

Exam No. _____

Social Security No. _____

THE UNIVERSITY OF AKRON
School of Law

9200:615-281
FINAL EXAM – PROPERTY I
Professor Lee
Friday, June 30, 2000
6:30 p.m. – 9:30 p.m.

GENERAL INSTRUCTIONS:

1. Write your Social Security number at the top in the space provided. DO NOT USE YOUR NAME. Retain your exam number for later reference to posted grades.
2. On each bluebook you use, write your Social Security number in the space marked, “Name.” Write your exam number in the space marked, “Exam Seat No.”
3. When you are finished, number each bluebook you use, giving both a sequence number and the total number of bluebooks used. For example: 1 of 5, 2 of 5, etc.
4. **PERMITTED MATERIALS:** You may refer to any handouts, the text, your notes, and any outline that you have prepared. Commercial outlines and study guides are not permitted.
5. “No unpermitted aid given, received, or witnessed.”

Transcribe the above Honor Code statement to the front of each bluebook you use. By so doing, you acknowledge its requirements.

6. Please write only on the right hand pages of each bluebook, skipping every other line.
7. Explain your answers fully. Give arguments on both sides of an issue where appropriate. If you need to make any assumptions about the facts or governing law, state those assumptions.
8. PART I is 60 percent of your exam (5 questions: 3 at 10%, 2 at 15%).
PART II is 40 percent.
9. You have three hours total to complete the exam. I suggest you allocate your time approximately as follows:
10. PART I One hour, 30 minutes (15 to 25 minutes per question).
 PART II One hour.

The remaining time (25 minutes) to allocate as necessary.

11. Remember to take the time to organize your answers. Stay calm. Stay focused. Good luck.

PART I

60 percent (10% to 15% per question). Suggested time allocation: 1 hour, 30 minutes.

1. (10%/15 minutes)

Wheaton, a popular mystery writer, sends a large document to Edna, an editor, with a letter that says, "I want you to have this manuscript. This is my only copy. I'll call you to talk about it in a few days." The next day, Edna describes the manuscript to publisher Plato, who offers to pay \$2 million dollars for the rights to publish the book. When Edna calls Wheaton, Edna learns that Wheaton has had a sudden heart attack and has died. Wheaton's will leaves all of Wheaton's "tangible personal property" to Wheaton's spouse, Sal. The residuary clause leaves any remaining property interests to Wheaton's lawyer, Leslie. Discuss the various property claims regarding the manuscript.

2. (15%/20-25 minutes)

Harrison and Winona are married and live in a common law state. They own their \$175,000 home, Happyacre, as joint tenants. Winona is the breadwinner, and \$500,000 worth of cash, stock, and other investments, all earned during the marriage, are held in Winona's name only. When Harrison's rich Aunt Olga dies, devising to Harrison a \$400,000 mansion in Arizona, a community property state, Winona proposes that she retire and they move to Arizona to live in the mansion. Before the move, Harrison discovers that Winona has written a will leaving all of her property, including specifically "my half-interest in Happyacre" to someone named Kip. Advise Harrison of his legal rights. Should you ask him whether he would consider a divorce?

3. (10%/15 minutes)

On August 1, 1998 Lenora Landlord and Tanuki Tenant agreed on a one-year lease for a small house, with rent in monthly payments of \$1,200. After one year, neither party gave the other any kind of notice whatsoever, but T remained in possession, and the monthly rent payments continued. On December 31, 1999, Tanuki sent Lenora a letter saying: "I'm moving out and terminating the lease as of January 31, 2000. This is your one-month notice. It's been a pleasure." Lenora, who has been on a trip around the world since last October, just got home today and read the letter for the first time. The apartment certainly looks as though it has been vacated for a long time, and there have been no rent payments since last December. Lenora's friend, Frieda, who Lenora asked to keep an eye on things, says that she (Frieda) didn't want to spoil Lenora's trip by telling her about the vacancy. "You shouldn't have any trouble renting the place out," says Frieda. "People have been pounding the door down asking about the apartment, but I knew you wouldn't want me to do anything until you got back. Why, just today someone offered to pay \$1400 a month if he could move in tomorrow." What are Lenora's options?

EXAMINATION CONTINUES

4. (15%/20-25 minutes)

Odo dies, devises Blackacre “to my daughter Alice for life, but if Alice marries someone who is not Catholic, or when Alice dies, then to my children for their lives, and upon the death of my last surviving child, to the heirs of my daughter Beatrice.” What is the state of title?

5. (10%/15 minutes)

Searching the skies with a sophisticated new instrument, Arkady, a Russian scientist, discovers a new planet that appears to have an environment capable of supporting human life. He names the planet Arkadia. Subsequently, after years of searching and expensive research, Bao, a Chinese scientist, discovers a unique phenomenon: a “wormhole,” a kind of space portal that will instantly transport matter across space. This wormhole coincidentally transports matter to Arkadia. Bao has already sent equipment and supplies ahead through the wormhole, but just as Bao is about to step into the wormhole himself for the first time, Carter, an American real estate developer, rushes in ahead of Bao and becomes the first human being to step foot on Arkadia.

Assume no current international treaties apply. How should property rights on Arkadia be allocated?

PART II

40 percent. Suggested time allocation: 1 hour.

The Legend of Abner's Gold

Old Abner owned Goldacre, a 150-acre parcel of land in a remote, forested area. Old Abner always claimed that he had once hidden a trunk full of gold nuggets somewhere on Goldacre, but he never told anyone where it was hidden.

When Old Abner passed away in 1920 he left Goldacre "to my niece Bonnie for life, then to my friend Claude and his heirs until my gold is found, then to my grandchild Danielle. The rest and residue of my estate I leave to my son, Evan."

Bonnie clears a five-acre parcel on the edge of Goldacre and builds a house to live in. The rest of the 145 acres is left undeveloped. At first, Bonnie regularly hikes and travels by horse and jeep throughout the property, but after 1960 she only goes out for excursions occasionally, and then only to her favorite spots. She regularly gives permission to school groups and private parties to hike and camp on the property.

Meanwhile, Claude executes a deed conveying his interest in Goldacre to himself and his friend Felice, as joint tenants. In 1965, Claude dies intestate, survived by Felice and their child, Geneva. In 1975, Felice tells Hari that she owns the property, and sells Hari a deed that describes a twenty-acre parcel on the edge of Goldacre farthest away from Bonnie's residence. The deed purports to convey to Hari "any and all interests that [Felice] has in the property."

Thereafter, Hari returns to the property almost every year at hunting season to camp and hunt. In 1980, Hari clears a flat area near a creek and builds a fire ring and a small shed in which to smoke meat. When coming out of the shed one weekend, Hari sees Bonnie approaching, and Bonnie says, "That's a nice shed, but you're on my property." Hari smiles and immediately changes the subject. Bonnie returns home amused by the charming camper and promptly forgets all about Hari.

In 1982 Hari clears more land and builds a small cabin, adding electricity in 1984, and plumbing in 1986. In 1988 Hari starts to come up to the cabin for longer and longer periods during the summer as well, and starts a small garden. In 1991 Hari retires and moves up to the cabin permanently, paving a driveway and adding a large kitchen and two bedrooms.

Bonnie passed away last week, leaving all of her property to her partner, Ione. On the day Bonnie died, Jenkins, a hiker, got lost and wandered onto Goldacre from the adjoining state park. While exploring a small cave, Jenkins discovered a trunk full of gold. The next day, Jenkins drove back, retrieved the gold, and promptly turned it in to the police.

Discuss any potential legal claims regarding Goldacre and Old Abner's gold. Be sure to first determine the state of title upon Abner's death.

END OF EXAMINATION