

PROPERTY SECTION 4

Professor Donahue

December 16, 2014

9:00 a.m. – 5:00 p.m.

Part I 9:00 a.m. – 10:00 a.m. (in-class)

Part II 10:00 a.m. – 5:00 p.m. (take-home)

GENERAL INSTRUCTIONS–PRELIMINARY

This exam consists of two parts. Part I consists of objective questions dealing with a miscellany of topics. Part II is one essay question. The two parts will be weighted approximately as follows: Part I, 25%; Part II, 75%. Ties will be broken on the basis of Part II.

You will have an hour in which to do the objective questions (Part I). There will probably be thirty objective questions; they will all be of the “multiple-choice” variety. At the end of an hour the question booklet (containing Part I) will be collected. The essay question is “take-home.” You are to take that portion of the exam using the exam software known as “Exam4,” which will automatically download the question when you log in.

Both parts of the exam are totally “open book.” You may bring with you and use your casebook, notes, and anything else that is not too bulky to disturb the person next to you. **If you plan to do the take-home portion of the exam at school, you should bring your course materials to school with you.** I strongly recommend, however, that during the in-class portion of the exam you not waste exam time trying to “look things up.”

The last time that I gave an in-class portion of the exam, the room scheduled for it did not accommodate personal computers. That may well be the case this year. If it makes you more comfortable to have your notes with you for the in-class portion of the exam, print them out. You must use your personal computers for the take-home portion of the exam, and you may use the internet as well. I would recommend, however, that you not use the internet to look up cases. The problem(s) will not be based on (a) real case(s), and the jurisdiction(s) involved will be fictional. By contrast, the problem may contain one or more URL’s that allow you to get some sense for the geography of a place where the problem is said to lie. Taking a gander at those pictures may help. It certainly won’t do any harm

One more word on technology: Please don’t bring with you to the in-class portion of the exam any piece of technology that has a camera. I ‘recycle’ objective questions both to refine them and to allow myself to compare how well I have taught something in different classes. Neither of these things can be done if a copy of any given year’s questions ‘gets out’.

Mechanics on the Objective Questions

The objective questions are to be answered by circling your chosen answer in the examination booklet. The examination booklet has a blank line in the upper right hand corner where you are

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to enter your exam ID number. This is important because it is the only way we have to match your answers to your essay (and, ultimately, to your name).

Circle the correct answer to the multiple-choice questions in the examination booklet. (It's probably better to do this in pencil, so that you can erase an answer if you want to make another choice.)

Choose the *single* best answer to the multiple choice questions. Hence, the answer to the following question would look like this:

* * *

Both the plaintiff and the defendant in the case resided in Chicago.

1. Chicago is the name of (a) a city; (b) a county; (c) a state; (d) a musical-comedy team; (e) none of the above.

* * *

General advice on the objectives:

—The single best answer may entirely correct but incomplete. Hence, if the question asked what does B have in a grant “to A for life, remainder to B and her heirs,” and if one of the possible answers is “fee simple absolute,” that may well be the correct answer even though B has a vested remainder in fee simple absolute. You would reject this answer only if “remainder in fee simple absolute” were also one of the choices.

—Don't make wild guesses. You're better off omitting a question than taking a one in four or one in five chance of getting it right. If, on the other hand, you can reduce your choice to two possible answers, you are probably better off guessing between the two. (The one-in-three option is omitted deliberately. What you do there depends on the kind of poker player you are. The odds are in your favor, but not by much.)

—Read the questions carefully. The wording is important. If, after struggling with a question, you find it remains ambiguous, do your best in the question booklet and write me a brief note in the blank space on the last page of the question book.

—**Do not assume any facts, statutory or contractual provisions.** If a proposition needs anything but the common law and the facts, statutory and contractual provisions given to save it, it is wrong.

—Be careful about your time. The questions in the second half of the test are longer than those in the first half and will take more time.

Background Law:

For both parts of the exam, you should assume that:

(1) the Anglo-American common law is in force, including the so-called common-law statutes such as Quia Emptores, De Donis, and the Statute of Uses;

(2) a Statute of Wills, a Statute of Frauds, and a Married Women's Property Act are in force;

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- (3) in any conveyance or devise a fee simple absolute is conveyed unless the contrary appears on the face of the instrument;
- (4) a grant or devise is effective to raise a use without an initial feoffment to uses;
- (5) a grant or devise to two or more persons creates a tenancy in common unless otherwise specified;
- (6) the doctrine of destructibility of contingent remainders has been abolished;
- (7) the common-law estates of dower and curtesy have been abolished;
- (8) neither the Rule in Shelley's Case nor the Doctrine of Worthier Title is in effect;
- (9) all future interests are alienable both inter vivos and by will, except beneficial interests in trusts that have a spendthrift clause.

Additional statutory background for Part II is given there.

In the case of the objective questions (Part I), you should also assume that unless otherwise stated:

- (1) O has, at the effective date of the conveyance or devise, a possessory estate in fee simple absolute in certain lands;
- (2) the conveyance or devise in each problem adequately describes the land;
- (3) all conveyances are valid in form (unless you are given a fact that suggests the contrary);
- (4) all individual persons named in grants or devises are living (but not necessarily classes of persons);
- (5) no express conditions have been fulfilled;
- (6) you are to answer the question as of the time of effective date of the grant or devise last mentioned in the fact statement.