Wills, Estates, and Trusts

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Statutes, Cases, and Problems

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CAROLINA ACADEMIC PRESS
Durham, North Carolina

ISBN 978-1-5310-2690-5
eISBN 978-1-5310-2691-2
LCCN 2024942935

Carolina Academic Press
700 Kent Street
Durham, North Carolina 27701
(919) 489-7486
www.cap-press.com

Printed in the United States of America

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Shelley v. Shelley. . . . . Chapter 9, § D.2
In re Sky Dancer . . . . . Chapter 5, § F
In re Snide . . . . . Chapter 7, § D.2
Spicer v. Wright . . . . . Chapter 9, § C.2
In re Sprenkle-Hill . . . . . Chapter 6, § B.6
Matter of Swenson's Estate . . . . . Chapter 7, § C.2
In re Tipler . . . . . Chapter 5, § H.5

In re Ulrikson's Estate . . . . . Chapter 6, § G.6
Underhill v. U.S. Trust Co. . . . . Chapter 9, § E.3
Ware v. Gulda . . . . . Chapter 9, § D.5
Wasserman v. Cohen . . . . . Chapter 6, § D
Wilkins v. Wilkins . . . . . Chapter 5, § H.4
In re Wolfe's Will . . . . . Chapter 8, § A.1.b
Woodruff v. Trust Co. of Georgia . . . . . Chapter 9, § E.3

Preface

Statutes. The order of items in the subtitle of this book, *Statutes, Cases, and Problems*, was chosen for a reason: the modern law of wills, estates and trusts is largely statute-based. In researching an issue in this area of the law, lawyers almost invariably begin with the applicable statute and then look to see how courts have interpreted it.

This is different from the experience that many students have in their first-year law school courses such as Torts, Criminal Law, and most notably, Constitutional Law. In those courses, cases usually are given top billing. Moreover, cases often seem more "fun" than statutes; they tell the story of a plaintiff who was (allegedly) harmed by a defendant or of a person who committed a violent crime. Supreme Court opinions interpreting the Constitution can be even more interesting; they address many issues about which people have passionate opinions, such as religion, abortion, privacy, free speech, race and gender discrimination, gun control, and governmental power. Some Supreme Court opinions rival great literature in their eloquence. By contrast, statutes seem dry, wordy, complex, and far removed from everyday experience.

But statutes are *important*, not only in the law of wills, estates, and trusts, but in nearly every other area of law. In fact, statutes are increasingly more important than case law. As a future lawyer you will need to know how to read, interpret, and — most importantly — *apply* statutes. There's just no avoiding them. The structure of this book will, hopefully, sharpen your statutory interpretation skills.

Cases and a Note About Case Editing. That said, there are a great many cases in this book as well. Cases are important, as they help us better understand statutes and see them applied to a set of facts, and often supply additional rules not found in a statute.

Editing the many cases that appear in this textbook was challenging. Extremely challenging. Our overall goal was to simplify their presentation — that is, to clean them up and make them easier to read — without losing any of their important points or pedagogical value and without making them misleading in any way. But it was difficult, and we were not entirely consistent in how we edited cases.

Here are some things that we did. First, we removed most of the citations from the cases. If a case *quotes* another source, we typically replaced the citation to the quoted source with "[Citation omitted.]." However, if the case cites another case (or other authority) and discusses it throughout the opinion, we typically would use this format: "*Jones v. Smith*, [citation omitted]." If a case cites other authorities without

quoting them, we typically just removed the citations altogether and did not leave a "[Citations omitted.]" in their place.

Second, we replaced single quotation marks around quoted material with double quotation marks, to match the modern usage. It often surprised us how many cases — even those that are not very old — would quote something in a format like this: *The testator stated: 'Yes, this is my will.'* In this textbook, such a passage would read: *The testator stated: "Yes, this is my will."*

Third, we removed quotation marks from the beginning and ends of block quotations (which should be used when quoting fifty or more consecutive words). The fact that a block quotation is double indented from the rest of the text shows that it is a quotation, leaving quotation marks at its start and end unnecessary. At least that's what we think. Speaking of block quotes, in a few instances we double-indented long quotations in court opinions even through the court itself did not do so.

Fourth, sometimes a court numbered every paragraph of its opinion. We found this distracting and removed the paragraph numbers.

Fifth, we deleted many footnotes, without leaving behind a "[Footnote omitted.]" However, if a footnote was important for purposes of this textbook, we left it in. Any footnote that appears within a case is from the court's opinion, unless otherwise noted.

Finally, omitted portions of an opinion are indicated with asterisks.

There are other stylistic choices that we made. Of course, if you are interested in reading the unedited version of a case, you can look it up on Lexis, Westlaw, Google Scholar, etc.

Problems. Last — and certainly not least — are problems. There are a myriad of problems in each chapter that are designed to ensure that students have read the applicable statute and can apply the statute to a fact pattern. When reading this textbook, it is vitally important that you work on these problems. Don't skip over the problems and wonder what the answers are and/or wait for your professor to explain them in class. Do them! This will certainly entail more work, but you will be a better student — and a better lawyer — for it. In addition, the online supplement contains many practice problems, along with detailed explanations. Hopefully, these problems will allow you to test your mastery of the subject matter.

In any event, we hope you enjoy the textbook. It was a labor of love and we appreciate the support that we received from our colleagues at Thomas M. Cooley Law School, particularly our former colleague Dan Sheaffer who provided a great deal of help on what became Chapter 6. And of course, we couldn't forget the late great Judy Frank, who taught us how to teach Wills.

That's enough for now. Who reads a preface anyway?

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Fall 2024

Acknowledgments

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