

Syllabus

Workshop "Trusts and Their Use in International Commercial Transactions"

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Credits Earned	4
Lectures and Seminars (hrs.)	32
Individual Work (hrs.)	120
Academic Year	1
Studying Format	Non-blended

I. Course Description

a) Title of a Course

Workshop "Trusts and Their Use in International Commercial Transactions"

b) Pre-requisites

A trust is a three-party fiduciary relationship in which the first party, the trustor or settlor, transfers ("settles") a property (often but not necessarily a sum of money) upon the second party (the trustee) for the benefit of the third party, the beneficiary. Trusts have existed since Roman times and have become one of the most important innovations in property law. Trust law has evolved through court rulings differently in different states, so statements in this article are generalizations; understanding the jurisdiction-specific case law involved is tricky. Some U.S. states are adapting the Uniform Trust Code to codify and harmonize their trust laws, but state-specific variations still remain.

c) Course Type

Elective

d) Abstract

An owner placing property into trust turns over part of his or her bundle of rights to the trustee, separating the property's legal ownership and control from its equitable ownership and benefits. This may be done for tax reasons or to control the property and its benefits if the settlor is absent, incapacitated, or deceased. Testamentary trusts may be created in wills, defining how money and property will be handled for children or other beneficiaries.

While the trustee is given legal title to the trust property, in accepting the property title, the trustee owes a number of fiduciary duties to the beneficiaries. The primary duties owed include the duty of loyalty, the duty of prudence, the duty of impartiality.

II. Learning Objectives

The objective of the course is to provide students with an overall understanding of the law of equity with special emphasis on fiduciary obligations, trusts, equitable assignment of property and equitable remedies. The course will consider the history of equity, basic principles which dominate its jurisprudence and the relevance of equity today; the nature of fiduciary obligations, recognised categories of fiduciaries and the extension of these categories in recent times, breach of fiduciary obligations, defences and remedies for the breach of fiduciary obligations; the requirements for express trusts, the liability of a third party to a breach of trust or fiduciary duty, and the remedies for breach of trust and fiduciary duty, including tracing. The course then shifts its focus to equity more generally by considering the equitable rules for assignment of property and the remedies of specific performance and injunctions.

III. Learning Outcomes

- Explain and apply to a factual problem the law relating to fiduciary obligations, trusts (including express, resulting and constructive trusts), equitable remedies, tracing and equitable assignment. Such discussion should note any unresolved or ambiguous questions of law and propose a reasoned answer to the problem that acknowledges strengths and weaknesses of the arguments made;
- Analyze and predict how unresolved or ambiguous questions of equitable doctrine could be resolved by the courts;
- Describe and evaluate fundamental themes underlying and connecting the specific doctrines covered, including the relationship of equity to other parts of the law.

IV. Course Plan

- History
- Significance
- Principles
- Purposes
- Types

V. Reading List

a) Required

International commercial litigation: text, cases and materials on private international law / T. C. Hartley. – Cambridge: Cambridge University Press, 2009. – 892 c. – ISBN 978-0-521-68748-5.

b) Optional

- Litigation Issues in the Distribution of Securities: An International Perspective / Ed. by W.G. Horton, G. Wegen. – London: Kluwer Law International, International Bar Association, 1997. – 623 c. – (International Bar Association series) . –ISBN 90-411-0950-1.
- Developments in litigation economics / Ed. by P. A. Gaughan, R. J. Thornton. – Amsterdam [etc.]: Elsevier, 2005. – 325 c. – (Contemporary studies in economics and financial analysis; Vol.87) . – ISBN 0-7623-1270-X.

VI. Grading System

From 1 to 10 where under 4 is failed to complete the course, 4-5 satisfactory, 6-7 good, 8-10 excellent mark.

VII. Guidelines for Knowledge Assessment

- 1) How is the competence of national courts and applicable law determined?
- 2) What is a propagation clause and clause on applicable law?
- 3) What is needed for the recognition and enforcement of foreign court decisions?
- 4) What is sovereign immunity? Can one refuse it?
- 5) What is an arbitration clause? What does the resolution of disputes in the arbitration order mean?

VIII. Methods of Instruction

IX. Special Equipment and Software Support

PC and video screen