

**Wills, Trusts & Estates**  
**FALL 2009**  
**Professor Mary Radford**

Monday, Wednesday 9:00 am

**Text: VOLLMAR, HESS & WHITMAN, AN INTRODUCTION TO TRUSTS & ESTATES**

**Statutory Supplement (required): Georgia Wills & Trusts Statutes  
(available in GSU Bookstore)**

You may find some or all of the following OPTIONAL resources (which are available in the Law Library) helpful as background material:

Atkinson, Law of Wills (2d ed.)

Reutlinger, Wills, Trusts, and Estates: Essential Terms  
and Concepts

Bogert, Law of Trusts

Haskell, Preface to the Law of Trusts

Bergin & Haskell, Preface to Estates in Land & Future  
Interests

**Course prerequisites:** First-year Required Courses

**Attendance, Preparation and Participation Policies:** Students are expected to attend each class prepared to discuss the materials and problems assigned. **Attendance is required.** The professor reserves the right to give a failing grade to a student who misses *five or more* classes. Assignments are given on a weekly basis. Please prepare the *entire* week's assignment before Monday's class.

**Course Description:** This course is a basic survey of the legal framework surrounding the gratuitous transfer of property during life and at death through intestate succession, wills, gifts, trusts, and other non-probate transfers. We will compare relevant Georgia statutes with uniform laws and national trends. In addition to the substantive law covered, this course will focus on teaching students how to read and distinguish among the statutes of various states.

**Grading:** Students' final grades will be based on a mid-term test **(20%)**

and the final examination (**80%**). The professor may award extra points for outstanding attendance and class participation.

**Mid-Term Exam:** The mid-term exam for this course is scheduled for **MONDAY, OCTOBER 5, 2009**. **NOTE** that this will be an **IN-CLASS** exam, beginning at **9:00 am** and will test the materials covered in **Weeks I-V**. This is an **OPEN BOOK** exam.

**Final Exam:** The final exam for this course will be a **THREE-HOUR EXAM**. This is an **OPEN-BOOK** exam.

**No Classes:** Please note that there will be no class held on September 7, 2009 (Labor Day) and October 19, 2009.

**Student Appointments:** Professor Radford is generally available to discuss student questions. Please feel free to contact her to make a mutually convenient appointment: 404/413-9188, *mradford@gsu.edu*.

**The following course syllabus contains a general plan for the course. Deviations may be necessary.**

## **ASSIGNMENTS**

WEEK I  
8/17/09

### **INTRODUCTION**

Text, pp. 1-12, 18-35, 37-41

OCGA § 53-1-2

Worksheet #1

*Terminology:* Gratuitous Transfers; Inter-vivos Transfers; Gifts, Trust; Will; Testate; Intestacy; Non-Probate Transfers; Uniform Probate Code; Testator; Executor; Administrator; Personal Representative; Probate Court; Beneficiaries; Heirs; Estate Tax; Gift Tax, Exemption Equivalent; Marital Deduction; Annual Exclusion; Charitable Deduction

WEEK II  
8/24/09

### **NON-PROBATE TRANSFERS**

Text, pp. 111-21, 127-37, 152-66

OCGA §§ 7-1-810 through -815 (Statutory Supp., pp. 68-71)

Worksheet #2

*Terminology:* Probate; Will Substitutes; Life Insurance; Revocable Inter Vivos Trust; Power of Attorney; Tenancy in

Common; Tenancy by the Entirety; Joint Tenancy with Right of Survivorship; Multiple Party Bank Accounts; Joint Accounts; Agency Accounts; Bank Account Trust; Totten Trusts; Payable-on-Death Account; Transferable-on-Death Designation; Uniform Transfer-on-Death (TOD) Security Registration Act; Privity

WEEK III  
8/31/09

**INTESTACY - Part 1**

Text: pp. 545-62

OCGA §53-2-1

Worksheets #3 & #4

*Terminology:* Intestate Succession, Descent and Distribution, heir, next of kin, escheat, dower, curtesy, primogeniture, lineal descendants, issue, per capita, per stirpes, by representation, per capita with representation, per capita at each generation

WEEK IV  
9/9/09

**(NO CLASS 9/7/09 – LABOR DAY)**

**INTESTACY - Part 2**

Text: pp. 577-84

OCGA § 53-2-1

Worksheet #5

*Terminology:* First-line collaterals, Second-line collaterals, ancestors, Parentelic Preference system, Degree of Relationship (degree of kinship; civil law) system; laughing heirs

WEEK V  
9/14/09

**INTESTACY - Part 3**

Text: pp. 562-77; 584-88

OCGA §§ 53-1-8, 19-8-19 (p. 18 of Statutory Supplement), 53-2-3 through -6, 19-7-21 (p. 21). 53-2-27 (p. 21), 53-1-10 through -13

Worksheet #6

*Terminology:* stepchild, foster child, adoption, biological family, half-blood, whole-blood, equitable adoption (adoption by estoppel, virtual adoption), nonmarital child, half-blood sibling, Uniform Parentage Act, posthumous children, children of assisted reproduction, Uniform Status of Children of Assisted Conception Act, Minor; Advancement, Hotchpot

WEEK VI  
9/21/09

**WILLS - Part 1**

Text: pp. 589-613, 619-43

OCGA §§ 53-4-1 through -3, 53-4-20 through -24

Worksheet #7

*Terminology:* Codicil, Ambulatory, Probate, Propounder, Solemn Form Probate, Common Form Probate, Letters Testamentary, Attestation, Acknowledgment, Publication, Line of Sight Test, Conscious Presence Test, Interested Witness, Purging Statute, Self-Proving Will, Attestation Clause, Conditional Will, Substantial Compliance Doctrine, Holographic Will, Nuncupative Will, Republication, Codicil, Integration, Republication by Codicil, Incorporation by Reference, Acts of Independent Significance

WEEK VII  
9/28/09

**Wills - Part 2**

Text, pp, 643-88  
OCGA §§ 53-1-5, 53-4-10 through -12, 53-4-68, Formal Advisory Opinion 91-1 (Stat. Supp. p. 61)  
*Terminology:* Testamentary Capacity, Lucid Interval, Caveat, Insane Delusion, Monomania, Mistake, Undue Influence, No-Contest ("In Terrorem") Clause, Confidential Relationship, Fraud

WEEK VIII  
10/5/09

**Mid-Term Exam: Monday, 10/5/09. The Mid-Term Exam will cover the material through Week V. We will review the Midterm results on Wed., 10/7/09. BE SURE TO BRING YOUR STATUTORY SUPPLEMENT ON 10/7/09.**

WEEK IX  
10/12/09

**WILLS - Part 3**

Text: pp. 688-715, 801-26  
OCGA §§ 53-4-40 through -50, 53-4-55 through -57  
*Terminology:* Express Revocation, Implied Revocation, Revocation by Operation of Law, Revival, Construction, Plain Meaning Rule, Personal Usage Exception, Extrinsic Evidence, Patent Ambiguity, Latent Ambiguity

WEEK X  
10/21/09

**(No Class on 10/19/09)**

**WILLS - Part 4**

Text, pp. 722-44, 826-49  
OCGA §§ 53-4-30 through -33  
*Terminology:* Joint Will, Mutual Will, Joint & Mutual Will, Misdescription, Mistake, Mistake in the Inducement

WEEK XI  
10/26/09

**WILLS - Part 5**

Text: pp. 850-92  
OCGA §§ 53-4-64 through -65; 53-10-1 through -6  
*Terminology:* Bequest, Legacy, Devise, Lapse, Anti-Lapse Statute, Substitute Gift, Class Gifts, Uniform Simultaneous

Death Act, Doctrine of Probable Intent

WEEK XII  
11/02/09

**WILLS – Part 6 & FAMILY RIGHTS**

Text, pp. 892-912; 745-48, 772-91  
OCGA §§ 53-4-66 through -67; 53-3-1 through -9  
*Terminology:* Ademption by Extinction, Specific Bequest, General Bequest, Demonstrative Legacy, Abatement, Ademption by Satisfaction, Exoneration, Stock Split, Increase; Homestead Allowance, Exempt Property, Family Allowance, Elective Share, Year's Support, Omitted Spouse, Pretermitted Heir

WEEK XIII  
11/09/09

**TRUSTS - Part 1**

Text: 253-61, 323-33, 246-53  
OCGA §§53-12-28, 53-12-90 through -94  
*Terminology,* Mandatory Trust, Discretionary Trust, Spray (Sprinkle) Trust, Income, Principal (Corpus), Spendthrift Trust, Support Trust, Voluntary Alienation, Involuntary Alienation, Asset Protection Trusts, Disclaimer, Implied Trust, Resulting Trust, Constructive Trust, Secret trust, Semi-Secret Trust

WEEK XIV  
11/16/09

**TRUSTS – Part 2**

Text: 167-75, 200-35  
OCGA §§ 53-12-1 through 53-12-9, 53-4-48, 53-12-70 through -71  
*Terminology:* Private Trust, Charitable Trust, Express Trust, Settlor, Trustor, Grantor, Inter Vivos (Living) Trust, Testamentary Trust, Declaration of Trust, Deed of Trust, Trustee, Res (Corpus, Principal), Income, Fiduciary, Beneficiary, Revocable Trust, Irrevocable Trust, Precatory Language, Expectancy, Unfunded Life Insurance Trust, Uniform Testamentary Additions to Trusts Act, Constructive Trust, Resulting Trust, Honorary Trust

WEEK XV  
11/23/09

**(Class on 11/23/09 only)**

**TRUSTS - Part 3**

Text, pp. 1060-64, 1077-78, 1094-1110, 1138-42, 1155-61  
OCGA §§53-12-190 and 53-12-194  
*Terminology:* Duty to Earmark, Duty not to Commingle, Duty to Account, Duty to Diversify; Prudent Investor Standard of Care, Exculpatory Clause, Delegation of Duties; Unitrust, Power to Adjust

<b>For estate of decedents dying in:</b>	<b>Exemption Equivalent:</b>
2002	\$1 million
2003	\$1 million
2004	\$1.5 million
2005	\$1.5 million
2006	\$2 million
2007	\$2 million
2008	\$2 million
2009	\$3.5 million
2010	Repeal
2011	It's back!

1. On January 1, 2006, Helen gives \$512,000 to her nephew. Assume she has made no prior taxable gifts. What amount of this gift is potentially taxable?

Must Helen pay gift tax on that amount in 2006?

2. On January 4, 2009, Helen dies with an estate of \$5 million. She has given no more gifts during her lifetime. Her will leaves \$1,000,000 to her spouse and the rest of her property to her niece.

1) Calculate Helen's potentially taxable estate:

2) Take any allowable *deductions*:

3) Then, take into account her EXEMPTION EQUIVALENT

Non-Probate Assets

- 1) Suppose that Susan dies with a will that says:  
“I leave my entire estate to my beloved child Harold.”

Susan’s estate consists of the following:

- 1) Residence held as JTWROS with her daughter Della
  - 2) Vacation home held as JTWROS with her niece Nancy
  - 3) Joint savings account (\$50,000) with her nephew Ned
  - 4) Individual Retirement Account (“IRA”) which designates The Society for the Prevention of Cruelty to Birds as the beneficiary
  - 5) 100 shares of Coca-Cola stock registered “TOD” to niece Nancy
  - 6) Bank account (\$75,000) held “POD” to Della
  - 7) Life insurance policy (face value of \$250,000) payable in equal shares to her two grandchildren
  - 8) Car in her own name (worth \$5000)
  - 9) Personal property valued at about \$10,000
  - 10) Bank account in her own name (\$25.23)
2. Debra Demise purchases a life insurance policy on her own life and one on the life of her brother Herbert. The face value of each policy is \$75,000. Debra names her husband Tim as the beneficiary of the policy on her own life and herself as the beneficiary of the policy on Herbert's life. Her will leaves her entire residuary estate to Sam, her son.
- a. What happens to the life insurance policy on Herbert's life if Debra predeceases him?

b. What happens if Debra dies with a will that provides the following: "I hereby bequeath the proceeds of the insurance policy on my life to my nephew Ned." (She never bothered to change the beneficiary on the policy itself.)

c. Suppose instead of naming Tim that Debra's life insurance policy on her own life named "the residuary beneficiaries of my estate" as the beneficiary. Her will says:

"I hereby bequeath the residue of my estate to my son Sam."

d. What happens if Debra divorces Tim but dies before changing the beneficiary designation?

3. Molly Morte opens a bank account with \$5000 and registers it in the names of "Molly Morte or Peter Penny." During Molly's life, who owns the money in the account?

a) Who can withdraw the money in the account while Molly is alive?

b) When Molly dies, who takes the remaining money in the account?

1) Does it matter if Molly has a will that says: "I leave my bank account to Judy Tate?"

c. What if the account instead was registered as "Molly Morte, P.O.D. to Peter Penny." 1) Who owns the account during Molly's life?

2) What happens when Molly dies?

3) What if Peter predeceases Molly?

d. What if the account had been registered as "Molly Morte, Trustee for Peter Penny." 1) What happens when Molly dies?

2) What if Molly writes a will leaving "everything I own,

including all my bank accounts, to my nephew Ned"?

**> What does D's surviving spouse take if D dies leaving:**

**Old UPC**

**New UPC**

**GEORGIA**

**1) no issue,  
no parents**

**2) no issue,  
parents**

**3) "joint" kids  
& neither D nor  
S have other  
kids**

**4) joint kids +  
D's kids from  
1st marriage  
(S has no other  
children)**

**5) joint kids +  
S has other kids  
(D has no other  
children)**

**“Old UPC” (pre-1990) § 2-102**

The intestate share of the surviving spouse is:

- (1) if there is no surviving issue or parent of the decedent, the entire intestate estate;
- (2) if there is no surviving issue but the decedent is survived by a parent or parents, the first [\$50,000], plus one-half of the balance of the intestate estate;
- (3) if there are surviving issue all of whom are issue of the surviving spouse also, the first [\$50,000], plus one-half of the balance of the intestate estate;
- (4) if there are surviving issue one or more of whom are not issue of the surviving spouse, one-half of the intestate estate.

## **WORKSHEET #4**

**FACTS: Decedent has three children: A, B, & C**

**A has two children: D & E**

**B has one child: F**

**C has three children: G, H, I**

**Answer each of these questions under the three systems of distribution:**

**a) PER CAPITA WITH REPRESENTATION**

**b) PER CAPITA AT EACH GENERATION**

**c) PER STIRPES**

**1) What if Decedent is survived by all of her children and all of her grandchildren?**

**a)**

**b)**

**c)**

**2) What if no children of Decedent survive her but she is survived by all of her grandchildren?**

**a)**

**b)**

**c)**

**3) What if Decedent is survived by A and all of the grandchildren?**

**a)**

**b)**

**c)**

## **WORKSHEET #5**

**A. D dies survived by her brother and by two nieces, Anne and Beth, who are the daughters of D's predeceased sister Susan.**

**B. D was one of three sisters. D's sister Susan predeceased D, leaving one son Tom. D's sister Louise predeceased D. Louise had had two children, Bob and Barry. Bob survived D. Barry predeceased D, but he was survived by his two children Kathy and Peggy. D dies survived by Tom, Bob, Kathy, Peggy, and her (D's) grandmother.**

**C. D dies survived by his mother and his brother.**

**D. D dies survived by these maternal relatives: D's uncle Joe and Joe's son Lew and the two children of D's deceased Aunt Jane (Kathy and Mike).**

**E. D dies survived by his Uncle U, his first cousin (Aunt A's son) and his great-grandfather.**

**F. D dies survived by Uncle Joe and Great-Aunt Marie.**

**G. D dies survived by Cousin Jane and Great Uncle Jim.**

**H. D dies survived by Brother B, Mother M, and Grandparent GP.**

**I. D died intestate, leaving neither a spouse nor lineal descendants surviving her. On her mother's side, only D's first cousin (A) survived. On her father's side, D's first cousin's daughter (B) survived and D's great uncle (C) survived. Who takes what share of D's property under each of the following systems: (1) UPC (2) Georgia (3) Degree of Relationship (Civil Law) System; (4) Civil Law System with a Parentelic Preference?**

- 1. Larry is the child of Alice and George, who are not married. Larry is adopted by Henny and Isaac Benton. All parental rights of Alice and George are terminated in the course of the adoption. If any of the following dies intestate, may Larry inherit from: Alice? George? Henny? Isaac?**
  
- 2. a) Using the facts in Scenario #1, what if Henny's mother dies intestate (and Henny is already dead), can Larry inherit from her as one of her "grandchildren"?**  
**b) Using the facts in Scenario #1, what if Larry dies intestate. May any of the following inherit from him: Alice? Henny? Henny's sister?**
  
- 3. Larry is the child of Alice and George, who are not married. Alice marries Pete and Pete adopts Larry. George's parental rights are terminated in the course of the adoption. If any of the following die intestate, may Larry inherit from: Alice? Pete? George?**
  
- 4. Maggie is the child of Paula and Paul, who are married when Maggie is born. Paul dies. Paula then marries Tim and but Tim does not adopt Maggie. If Tim dies, may Maggie inherit from him?**
  
- 5. Maggie is the child of Paula and Paul, who are married when Maggie is born. Paul dies. Paula then marries Tim and Tim adopts Maggie. If Paul's mother then dies intestate, may Maggie inherit from her?**
  
- 6. Maggie is the child of Paula and Paul, who are married when Maggie is born. Paul dies. Paula then marries Tim and Tim adopts Maggie. Paula and Tim then have two other children, Bob and Laura. If Bob dies intestate, may Maggie inherit from him? Would your answer change if Tim had NOT adopted Maggie?**
  
- 7. Ellen is the child of Louise and Evan. Louise and Evan are killed in a car accident and Katie, Louise's sister, raises Ellen as her own child. She does not formally adopt Ellen. If Katie dies intestate, survived by her parents and Ellen, may Ellen inherit from her?**
  
- 8. Ellen is the child of Louise and Evan. Louise and Evan are killed in a car accident and Katie, Louise's sister, raises Ellen as her own child. Katie formally adopts Ellen, but not until Ellen is 35 years old. If Katie dies intestate, may Ellen inherit from her?**
  
- 9. Ellen is the child of Louise and Evan. Louise and Evan are killed in a car accident and Katie, Louise's sister, raises Ellen as her own child. Katie formally adopts Ellen soon after she takes her in. Katie also has another child of her own. If Katie dies intestate, may Ellen inherit from her or will Katie's biological child take Katie's entire estate?**

**10. a) Camilla is the child of Annie and Bill, who are not married. If Annie dies intestate soon after Camilla is born, may Camilla inherit from her?**

**b) Suppose, instead, that Annie had promised to give up Camilla for adoption as soon as she was born and the adoption took place before Annie died. May Camilla still inherit from Annie?**

11. Camilla is the child of Annie and Bill, who are not married. Bill promises that he will help care for Camilla, but then loses touch with Annie. Annie brings a paternity suit in order to establish his legal obligation to care for Camilla. She is successful in this suit. Bill dies intestate two years later. May Camilla inherit from him?

12. Camilla is the child of Annie and Bill, who are not married. Bill promises that he will help care for Camilla, but then loses touch with Annie. Annie brings a paternity suit in order to establish his legal obligation to care for Camilla. She is successful in this lawsuit. However, Bill has left the jurisdiction and Annie is never able to collect a penny in child support from him. Twenty-five years later, Camilla dies intestate with a sizeable estate. (She is not married and has no children when she dies.) May Bill inherit from her?

13. Camilla is the child of Annie and Bill, who are not married. Bill promises that he will help care for Camilla, but then loses touch with Annie. Annie never files a paternity suit and no other court order is entered declaring Bill's paternity. Bill has left the jurisdiction and Annie is never able to collect a penny in child support from him. Twenty-five years later, Camilla dies intestate with a sizeable estate. (She is not married and has no children when she dies.) Bill files a sworn statement with the probate court in which he swears under oath that he is Camilla's father. May Bill then inherit from her?

14. Assume the same facts as in Scenario #13, except assume also that Bill signed Camilla's birth certificate when she was born. May Bill inherit from her?

15. Ophelia is the child of Howard and Gina, who are not married. They marry when Ophelia is five years old. Howard then dies intestate. May Ophelia inherit from him?

16. a) Raymond is the child of Quinton and Cindy, who are not married. Quinton lives with Cindy and Raymond and treats Raymond as his own child and pays his share of child support. May Raymond inherit from Quinton if he dies intestate?

b) Suppose instead that Quinton was killed in an accident before Raymond was born. However, he had been living with Cindy, had helped her furnish a nursery and had bragged to his family and friends about the fact that he and Cindy were expecting their first child. May Raymond inherit from him?

17. William is the child of Frank and Yolanda, who are not married. Frank never acknowledged William as his own. Frank dies intestate and Yolanda, on behalf of William, seeks to prove that he was William's father by genetic testing. May she do so? How?

**18. Norman is about to undergo chemotherapy. His doctors suggest that he deposit some sperm in a sperm bank in case the therapy causes some damage to his reproductive system. He does so. Sadly, he dies within four months of beginning the therapy. His wife is later impregnated with the sperm and twin daughters are born 18 months after his death. May they inherit from him?**

Marianna Keegan is an 80-year-old woman who uses a wheelchair. Her attorney, Adamson, has prepared a will for her signature. The will leaves the bulk of her estate to her sister. She tells Adamson that she is tired of paying his outrageous hourly rate, so she wants him just to send the will to her and she will take care of getting it signed. Adamson reluctantly does so. Analyze whether the will would be admitted to probate in Georgia or in a state that has adopted UPC Sec. 2-502 if any of the following scenarios took place. (Assume that the will was not self-proved, unless I say otherwise, and assume that the state has not adopted UPC Sec. 2-503.)

**SCENARIO ONE:** Marianna invites her two neighbors over for tea and asks them if they will witness a document for her. In their presence, Marianna signs the will at the top of the first page. She does not date it. She gives her neighbors the last page only and covers up everything but the two lines that say "Witness." They both sign the paper, never knowing that it is Marianna's will that they are witnessing. Marianna watches them sign and thanks them. They then drink more tea. The reason that Marianna did not want her neighbors to see the will is that she left \$10,000 in the will to one of them and nothing to the other.

**SCENARIO TWO:** Marianna invites her two neighbors over for tea and asks them if they will witness her will for her. Her paralysis has worsened and she cannot hold a pen. In front of the neighbors, Marianna directs her nurse to sign her name to the will and the nurse does so. She does this in her bedroom. The bedroom is very small so the two neighbors take the will into the dining room and each of them signs it. Marianna cannot see the neighbors from her seat in her bedroom but she can clearly hear them discussing what they are doing.

**SCENARIO THREE:** Marianna invites her two neighbors over for tea and asks them if they will witness her will for her. She is propped up in her bed. She shows them the will and says, "Here it is. I signed it yesterday. Now I want you to sign it." The two neighbors turn their backs on Marianna and look carefully to be sure that the will is signed, which it is. The first neighbor signs. When that neighbor turns back to check on Marianna, she discovers to her horror that Marianna has stopped breathing. They call 911 and, while they are waiting for the ambulance to arrive, the other neighbor hurriedly signs the will. It is determined later that Marianna died at her home before the ambulance arrived.

**SCENARIO FOUR:** Marianna invites her two neighbors over for tea. When they arrive, they decide instead to imbibe in a bit of sherry. After a couple of glasses, Marianna pulls out her will. The attorney has included a self-proving affidavit at the end of the will. Thus, the will has two signature pages, one at the end of the will itself and the other at the end of the self-proving affidavit. Marianna turns to the last page (the self-proving affidavit) and signs her name on the line that says "Testator." Neighbor Sally then signs that page on the line that says "Notary Public." Neighbor Ned turns to the page that contains the signature lines at the end of the will and he signs that page on the line that says, "Testator." Marianna dies the next week.

**SCENARIO FIVE:** Marianna signs her will. Later that same day, she calls in her housekeeper (who speaks very little English) and asks her to mail the will and an accompanying note to Marianna's sister. The note says: "Hi Sis. Here it is, the long-awaited will. I've signed it."

Would you please sign it where it says *Witness #1* and ask your husband Phil to sign on the other witness line. A week later, Sis leaves a voice-mail for Marianna that simply says: “Done.” Marianna calls back and leaves a voice-mail that says. “Thanks. Have a good life.” The next day, she dies.

SCENARIO SIX: Marianna looks over the will that Adamson prepared for her and decides that she doesn’t like it. She sets that document aside and writes in her own handwriting a one-page document that says: “I am Marianna Nelson. This is my will. I want my entire estate to be divided between my sister Elaine Jones and my best friend Eliza Poll.” She then signs this document.

SCENARIO SEVEN: Marianna calls Adamson before he sends her the will and says: “I’ve made some different decisions about my personal property. I guess we’ll need to start over.” As it turns out, this is the tenth time that Marianna has changed her mind about her personal property. Adamson writes an item in her new will that says: “I may leave a list of items of personal property and the persons to whom I would like that property to be distributed. This list will be entitled ‘Marianna’s Personal Property’ and will be found in the same location as my will. I direct my executor to distribute those items of property to the persons named on that list just as if this list were included in the will.” Later, when Marianna dies, a list of items is found with her will. The will is dated January 5, 2008 and the document is dated January 4, 2008.

➤ Would your answer change if the will was dated January 2, 2008?

SCENARIO EIGHT: Marianna’s will has a provision that says, “I leave \$5000 each to every person employed by my business on the date of my death.” The will also said, “ I will leave an envelope in my desk drawer with some money in it and one of my nephew’s names on it. I direct my executor to give the money to that nephew.” When Marianna writes the will her business employs two people. By the time she dies, one of those people has been fired and three more people have been hired. Will each of these employees get \$5000? Also, when Marianna dies, the executor finds an envelope in her desk drawer that contains \$15,000 in cash. The name of one of her nephews is on the front of the envelope. Will this nephew get \$15,000?

## **WORKSHEET #8**

**Will of Robert B. Rivers**  
**Date of Will Execution: December 16, 2000**  
**Date of Death: March 1, 2008**

- 1) I leave my Rolex watch to my cousin Harry.
- 2) I leave Blackacre to my son Sam.
- 3) I leave my 1976 Jaguar to Susan.
- 4) I leave \$5000 to each person who is employed by me at my death as part of my household staff.
- 5) I leave \$500,000 to Fidelma.
- 6) I leave my 100 shares of Coca Cola stock to Candler.
- 7) I leave 2000 shares of First Ban stock to George.
- 8) I leave \$45,000 of the proceeds from the sale of my vacation home to Hilda.
- 9) I leave the money in my savings account at The Second Bank to Tina.
- 10) I leave the rest, residue, and remainder of my estate in equal shares to John and Jane.

Assume that Robert owned each item of property described above when he wrote the will.

- LABEL each of the devises above as “specific” or “demonstrative” or “general” or “residuary”
- Discuss one or two things that might happen to the property described in each devise that would cause that property not to be in the estate of Robert B. Rivers on the date of death.