

PREFACE

Presently, a significant number of law firms have Trusts and Estates as a component part of their practice. Because paralegals play a fundamental role in most of today's law firms, a paralegal's knowledge of the field of Trusts and Estates is essential. This book will serve to provide the paralegal with the rudiments of trusts and estates practice, through its approach, its content, and its style.

Its perspective is both substantive and procedural, with emphasis on practical application of the material in order to best prepare the student for what he/she will experience when entering the workforce. Hence, incorporated into the framework of each chapter is a general discussion and explanation of the subject matter, highlighted by excerpts from pertinent case law and statutes, as well as study aids in the form of charts, diagrams, and outline summaries, when appropriate. Examples and exercises having practical import will be included as and when needed in order to demonstrate and/or emphasize a particular point.

Additionally, the textbook utilizes current decisions to highlight points of law and statutory applications. Experience indicates that this more "modernized" approach to pedagogy enhances the course material by bringing a sense of "reality" to the classroom setting. Indeed, a student's recognition of the practical import of instruction directly correlates to that student's interest in the material and participation in the classroom.

Coursebook Content

The text covers an expansive list of topics with no particular subject given greater treatment than others. The purpose of this content format is, of course, to enable the paralegal to handle an estate from beginning to end, whether it involves basic administration, estate planning, or litigation.

The organization of the book flows logically, commencing with the basic terminology utilized in the field and then continuing with jurisdiction; venue; intestate administration; probate proceedings; litigation (utilizing, by way of the most practical example, a contested probate proceeding as the focal point of discussion); miscellaneous proceedings, including the appointment of a trustee and wrongful death compromises; and fiduciary duties and responsibilities in administering an estate, including issues related to abatement, ademption, tax apportionment, and accounting proceedings. Indeed, each of these areas forms the rudiments of trusts and estates practice and, as such, cannot be given less than a thorough treatment in any coursebook.

Furthermore, and equally essential to a comprehensive understanding of the field, are chapters in the text that address status (e.g., adopted children, non-marital children); parental rights of inheritance; spousal rights, including but not limited to the elective share; forfeiture; revocation of wills; republication of wills; and trusts. Today, more than ever before, trusts have become a valuable estate planning tool.

Hence, the chapter on trusts contains a complete examination of the essential elements of a trust, the various types of trusts that may be encountered in the field, and future interests.

Tax considerations in administering an estate are appropriately contained in the chapter that discusses the fiduciary duties involved in estate administration. These considerations necessarily involve the preparation and filing of federal and state estate tax returns, and fiduciary income tax returns. Involved in this discussion is a review of the new estate tax laws.

Following the chapter on estate administration, there is a chapter on ethics, both from a paralegal's perspective, and from the attorney's perspective, insofar as trusts and estates are concerned. Additionally, when appropriate, ethics coverage is incorporated throughout the text in order to heighten the student's awareness of the importance of this topic.

The text concludes with a chapter that discusses valuable resources for the practicing paralegal, including but not limited to a listing of form books, computer programs, and useful Internet sites.

The foregoing format is enhanced by visual images in the way of charts and diagrams.

The text is driven by practical application of the underlying legal theory, through examination of recent case law addressing the issues under consideration, and practice exercises by which the instructional material may be applied. Although the full text of cases has not been included, case synopses have been supplemented with relevant quoted portions of a case when appropriate. While the audience for the text is the paralegal student, a modified case law approach as proffered herein should not be ignored in the teaching method, as it presents the reader with a view of how the material is applied in a courtroom setting.

Each chapter contains an introductory paragraph, hypothetical examples, glossary subtexts, practice exercises, and questions to consider, where appropriate. A glossary of terms appears at the end of the book. The book also contains an appendix of forms. These forms are utilized in the State of New York, thus providing the students with a broader base of practical application. The text concludes with an index to statutes, including but not limited to the Uniform Court Rules, case citations, a general subject matter index, and a glossary.