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Estate- You die with money in your name alone

Joint Tenancy- right of survivorship

Surrogate's Court- an estate, adoption, guardianship, for minors--> inherit money

Distributee (distributed to them)- your closest relatives. If there is no will, the closest relatives take

- The only people who can object to your will --> SCPA 1403- distributees. Why? Because if there is no will, who takes? Distributees
 - Distributees are: adopted children and half-bloods. Step children are not distributees
 - Estates power and trust law (EPTL 4.1-1) defines who are your distributees
 - Surrogate's court Procedure Act (SCPA)
1. Spouse and children, an issue of predecease children
 - a. Drop a brick until you hit your head
 - b. If there is no will, the spouse takes the first \$50,000 and half the remainder b/w self and everyone below
 2. Parents
 3. Brothers and Sisters- an issue of predeceased siblings
 4. Grandparents can party with aunts and uncles and first cousins
 - a. The last person who can inherit is first cousin once removed
 - b. If grandparent alive on one side, shut that side down
 - c. First cousins once removed only distribute if no one higher on other side

Testator- one who draws the will

Executor- one who handles the estate

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Probate asset- asset in your name alone when you die

Non-probate asset- asset that is not in your name alone

Devisee- inherits real property (land and house)

Legatee- inherits personal property (everything that is moveable. Leg --> move)

Intestate- die without a will

Testate- die with a will

Codicil- an addendum (addition) to a will

Testator (man)/ Testatrix (woman)- person who draws a will

Executor/ executrix- the person in the will who handles the estate

Adoption- do not own it when you die

Abatement- the process in which cut out back people's inheritance because there is not enough money to pay them in full

Residuary Clause- Rest, Residue, Remainder; gets what is left over

The mortgage is not the debt of the estate. When you inherit the house, you inherit the mortgage.

Life Estate

- Have the right to live in the house until you die
- Established by will or during your lifetime
- Unless the will says otherwise, the owner of the house pays the mortgage; the life tenant pays everything else
- Can be conditional

- o To Morgan as long as he owns a putty cat

EPTL 2-1.6: **the 120 hour rule**- If you do not survive 120 hours (5 days) after the testator it is like you died before them (predeceased) and the stuff goes to the testator's estate

Tenants in common vs. Joint tenant

- Can be for a bank account or a lease
- TIN- each person owns half
- JT- married couples; both own 100% during their life time--> right of survivorship

Big Daddy Rule

- The will is big daddy and the codicil is little baby
- If you destroy the will, the codicil is automatically revoked

Little Baby Rule

- If you destroy the codicil, the will is not effected; it still exists

Fook you/ Cross Out Rule

- You cannot change a will after it is drawn
 - o Have to make a new one or add a codicil
- If you change a will after it is drawn, it will be ignored if it can still be read

The physical destruction of an instrument never brings something back to life

- If you have 5 wills, cannot tear up will 5 to bring back will 4
 - o Every new will voids the one before it
- The only way to bring back an original will is to have the new will go through a will contest and have a jury find the additional wills invalid, making them not wills
- You have a will. A is the executor. There is a codicil that replaces A with B. Codicil is destroyed, B is still the executor. Either a new codicil or will has to be created to make A the executor again.

3 armed baby rule

- If the biological parent remarries and the step parent adopts the child, the child can still inherit from the other biological parent

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Domicile- where you live

Box opening order

- you can get an order from the court to look in the box.
- T/F a box opening order allows you to empty out its contents

Venue and jurisdiction- Morgan has statewide jurisdiction but is the court of proper venue is where you are domiciled **Beneficiaries who are also witnesses to a will are void from the will**

Murders- murders forfeit probate assets and joint assets other than their contributions

Husband-3kids Wife -2 kids (\$300,000)

- o Husband kills wife and self
- o Husband has five kids (#3 before and 2 after)

- o Who inherits? Just the two from the married because he cannot inherit the money since he killed her

What you need to probate a will

1. Death certificate
2. Petition signed by the executor
3. List of distributees
4. **Waivers and consents to probate**
 - o distributees
 - o if they won't sign a waiver they get a citation,

Citation

- a summons that requires someone to come to court on a certain date to "bitch"
- If you do not show up you lose

The 10, 20, 30 rule

- If the distributee is in state they must be personally served a citation at least ten days before the court date
- If you are out of state, they can be mailed (dropped in the mailbox) the citation at least twenty day before the court date
- If you are out of the country, you can mail the citation and it has to be dropped in the mailbox at least thirty dates before the court date

Notice of probate

- Goes to beneficiaries under the will who are not distributees

probate decree after everyone consents to the waiver. The latest one can be signed is on the court date if the person with the citation does not sign up

- It appoints the executor and says the will is valid

Letter testamentary- can sign this. It says you have the authority to act (pay off debts, distributees, and collect the assets)

Certificate of appointment- is what you bring to the banks to close the account. It says you are the executor.

The judge signs a decree signs to appoint you

After born statutes eptl article 3 -3.4

- If you were born after the will was drawn, you have rights (can be someone who is adopted)
 - T draws will, provides for children, then has an afterborn, the afterborn becomes greedy and shares with others
 - T draws will, has no kids, then has afterborn, afterborn takes intestate share (means has no will)
 - T draws will, does not provide for children, then has afterborn, afterborn takes nothing

Antilapse statute- If you leave a bequest to a brother or sister or an issue (child or grandchild) it does not lapse, it goes to their child