

Property I Examination

Section B

May 4, 2013

3:00 p.m. - 6:00 p.m.

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Instructions:

You will have three hours to complete this exam. There are two essay questions. Each question is worth 50% of the final score. Each question has a 500-word limit. Anything you write past 500 words will not be read. Please use the word-count feature to check the length of each answer.

The exam is completely open-book. You can use anything you wish, so long as it was printed *before* the distribution of this exam. Obtaining any new information from anyone or anything *after* the exam is prohibited.

Please don't turn the page until the proctor signals that the exam has begun.

Good luck!

Question 2 (50%)

Instructions: You are a law clerk for the honorable Doug Dougie, a rotund jurist with a Jersey wit, in the Trial Court of Seaside Heights, New Jersey. You have been assigned to write a bench memo of no more than 500 words addressing a sensational case involving some of the Garden State’s most famous residents. New Jersey adheres to all common law property rules, as articulated in the Restatement (First) of Property. However, many of the issues presented in this case, which took place at sea, and on a deserted island, may not be governed by any of our laws. Judge Dougie, a student of the natural law, who has an interest in how property rights are allocated in the absence of positive law, expects you to address all grounds on which this case can be decided.

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After recovering from SuperStorm Snooki, the Jersey Crew (A-Woww, Booki, Cangelina, Deena, Pauly “E”, and Fitchuation) decided to take a break, and GTL at sea. Following the lead of a prominent Jerseyite-turned-Texas-Law-Professor, the crew strutted down to Texas, boarded a Fiesta cruise ship, and embarked from the port of Galveston. However, what was meant to be a three-day tour turned into a tragedy.

While A-Woww was doing crunches at the *gym* on board, she placed her huge blinged-out diamond chain on a bench, but it slid off and fell into an air-conditioning grate on the floor. Later, Booki walked near the grate, and saw something shiny. She bent over, reached down into the grate for the chain, which had become caught in some insulation, pulled it out, and draped it around her neck. (A midget with a midget hanging from her necklace!)

However, when Booki went *tanning*, she took off the chain, and left it on the table outside her tanning booth (who wants tan lines?!). After Booki entered the booth, Cangelina saw this chain, and asked the manager of the tanning salon what to do with it. The manager didn’t know, but said Cangelina could hold onto it for safekeeping until the owner claimed it. Cangelina was playing dumb (you’d never know it)—she knew it was A-Woww’s chain, but didn’t know that Booki had found it. Behind A-Woww’s bronzed back, Cangelina hid the chain in her *laundry* bag. She wasn’t going to give it back.

Later, Cangelina asked A-Woww if she could have her chain after they got back to Jersey. A-Woww, who hadn’t realize she had lost it, told her Staten-Island-bred nemesis, “From my cold, dead, acrylic nails. You can have it when I die.” Cangelina, cackling, said, “I accept your generous gift.”

Above deck, Deena, Pauly E, and Fitchuation were up to no good. A nearby fishing boat from Italy, the *Firenze*, had spent almost an entire day following and trapping a school of sharks into a nearby coral reef, where the sharks would not be able to escape the fishers. Seeing this, right as the fishers were about to lure the sharks into their nets, Deena, Pauly E, and Fitchuation hurled a couple of grenades into the water. The explosions were so powerful that the sharks flew up in the air. Fitchuation, with his burly arms, grabbed two sharks at once, and wrestled them onto the deck. “Twinning!” he shouted. The fishers started yelling at Fitchuation, saying, “We worked so hard to catch those sharks.” Fitch laughed, and said, “Hey losers, I got them first. Now you’ve got a situation!”

However, the party aboard the *Fiesta* soon turned to tragedy. The Jersey crew, who had plugged in way too many blow dryers, hair straighteners, and tanning lamps, overloaded the circuits on board, and the generator stopped working. Without any power, the steering mechanism failed, and the *Fiesta* drifted into the legendary “Texas Triangle,” where many ships have mysteriously vanished.

Soon, the waters turned dark, and a powerful typhoon struck. The *Fiesta* could not handle the storm, and began to sink. Miraculously the entire Jersey Crew managed to crowd into the same lifeboat, and escaped the storm. Poor Leo, who was struggling in the water yelled to Cangelina, “help me!” Cangelina reached out and grabbed Leo’s hand, and replied, “I’ll never let go.” Then a few seconds later, she changed her mind. Even though there was plenty of room on the lifeboat for Leo, she let go. Leo promptly drowned.

On board the lifeboat, there were limited food rations, and a radio that would not turn on. After a few days at sea, the rations started to run low, and there were no signs of land anywhere. So the members of the crew started to negotiate. A-Woww told Pauly E, “hey if I can eat your rations, you can have my *Scarface* poster, autographed by Al Pacino, when we get back to Jersey.” Pauly E accepted that offer. A-Woww hands Pauly E the key to Orangeacre where the poster is hanging.

Despite eating Pauly’s ration, the next day, A-Woww gave into starvation, and died. The other members of the crew, wasting no time, ate her corpse. Booki said, “taste’s like chicken!” Cangelina added, “slimy, but satisfying.” Though, A-Woww’s anorexic abs proved unsatisfying, and the crew soon became hungry.

The next day, a miracle happened. They saw land! The five remaining members of the crew paddled feverishly towards land, and washed ashore on a deserted island. The next day, Booki, who had not been feeling well, came down with a horrible case of dysentery, and died. Wasting no time, the crew noshed on Booki, noting that she tasted eerily like

orange-flavored chocolate from Willy Wonka’s factory. And then there were four—Cangelina, Deena, Pauly E, and Fitchuation.

After a few days on the island, a frail, bearded savage appeared from a hidden cave. Communicating in grunts, he conveyed that he was the only person on the island. The crew nicknamed him Hanks. Soon the crew determined that Hanks was an aboriginal, who washed ashore from the Mexican desert. He offered to trade the crew ownership of the land, in exchange for Fitchuation’s jewel-encrusted grill. Fitchuation decided to reject this offer. The crew promptly killed the native, and, having developed a taste for flesh, held a barbeque. Fitch, proclaimed, “Conquered, baby. Now I own this land. I will call it the Island of Staten.”

Deena began tinkering with the radio, and by using a duck floating in the water as a receiver, somehow got it to work. “Merp!” she shouted into the radio. Someone on the other end answered. Soon, a search party was dispatched, and a rescue boat arrived. Pauly E screamed, “Boats are heeeeeere!!!!” The four surviving cast members were brought back to Jersey. Yet, legal proceedings awaited them.

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Judge Dougie, who is very concerned with this high-profile case, asks you to address the following four issues.

- 1 Upon arriving back in Jersey, Cangelina began to wear the blinged-out chain she had smuggled in her laundry bag. Booki’s heir, who learned that Booki found the chain on the boat, discovered that Cangelina was wearing it, and filed suit to recover the chain. The manager of the tanning salon intervened, and claimed she should receive the chain. What would be the best argument of Booki’s heirs, Cangelina, and the manager, respectively, why each should keep the chain? Who should win?
- 2 When Pauly E returned to New Jersey, he tried to enter Orangeacre to collect the Scarface poster. He tried to use the key A-Woww gave him to unlock the doors, but he discovered someone changed the locks. It was Fitchuation. Fitchuation said that A-Woww’s will, executed before the crew departed for the cruise, bequeathed all of A-Woww’s personal property to Fitchuation. Pauly E sued Fitchuation for recovery of the Scarface poster. Who should win?
- 3 The crew of the fishing boat *Firenze* brought suit against Fitchuation for the value of the sharks. What is the best argument of the fishers why they should recover the value of the shark? What is the best argument for why Fitchuation should not

have to pay anything? Who should win? In your answer, please address Judge Dougie's concerns about the natural law writers, and notions of efficiency.

- 4 It turns out that Hanks was the first native to discover the deserted island. However, years earlier Hanks had sold it to an English philosopher named Locke, who was passing through the region. Locke brings suit in court against Fitchuation, seeking to quiet title, and ascertain who owns the island. Who should prevail in this suit?