Willamette University College of Law

Trusts & Estates Clinic Syllabus

Spring 2022

Introduction

Welcome to the Willamette University College of Law Clinical Law Program's Trusts and Estates Clinic. I am thrilled that you have decided to devote your time this semester to learning about this area of the law. As your Clinical Law Professor, I will be striving to provide you with the support and supervision you need to be comfortable and yet challenged with your cases. I hope to instill in you a strong sense of professionalism, standard of excellence, and an appreciation for the importance of reflection and balance in the practice of law. As we work towards these goals, I encourage and invite your ideas, comments and suggestions.

Contact Information:

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Course Requirements and Keys to Success:

You will be awarded 2-3 credits when you successfully complete this course. You may not increase or decrease the number of credits after the semester begins. Successful completion of the Trusts and Estates Clinic requires you to:

1. Provide competent and professional legal services to clients as assigned.
2. Perform the appropriate number of hours of legal service for credits enrolled (52 hours per credit, including class hours).
3. Abide by clinic policies, procedures and rules. **Know and follow every aspect of the Clinical Law Program Policies and Procedures Manual.**
4. Properly maintain timesheets and case files.
5. Attend and actively participate in class.
6. Attend all your scheduled office hours at the clinic.
7. Meet with your supervising professor every week.
8. To the extent possible, complete the estate plan for 1-3 clients.
9. Compile a redacted portfolio containing all your clinic work product.

10. Complete all assigned readings and be prepared to discuss them.
11. Complete all miscellaneous class and homework assignments.
12. Draft a resume that includes an entry describing your clinic accomplishments.

Learning Outcomes

This course strives to ensure the following learning outcomes for those who devote adequate time and energy to this course:

- Understanding of the variety of ways estate planning benefits individuals with planning for incapacity and post-death administration
- Able to conduct client and witness interviews with confidence
- Able to engage in factual investigation
- Able to engage in adequate legal research and application of law to the situation at hand
- Able to draft basic estate planning documents
- Able to manage client files and information adequately
- Able to work with support staff and delegate duties for efficient case management
- Able to spot and resolve possible ethical issues
- Understanding of how to conduct oneself as a professional
- Ability to work in teams
- Confidence in ability to represent a client

Grading Standards:

In order to receive credit for this course, you must complete all of the course assignments at a satisfactory level; otherwise, you will not pass. The grade you receive will depend on the quality you demonstrate in the following areas:

Legal Work	50%
Professionalism	25%
Administration	12.5%
Seminar Work & Misc. Factors	12.5%

A detailed grade sheet with more information and examples of the types of factors I will be looking at in each area is posted on the course website on WISE.

Logistics

Class Time: The regular class time is on Friday from 10:20 –12:20 p.m. If a class must be rescheduled, the makeup time will be as convenient as possible for the students.

Class Attendance: You are performing as a professional colleague in this course and are expected to fulfill all of your professional responsibilities at a level of excellence. Because much of our class time is devoted to case and practice management, your attendance is especially important. Moreover, anyone who misses more than 25% of class time is ineligible for credit pursuant to the law school's academic regulations. Please note that your class attendance may be one of the factors that I consider in determining your grade, so if you miss class, I recommend that you let me know why.

Advanced Students. Any Advanced Students who enroll in the Trusts & Estates Clinic are subject to all the same requirements as other students in the Trusts and Estates Clinic. You are required to attend at least one class per week for a total of at least 13 classes during the semester if you are continuing in the same clinic. You will be allowed to decide which classes to attend, however, you may not choose class sessions that have content duplicative of classes attended last semester. You must also meet with your supervising professor at least one hour per week at a regularly scheduled time as additional instructional time that is required under ABA accreditation standards. Your teammates may also attend the weekly meeting and it can be used to discuss case strategy or for instructional guidance and education. Normally, our advanced students devote more time to case work, and you should plan your schedule accordingly. Although you are occasionally permitted to miss class, you are not allowed to miss any of your weekly meetings with your supervising professor. If you do, you may lose credit for the entire course. It is up to my discretion whether you occasionally attend a weekly meeting by telephone or videoconference.

Hours Requirement. You are required to complete at least 52 hours of clinic-related work per unit of academic credit during the course of the semester, including 26 hours of class time. You are required to record all of your time on timesheets, rounding up to the nearest .25 hours, and "billing" for everything you do (except non-substantive emails). We sometimes seek attorney's fees, and if they are not properly documented, we will not receive payment.

Please note that our cases are actual legal cases and transactions. Thus, we cannot simply conclude them once you reach your minimum hour's requirement. You may be required to exceed the minimum hours to bring your case or transaction to conclusion or to a position where it can be responsibly transitioned. We will work with you to transition you off of your cases as quickly as possible after you reach your minimum hour's requirement if you request. However, it is your professional responsibility to ensure that your client is not harmed by the transition or conclusion in any way. Your client's interests must come first, and you should be prepared for the possibility that your legal work might exceed the minimum hours required this semester.

Field Trips. Credit is available for pre-approved law-related field trips.

Case and File Management: Each pair of students will be assigned an average of 2-4 cases to manage during the course of the semester. The students will be responsible for all aspects of the management of those cases, including:

1. Client conferences
2. Communications with clients and other parties
3. Development of client estate plans
4. Managing and maintaining client files

5. Drafting documents and supervising their execution
6. Calculating and calendaring all dates
7. Conducting any required legal research

Weekly meetings with Supervising Professor: You and your partner(s) are required to meet with your supervising professor at least one hour per week. Although you may miss class occasionally, you are not allowed to miss any of your weekly meetings with your supervising professor. If you do, you may lose credit for the entire course. It is up to the discretion of your supervising professor whether you may attend a weekly meeting by telephone or videoconference. For each weekly meeting, you must:

1. Prepare a written agenda.
2. Bring the files of each legal matter with you (the files must be complete and up-to-date and include all work done on the matter that week).
3. Bring your portfolio (which must be complete and up-to-date).

Moreover, please address the following either in your weekly meetings or in supplemental meetings:

1. Review opening and closing memos for each case.
2. Participate in a mid-term evaluation during office hours October 8th and October 10th.
3. Conduct an exit interview by the end of the semester (November 20^{th} or a date mutually agreed upon).

Clinic Portfolio. All students are required to create and maintain a portfolio for all your clinic work throughout the semester. When applicable, please bring your portfolio to all your meetings with your supervising professor. The portfolio should include the following items as soon as they are completed:

1. Timesheets (always complete and up-to-date)
2. Agendas for all weekly meetings
3. Your opening thoughts memorandum
4. Your mid-term self-evaluation
5. Your final self-evaluation
6. Your resume (once completed)
7. Class notes
8. A section for each of your cases with copies of all work product (redacted to protect client confidentiality)
9. Any resources you deem useful

Case Rounds Presentation: Each team will make one presentation to the class using a visual aid such as PowerPoint during the semester. Your presentation should provide an overview of the legal matter(s) you are working on in the clinic, and include the issues you are encountering in the representation. There will be an extensive question and answer period with your classmates. You will have approximately 50 minutes total for both your presentation and the question and answer period.

Class Organization: Clinic classes are organized around discrete topics related to the trusts and estates practice area, including the relevant substantive law, probate and nonprobate property, life insurance and qualified retirement plans, beneficiary designations, planning for minor family members, planning for disability and death, interviewing and counseling clients, and drafting and executing estate planning documents.

Classes may include lectures, PowerPoint presentations, roundtable discussions, interactive exercises and guest speakers. However, **it is important to remember that we are operating a law firm with actual cases and real clients.** The immediate demands of the law firm's practice may necessitate changes to our class plans, so please be prepared to be flexible.

Texts : The primary text for beginning students is *Drafting Wills and Trusts* by Lucy A. Marsh. The clinic does not have extra copies of this text so it must be purchased by students. It is available on Amazon for ($30-$50).

The primary text for advanced students who have already covered the above-text is the most recent edition of Madoff et al, *Practical Guide to Estate Planning* (CCH). This book is a professional book for practicing lawyers rather than a law school text and is not available for purchase by individual students at an affordable price.

The additional text for the clinic is *The Planning and Drafting of Wills and Trusts* (fifth edition) by Shaffer, Mooney and Boettcher.

An optional text which could be useful to students who did not take "Will and Trust Drafting" is *Drafting Wills, Trusts, and Other Estate Planning Documents: A Style Manual* by Kevin D. Millard.

The clinic library has copies of each text which may be borrowed by students. Please coordinate your use of these texts with Margaret so that they are readily available to everyone.

Scheduling: I am available via text during the week to facilitate scheduling client meetings. Please feel free to text me at (503)910-0900. I will respond immediately (if I am not teaching). If you have substantive questions that cannot wait until Friday please e-mail me. I will do my best to respond one way or another within 24-48 hours. If the question is urgent then please mark the e-mail as "Urgent."

DATE	TOPIC/SPEAKER	ASSIGNMENT	READING
1. Friday, January 14th	*Class Introductions Overview of the Trust and Estates Clinic* ***Margaret Schue***	• Sign up on TWEN. • Start preparing your portfolio and plan to compile class materials. • Begin timekeeping. • Begin drafting Opening Thoughts Memorandum (Due January 21st at 10:20 am). • Submit to Margaret paperwork confirming registration as a Certified Law Student by January 28th (optional). Schedule weekly meeting with supervising professor. • Assignment of Cases.	**Read:** Clinic Manual **Read:** Shaffer, Mooney & Boettcher, Part One CLIENTS, Chapter 1, Planning Together and Chapter 2, Rebuilding Together. Madoff, Tenney, Hall and Mingolla, Chapter 1, The Estate Planning Process, Chapter 2, Basic Rules of Property Transfers Upon Death. Marsh, Lucy A., Chapter 1. Why have a Will?
2. Friday, January 21st	*Client Contact* *Review of Clinic files and Filing System*	• Go over phone script for initial calls to clients; • Have initial phone calls to clients	**Read:** Shaffer, Mooney & Boettcher, Part Two TOOLS, Chapter 4, Wills

DATE	TOPIC/SPEAKER	ASSIGNMENT	READING
	Become Familiar with Existing clinic files *Begin preparing for Initial Client Interviews*	completed by Friday, January 28th. • When possible, begin drafting initial strategy memos (due 1 week after initial client meeting). • ***E-mail Opening Thoughts Memorandum to professor.*** • Complete initial phone calls to clients by Friday, September 28th.	and Chapter 5, Trusts. Madoff, Tenney, Hall and Mingolla, Chapter 3, Basic Estate Planning Documents, Chapter 4, Trust Basics. OSB CLE Article "The New Client Interview." Marsh, Lucy A., Chapter 2. Capacity to Make a Will