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Final Exam

This is a three and one-half hour examination. The first half hour is to be devoted to reading the questions and gathering your thoughts. The remaining three hours are to be used in crafting and completing your answers to the exam questions.

This exam consists of one essay question and eight short answer fact patterns containing a total of ten questions. The essay is worth a total of 200 points. The ten short answer questions are worth a total of 100 points, 10 points each with 5 points allocated for the correct answer to the question asked and 5 points allocated to your explanation of your answer. You should allocate your time based on the point value per question.

This exam is open-outline only. You may refer ONLY to an outline that you prepared yourself or in a study group in which you have been an active participant. You are not to reproduce an outline from any other source. You can not bring in your textbooks, handouts, or any other materials. Your outline may include ONE chart on future interests from an outside source, such as a copy of the chart from the Edwards text, the chart prepared by Barry Berenberg, the chart distributed in Professor Gauna's class, OR the chart provided by your tutor. **YOU MAY NOT USE ANY OTHER MATERIALS OR ELECTRONIC OR HUMAN RESOURCES**

In your answers, you are to apply the law to the facts and to provide specific citations to and analysis of relevant provisions of the statutes and relevant case law to demonstrate your reasoning and to support your conclusion. References to case names and code sections are sufficient as citation.

If you find any ambiguities in the facts or questions posed, identify the assumptions you make to resolve the ambiguities and then proceed with your answer.

Your answers are to be concise and directly applicable to the problems presented. If handwritten, your answers are to be single-sided. If typed, your answers are to be single-sided and double-spaced with 1" margins at tops, bottoms and sides of pages.

You are to return your exam questions with your answers.

Applicable Law

The governing jurisdiction presumes a tenancy in common unless contrary intent is indicated.

All future interests are alienable, devisable, and inheritable.

The Rule in Shelley's Case, the Doctrine of Worthier Title, the merger doctrine, and the Doctrine of Destructibility of Contingent Remainders have all been abolished.

The common law Rule Against Perpetuities is in effect; statutory reform doctrines have not been enacted.

Assume that all named parties are alive and the time is the present unless otherwise indicated.

The jurisdiction has a statute that reads: "Any action for recovery of personal property is barred after five years from the time the cause of action arose; any action for recovery of real property is barred after ten years from the time the cause of action arose. If, however, at the time the cause of action arose, the person entitled to bring the action was under the age of majority (18 years) or was of unsound mind or was imprisoned, that person, or any person claiming through that person, may bring the action within three years after the time the disability was removed."

The jurisdiction has adopted the Group II states' rule in Sawada v. Endo.

The jurisdiction has adopted the rule that "a joint tenancy is not severed when one joint tenant executes a mortgage on his interest in the property."

The jurisdiction has a statute that reads: "A surviving spouse may renounce the decedent's will and may elect to take a share of the property, both real and personal, owned by the decedent at the time of death in the following proportions: one-half if there are no surviving children of the decedent, one-third if there is one surviving child of the decedent, and one-quarter if there are two or more surviving children of the decedent."

The jurisdiction has a statute that reads: "When a person dies without a will, property will be distributed as follows: if survived by a spouse and no children, all to the surviving spouse; if survived by a spouse and issue, one-half to the surviving spouse and one-half to the issue per stirpes; if no spouse and no issue, then to ancestors; if no spouse, no issue and no ancestors, then to collaterals out to one generation; if no spouse, no issue, no ancestors and no collaterals out to one generation, then to the state."

QUESTION ONE (200 points)

In July 2002, Alison was waiting in the train station for her train to Chicago when Betty, a very talkative woman she had never seen before, sat down next to her and began telling Alison her life story. Alison tried unsuccessfully to ignore Betty. Shortly before boarding time, Betty told Alison that she needed to run to the ladies' room, stating, "I'll be back in a minute—watch my bags for me!" Alison mumbled "Right..." under her breath and glanced down at the large, beat-up brown leather carry-on bag and the insulated cooler that Betty had left near Alison's feet. The train arrived and began boarding but Betty had not yet returned. Alison, not knowing the action to take with the bag and the cooler, decided to board the train, leaving Betty's things on the floor near the bench.

Courtney, a RailRunner employee, noticed the brown bag, took it to the check-in desk, and gave it to Dwayne, the desk clerk. Elodie, who had been loitering in the train station for some time and had witnessed all of these events, waited until Courtney left, then approached Dwayne and asked if anyone had turned in a large, beat-up brown leather carry-on bag. When Dwayne produced Betty's bag, Elodie exclaimed, "Yes, that's it, thank goodness!" Dwayne handed the bag to Elodie, who thanked him and ran off as if to catch a train.

Shortly before the train to Chicago pulled out, Betty boarded the train and, much to Alison's dismay, sat next to Alison. Betty asked Alison about her bag. When Alison replied that, since she didn't know that Betty would be taking this train, she had left the bag on the floor near the bench, Betty became hysterical. She claimed that she had all of her jewelry, a laptop, her Anatomy I notes and casebook, a camera, and other valuables in the bag but the most important item was the cooler, which had a kidney she was transporting for a transplant operation.

In all the congestion and traffic as people boarded the train, Betty's cooler had gotten pushed under the bench, a bit out of sight. The cooler had an obvious tag that identified it as containing biohazards. Dr. Frankenstein found the cooler the next day and, figuring that the person who owned it likely had continued traveling, took the cooler home to use in his laboratory. When he got to his lab, he was delighted to find a kidney packed in ice inside the cooler, just the piece of property he needed to complete his experiment in generating human tissue.

The kidney came from Stella, who on her deathbed, called Betty over and told her that she was giving Betty her kidney for her brother Bob, who was in the hospital in Chicago, and that Betty could also have the cooler in the corner to carry the organ. Betty, a medical student, got out her ether and her scalpel and proceeded to take the kidney from Stella. After Betty sewed Stella back together, she hightailed it to the train station, knowing she didn't have the proper paperwork to make it through airport security with the kidney and the cooler. Stella died soon after the operation. Betty is Stella's only heir. Before her death, Stella had given James, her housekeeper, the deed to the house and the key to her floor safe, telling James that she was giving him everything in her house and all the cash in the safe.

During her life, Stella had conveyed her vacation home "to Betty and James for life, then to the survivor but, if Betty graduates from medical school, then to Betty." On the day that Stella died, James changed all of the locks on the vacation home and rented it out by the week to a series of

strangers. When Betty lost the kidney and was not able to save her brother, she had a psychological breakdown and had to leave medical school. She was hospitalized for eleven months. When Betty finally recovered and returned from Chicago, she tried to get into the vacation house for a little rest and relaxation but the renters would not let her enter the property.

While she was at the vacation home, Betty decided to go for a walk in the woods. She began walking the property line and soon ended up on the neighbor's property without noticing. She found a fox caught in a trap and, after releasing it, took it home to care for it. The neighbor came looking for the pelt to sell.

On June 15, 2008, Betty saw a photograph on Ebay, advertising a ruby ring that looked very much like the one she had had in the brown leather bag. The description noted an inscription inside the ring that was for sale that matched the inscription in Betty's ring. When Betty contacted the seller to claim her property, Elodie responded that the items in the brown leather bag were now hers.

You represent Betty. Identify all of the property related issues that affect Betty, either as a potential plaintiff or as a potential defendant. Fully discuss each of those issues and provide a definite conclusion for your client on each issue supported by legal and factual context and authority.

SHORT ANSWER PROBLEMS (100 points—10 points for each specified question, 5 points for the correct result and 5 points for a full explanation)

1. Amanda devises Greenacre “to Elise and her heirs so long as Elise is in medical school.” State the title and explain your answer.
2. Alex and Bert purchased a horse “as joint owners with right of survivorship.” Alex conveyed his interest in the horse to Susan in the following conveyance: “to Susan so long as the horse is maintained in good health, stabled in comfortable surroundings, and provided with reasonable veterinary care.” State the title and explain your answer.
3. Oscar and Mary have five children: Little Mary, Sarah, Tammy, Karen, and Douglas. Oscar and Mary own the family residence as tenants by the entirety. Mary has a gambling problem and takes out a loan from Benny on the corner in exchange for a lien on the residence to pay off her gambling debts before Oscar discovers them.
 - a. Mary dies and Benny comes to collect on the loan. State the result and explain your answer.
 - b. Subsequently, Oscar dies intestate. Oscar is survived by Little Mary, Little Mary’s daughters M1 and M2, Sarah’s husband Jake, Sarah’s son Ryan, Tammy, Karen’s son and daughter Billy and Beth, and Douglas.
4. Manny, Moe and Jack decided to start an auto parts store on January 1, 1999. Since they had no money to pay rent on a building, they moved their inventory into a vacant garage on the corner of Indian School and Girard, changed the locks, and have been operating their business from that location continuously ever since. State the title to the building on January 2, 2009 and explain your answer.
5. While digging in their backyard, Natalia and Nicholas unearthed a bag of gold Spanish coins dating from the 1600s. Upon hearing of the discovery, the neighbors demanded a survey of the property. According to the survey, the bag, although found in the enclosed portion of the land thought to be Natalia and Nicholas’ backyard, was actually buried on the neighbor’s property. The fence which the neighbors had thought was between the two properties is actually over the property line, enclosing two feet of the neighbors’ property in Natalia and Nicholas’ yard. Natalia and Nicholas purchased their property from the Smiths four years ago. The Smiths had lived in the house for over twenty years. The fence was in its present location when the Smiths moved into the property. First the Smiths and now Natalia and Nicholas have maintained the yard by mowing, trimming, and painting the fence on a regular basis.
 - a. Who owns the bag of gold coins? Explain your answer.
 - b. Who owns the two foot strip of land under dispute? Explain your answer.

6. Father purchased a 1957 Mustang convertible last year. His daughters, D1 and D2, turn 16 this year and he wants to surprise them by giving them the car to share but he is concerned that they will fight over the car or, worse, wreck it. He wants to know his options for transferring the title for the car to his daughters while ensuring that he can take it back if they abuse his trust in them or are unable to make decisions regarding the use of the vehicle. Draft a conveyance for the father that will give him the ability to regain title to the car and that will give each daughter an ownership interest. Explain the reasons for your choice of conveyance to meet the father's intent.
7. Your professor stands in front of the room and says, "I promise that when I die I'm going to leave \$5000 to the first student in this room who climbs Mt. Everest." You decide to take some time off from school to climb Mt. Everest. You succeed and come back with a notarized document in hand as proof. Your professor dies. What interest do you have in the professor's estate? Explain your answer.
8. O conveys Blackacre "to A for life, then to C; however, if C does not sell apples from the trees on the property and allows them to fall to the ground for pigs to eat, then to D's son if D was married when D's son was born." D does not have a son at the time of the conveyance. State the title. Explain your answer.

Addenda to instructions for Property I exam – Baum section:

For the essay, substitute the following paragraph for the last paragraph of the exam:

Your firm represents Betty. Your senior partner has asked you to identify and research all of the property-related issues that affect Betty, either as a potential plaintiff or as a potential defendant. In a memo to the partner, fully discuss each of those issues and provide a definite conclusion for your client on each issue. The conclusion must be supported by application of the law to the specific facts. Your memo must provide legal authority and factual context for your conclusion on each issue.

On short answer question 3b, include the following after the fact pattern:

State the result and explain your answer.

Addenda to instructions for Property I exam – Baum section:

For the essay, substitute the following paragraph for the last paragraph of the exam:

Your firm represents Betty. Your senior partner has asked you to identify and research all of the property-related issues that affect Betty, either as a potential plaintiff or as a potential defendant. In a memo to the partner, fully discuss each of those issues and provide a definite conclusion for your client on each issue. The conclusion must be supported by application of the law to the specific facts. Your memo must provide legal authority and factual context for your conclusion on each issue.

On short answer question 3b, include the following after the fact pattern:

State the result and explain your answer.