group activities, role play, oral presentations, document drafting, essays, research assignments, films, cable, news, and television programs, field trips, and community outreach projects.

**Outcomes Assessment:** Quiz and exam questions (if applicable) are blueprinted to course objectives. Checklist rubrics are used to evaluate non-test type assessment instruments (e.g., reaction papers, oral/written presentations, debates, and projects), for the presence of course objectives. Data collected will be analyzed to provide direction for the improvement of program instruction, viability of class assignments, relevancy of assigned course materials, and evaluation of instructional time spent on specific topics.

**Course Requirements:** All students are required to:

1. Maintain regular and prompt attendance to all class sessions.
2. Complete homework assignments (if applicable).
3. Complete all written and oral exercises (scored grading) inside and outside of class as assigned.
4. Complete the Midterm and Final Assessment Activities (e.g., paper, presentation, and/or project).
5. Voluntarily participate in class discussions, class exercises, and group projects.
6. Complete all assessment activities as scheduled.
7. Follow any specific class requirements mandated by the instructor.

**Methods of Evaluation:** Final course grades will be computed as follows:

**% of**

**Grading Components final course grade**

* Attendance/Class Participation  **15 – 25%**

Attendance points will be computed based on the ratio of the number of days attending the course during a regular semester (i.e., 28 contact days). A similar procedure will be used to determine participation points.

* **Notebook containing Course Handouts, Program Summaries** 5 – 10%

**and Table of Contents**

The notebook is a practical exercise designed to assess students’ abilities to organize large volumes of information and allows students to create a reference source of all material related to course objectives for themselves.

* Topic Sentence Outlines **5 – 10%**

Topic sentence outlines are practical exercises designed to enhance students’ reading comprehension and study skills.

* Oral Report **0 – 5%**

The brief oral report is designed to provide students with an opportunity during each class session to report on a fact pattern or story taken either from a newspaper, advertisement, local news or cable program, television program, or paralegal or legal publications and demonstrate the correlation between the information and the subject matter currently being addressed in the class. Additionally, this exercise provided the students with an opportunity to enhance their oral communication skills.

* **Legal Case Brief PowerPoint Presentation**  15 – 25%

The PowerPoint presentation first requires students to provide an economic, historical, political, and social context for the development of law or legislation addressed in the legal case brief and to include the role of the paralegal in the particular case. It also provides students with the opportunity to enhance their technological skills in an academic environment while engaging in legal analysis related to course objectives.

* **Programs, Lectures, Seminars and/or Workshops** 5 – 10%

Internal or external relevant programs, lectures, seminars and workshops, which are related to the course objectives, are informational for the student, who will be required to prepare brief written summary of the event/program. These opportunities provide students with a chance to engage in academic scholarship.

* **Mock Client Interview** 5 – 10%

Interviews are information-gathering opportunities designed to provide students with a chance to enhance their oral communication skills while engaging in legal analysis related to course objectives.

**Methods of Evaluation** (continued)**:**

**% of**

**Grading Components final course grade**

* **Legal Letter** 5 – 10%

Legal letters are designed to enhance students’ written communication skills while engaging in legal analysis related to course objectives.

* **Legal Concepts and Terminology Assessment Activity** 0 – 5%

This assessment activity is designed to enhance the students’ command of legal vocabulary and infuse it in their academic communications.

* **Extra Credit Opportunities**  5 – 10%
  + Voter registration – The student should provide written evidence of participation in the electoral process.
  + Notary Public – Students are encouraged to research, process, and complete a notary public application for approval to include on their resumes to enhance their marketability.
  + Membership in Paralegal Association of New Jersey (PANJ) – Students are encouraged to join the Paralegal Association of New Jersey to include on their resume to enhance their marketability.

**Note**: The instructor will determine (as appropriate) the specific component(s) appropriate for the course and provide specific weights which lie in the above-given ranges at the beginning of the semester.

**Academic Integrity:** Dishonesty disrupts the search for truth that is inherent in the learning process and so devalues the purpose and the mission of the College. Academic dishonesty includes, but is not limited to, the following:

* plagiarism – the failure to acknowledge another writer’s words or ideas or to give proper credit to sources of information;
* cheating – knowingly obtaining or giving unauthorized information on any test/exam or any other academic assignment;
* interference – any interruption of the academic process that prevents others from the proper engagement in learning or teaching; and
* fraud – any act or instance of willful deceit or trickery.

Violations of academic integrity will be dealt with by imposing appropriate sanctions. Sanctions for acts of academic dishonesty could include the resubmission of an assignment, failure of the test/exam, failure in the course, probation, suspension from the College, and even expulsion from the College.

**Student Code of Conduct:** All students are expected to conduct themselves as responsible and considerate adults who respect the rights of others. Disruptive behavior will not be tolerated. All students are also expected to attend and be on time for all class meetings. No cell phones or similar electronic devices are permitted in class. Please refer to the Essex County College student handbook, *Lifeline*, for more specific information about the College’s Code of Conduct and attendance requirements.

Note: Students shall conduct themselves in a professional manner at all times. See National Federation of Paralegals Associations, Inc. Model Code of Ethics and Professional Responsibility and Guidelines for Enforcement.

**Course Content Outline:** based on the text **Wills, Trusts, and Estates for Legal Assistants**, 2nd edition, by Gerry W Beyer and John K Hanft; published by Aspen Publishers.

**Unit Topics to be Covered**

1 Introduction and Overview – Brief history of property transference when an owner dies; basic terminology used in the text book; determination of applicable law; the “big picture”

2 Intestate Succession – Descent and distribution; reasons most individuals die intestate; historical development of descent and distribution; the surviving spouse; descendants; ancestors and collaterals; escheat

3 Treatment of Certain Categories of Potential Heirs – Posthumous or after-born heirs; adopted individuals; non-marital children; children from alternative reproduction technologies; step children; half-blooded collateral heirs; non-United States citizens; unworthy heirs; non-marital partners

4 Other Intestate Succession Issues – Ancestral property; advancements; survival; disclaimers; assignment or release of expectancy to inherit; equitable conversion; liability for debts of predeceased; intermediary; heir designation; choice of law

5 Wills – Requirements for a valid will; legal capacity; testamentary capacity (i.e., sound mind); testamentary intent; formalities

6 Changing Circumstances After Will Execution – property; classification of testamentary gifts; ademption by extinction and satisfaction; changes in value; exoneration; abatement; tax appointment

7 Changing Circumstances After Will Execution – Persons; marriage of testator; divorce of testator; pretermitted heirs; death of beneficiary – lapse; failure of charitable gift – cy pres; survival

8 Revocation of Wills – Revocation by operation of law; revocation by physical act; revocation by subsequent writing; presumptions; revival; conditional revocation; multiple originals

9 Interpretation and Construction – Ambiguity; integration; incorporation by reference; facts of independent significance; tangible personal property document; pour-over provisions; precatory language; class gifts; the Dead Person’s Statute

10 Will Contests – Failure to satisfy requirements of a valid will; insane delusions; undue influence; duress; fraud; mistake; remedies; preventing will contests

**Unit Topics to be Covered**

11 Other Will Issues – Conditional wills; conditional gifts; combination wills; election wills; disclaimer

12 Estate Administration – Proper applicant; locate will; prepare application; file in appropriate court; citation; probate of will or determination of heirs; type of administrations; appointment of personal representative; qualification of personal representative; issuance of letters; collect and protect decedent’s probate assets; inventory and appraisement; protect certain property from creditors; notice to creditors; paying creditors; provide reports and accountings; distribution and closing of the estate

13 Non-probate Transfers – Reasons people use non-probate transfers; provide non-estate planning benefits; accelerate asset distribution; reduce estate planning and administration expenses; confidentiality; minimize taxes; retain flexibility; change with less difficulty; protect from creditors; isolate from contest; increase understandability

14 Inter Vivos Transfers – Outright inter vivos gifts; gifts causa mortis; gifts in trust; transfers of future interests; powers of appointment; transfers to minors

15 Co-Ownership of Property – Tenancy in common; joint tenancy; tenancy by the entirety; community property

16 Multiple–Party Accounts – Joint accounts; agency or convenience accounts; payable-on-death accounts; trust accounts; other multiple-party account issues

17 Contracts – Life insurance; annuities; employee benefit and retirement plans; transfer-on-death arrangements

18 Trusts – Introduction to trusts; overview and terminology; purposes and uses of trusts; warning about inter vivos over-promotion

19 Trust Creation – Trust intent; methods of trust creation; the settlor; statute Of frauds; trust purposes; trust property; the trustee; the beneficiary; rules against perpetuities; charitable trusts

20 Trust Administration – Overview of trust administration; trust investments and standard of care; trustee powers; trust distributions; duty of loyalty; liability of trustee to third parties; allocation of receipts and expenses; accountings; compensation; trust modifications; trust termination; reformation

21 Trust Enforcement – Procedural matters; remedies against the trustee; remedies involving trust property; remedies against the beneficiary; causes of action against third parties; barring of remedies

**Unit Topics to be Covered**

22 Resulting Trusts – Failure to create express trusts; failure of express trusts to dispose of all trust property; purchase-money resulting trust

23 Constructive Trusts – Fraudulent conduct; abuse of confidential relationships; unperformed promises made in contemplation of death

24 Wealth Transfer Taxation – Federal gift tax; federal estate tax; marital deduction and bypass planning; charitable deduction; federal generation-skipping transfer tax; federal income tax ramifications of gratuitous transfers; state wealth transfer taxation

25 Disability and Death Planning – Property management; health care; the death event

26 Malpractice and Professional Responsibility – Professional negligence; ethical concerns; ethical obligations of the legal assistant; appropriate tasks for legal assistants in estate planning; NALA code of ethics and professional responsibility; NFPA model disciplinary rules

Note**:** In PLS 203, the instructor must cover the 26 units listed above minimally in any reasonable order throughout the duration of the semester/term. In addition, the instructor must provide economic, historic, political, and social context for the relevant aspects of the legal process. Suggested assessment activities to be performed at midterm and at the conclusion of the course are listed below.

Suggested Midterm Assessment Activities – Prepare topic sentence outlines of each chapter in the first half of the textbook including answers to questions in each chapter

**Suggested Final Assessment Activities** – Prepare topic sentence outlines of each chapter in the second half of the textbook including answers to questions in each chapter; complete a legal concepts and terminology assessment activity; draft a power of attorney document; draft a simple will (with outright distributions); draft a living will/advanced directive