

**Property I Examination**  
**May 16, 2016**  
**6:00 p.m. - 9:00 p.m.**  
**Josh Blackman**

**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 1,000-word limit. Anything you write past 1,000 words will not be read. Both answers combined should not total more than 2,000 words. Please use the word-count feature to check the length of each answer. (Be sure to do a **word** count, and not a **character** count by clicking “Stats” in the Navigation Bar on the right hand side of the screen). If you hand-write the exam, or can’t utilize the word-count feature, please do a manual word count.

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

**\*Complete the questions in order: complete Part 1 first, and Part 2 second.\***

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

Good luck!

## **Part 1 (50%)**

### **Instructions:**

A long time ago in a galaxy far, far away, there was a decisive property battle between the forces of good and evil. This case involves Princess, Luke, Obi, and Darth. You are a law clerk for Chief Justice Yoda of the Jedi Council. He has asked you to write a memorandum of no more than 1,000 words addressing five issues implicated in Part 1. The Jedi Council applies all common law property rules, as articulated in the Restatement (First) of Property. The Council does not adhere to the Rule Against Perpetuities, or any other principle that destroys future interests. There is no statute of limitations or other jurisdictional bar that prohibits the Jedi Council from hearing these disputes.

\*Complete the questions **in order**: complete Part 1 first, and Part 2 second.\*

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It is a period of civil war. Darth has constructed the ultimate weapon, the Death Star, an armored space station the size of a moon. The Death Star, which has a laser powerful enough to destroy an entire planet, poses a risk to the peace and stability of the galaxy. Princess sneaks aboard the Death Star, and secretly takes a picture of the station's blueprints, which were posted on a bulletin board. The blueprints reveal that there is a vulnerability on the station: if a missile is fired directly into an exhaust port, the entire Death Star will explode. Princess narrowly escapes from the Death Star, and gives the copy of the blueprints to her robot, known as R2. R2 was sent to the desert planet Tatooine to protect the blueprints.

After a crash landing, Luke finds R2 buried in the sands of Dryacre, and says "Finder's keepers. He's mine!" Luke works on a moisture farm on Blackacre. With R2's sophisticated navigational system, Luke spends the next three weeks searching for water, and finally locates a stream of fresh water on Wetacre. Luke starts to build a pipeline to transport the water from Wetacre back to Blackacre. Obi, who owns the adjacent Dryacre, notices that Luke is building the pipeline. Obi diverts the stream, and directs all of the water to Dryacre. Luke demands that Obi remove the diversion of the water, claiming that he spent three weeks searching for it, and was already in the process of building the pipeline to transport the water. Obi refuses, and claims that he was the first to actually divert the water away from Wetacre. Obi added that Luke was only able to find the water with R2's help, and R2 belonged to Obi.

However, soon Luke and Obi became friends. One day, Obi turns to Luke and hands him a lightsaber--a mystical sword with a laser for a blade. Luke asks if this is Obi's lightsaber. Obi replies, "No, it belonged to your father." Obi explains that Luke's father was mortally wounded by Darth three decades ago. With his last breath, Luke's father handed Obi the lightsaber, and said, "On my death, give this lightsaber to my son." Without saying anything, Obi took the lightsaber, and leaves him for dead. But Luke's father would survive.

Once Luke held the lightsaber in his hand, he sensed that Princess had been kidnapped by Darth, and was being held hostage on the Death Star. Luke travels to the Death Star, and tries to rescue Princess. However, Darth accuses Luke of trespassing, and blocks his entry to Princess's room.

The two then engage in a dramatic lightsaber battle. Just as Darth is about to kill Luke, he pauses, and says, "Obi never told you what happened to your father." Luke replied, "He told me you killed him." Darth shot back, "No, I am your father." Obi had lied to Luke. Astonished, Luke asks, "So this is your lightsaber?" Darth replies, "Yes. I want you to have it during my life, and after my life it should go to your sister." Luke didn't even know he had a sister.

At that moment, Princess emerges, and runs to Luke. The two share an awkward embrace, and then look at each other closely. They realize that they look exactly alike. Then it hits them: they are fraternal twins, and Darth was their father. The siblings miraculously escape the Death Star.

As they escape, Darth becomes furious and activates the Death Star's laser. He seeks to destroy the planet of Tatooine. As the laser is powering up, Luke flies a spaceship alongside the Death Star, and fires a missile into the vulnerable exhaust port. It was a direct hit! The moon-sized space station explodes into hundreds of pieces. One of the pieces is so large that it enters the gravitational pull of Tatooine, and orbits the planet like a moon. Luke lands on the new celestial body, and plants a flag. "I claim this moon in the name of Luke." He called it the *Luke Star*. Darth lands his spaceship, and tells Luke, "That's no moon. That is the Death Star. And it's still mine." In a final dramatic battle, Luke kills his father with his lightsaber. Luke says, "Now it's mine."

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With the star wars completed, the legal wars begin. Please write a memorandum of no more than 1,000 words for Chief Justice Yoda addressing the following five issues affecting Princess, Luke, Obi, and the executor of Darth's estate:

1. Luke files suit against Obi, seeking an injunction to divert the water away from Dryacre and towards Blackacre. Obi files a countersuit, and claims that he has the stronger claim to the water. Please discuss the strongest arguments in favor of each claim.
2. The executor of Darth's estate files suit against Princess, charging that her reproduction of the Death Star's blueprints was a common-law misappropriation of property. (There are no statutory claims raised). Please discuss the merits of this claim, and Princess's strongest defenses.
3. Luke files suit to quiet title of *Luke Star*, claiming that he had the strongest claim to the new moon. The executor filed a countersuit, claiming that there is no new moon, and Darth's estate retained the strongest claim to what is still *Death Star*. Please address the strongest arguments in favor of each claim.
4. Luke files suit to quiet title on the lightsaber, claiming that he has the strongest claim to the weapon. Princess intervenes, and asserts that after Darth's death, she now has the strongest claim to the weapon. Obi intervenes, and asserts that he has the strongest claim because Darth had already relinquished his possession of the lightsaber three decades earlier. How should the court resolve these three competing claims?
5. The executor of Darth's estate brings a trespass claim against Luke for trespassing onto the Death Star. Luke counters that he entered Death Star in order to rescue the Princess, who was being held hostage. Please address how the Court should resolve this claim, and pay special attention to the policy arguments for and against the "right to exclude."

**To Be Continued in Part II...**

## **Part 2 (50%)**

### **Instructions:**

Even longer ago--thirty-two years earlier to be precise--in a galaxy far, far away, there was a series of contentious property disputes that gave rise to the conflicts in Part 1. This case involves Obi (yes, the same person from the previous Part), Padme, Binks, and Anakin. You are still a law clerk for Chief Justice Yoda of the Jedi Council. He has asked you to write another memorandum of no more than 1,000 words addressing five issues implicated in Part 2. The Jedi Council applies all common law property rules, as articulated in the Restatement (First) of Property. The Council does not adhere to the Rule Against Perpetuities, or any other principle that destroys future interests. There is no statute of limitations or other jurisdictional bar that prohibits the Jedi Council from hearing these disputes.

\*Complete the questions **in order**: complete Part 1 first, and Part 2 second.\*

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Thirty-two years before the events in Question 1, turmoil has engulfed the Galactic Republic. A much-younger Obi journeys to rescue Padme who is in danger. Padme is the key to galactic peace. But before she can leave, Padme must take care of her property.

Five years earlier, she had entered into a lease for Redacre with Binks. The conveyance stated: "Starting on January 1, Redacre from Binks to Padme for a lease, with a payment of 1,000 credits due the first of each month, which Binks has the power to terminate at a date of his choice." On May 30, Padme announces that pursuant to the lease, she was terminating the lease, effective immediately. Binks ignores her, and says "You can't do that." Instead, Binks executes a new conveyance: "Binks hereby consents to the subletting of Redacre to Obi, but on the condition that Padme remains responsible for any damage to Redacre." Binks, Padme, and Obi then sign the conveyance.

Immediately after the lease is signed, Redacre is bombed from above, and the premises are destroyed. Obi and Padme narrowly escape, and run to their spaceship. As they take off, Binks yells "Pay me'sa for damages!"

Padme and Obi travel to the planet Tatooine, where they meet Anakin. Soon Padme and Anakin fall in love, and get married. Tatooine has a community-property system for marital property. The trio execute the following conveyance: "Whiteacre from Obi to Padme and Anakin as joint tenants." The couple moves onto Whiteacre, and Padme soon becomes pregnant with fraternal twins--a boy and a girl.

Anakin has a dream that his wife will die during childbirth. He knows that the only way to save her will be through the powers of *the force*. The force is a mystical power that exists inside the cells of all people that allows them to do amazing things--including regenerate life. Anakin knows

that the force is strong in Obi. While Obi is asleep, using a painless process, Anakin extracts the force from Obi's body. Anakin then injects it into his own body.

The next morning, Obi awakens, and realizes Anakin stole his force. Obi goes to confront Anakin. Soon, the two engage in a lightsaber battle. As the two fight each other, Padme suddenly goes into labor and delivers two healthy twins. She names them Luke and Princess.

Moments after the twins are born, Obi strikes his lightsaber through Anakin's heart. With his last breath, Anakin handed Obi his lightsaber, and said, "On my death, give this lightsaber to my son." Without saying anything, Obi took the lightsaber, and leaves him for dead.

Anakin took his last breath, and his heart stopped beating. Then, the force took over, regenerating his body. He rose back to life as a new person: "My name is now Darth," he said. Anakin was no longer. Now there was only Darth. Rather than saving his wife's life with the force, he saved his own. At that moment, Padme--greatly weakened by the childbirth--dies.

Obi separates the infants, leaving Luke on the planet Tatooine with friends, and sends Princess to another planet. Luke and Princess would grow up not knowing who their parents were. They did not even know that they had a sibling (hence the awkward embrace three decades later). Obi would live on Tatooine, so he could keep an eye on Luke, waiting for him to be old enough to lead the resistance against Darth.

Furious, Darth sets out to seek revenge against Obi. Empowered by the force, Darth constructs the ultimate weapon, the Death Star, an armored space station the size of a moon. The Death Star has a laser powerful enough to destroy an entire planet. Darth then executes the following conveyance: "Death Star, from Darth to Darth for life, then to Luke, but if Luke does not have legal title to my light saber at my death, then to Princess and her heirs." Darth hides the conveyance in a secret room on the Death Star, and does not tell anyone about it about it.

After the the issues in the Part I are resolved, Princess discovers Darth's conveyance. This triggers a second round of litigation.

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Chief Justice Yoda has asked you to write another memorandum, of no more than 1,000 words, addressing the following five issues that affect Binks, Obi, Luke, Princess, the executor of Padme's estate, and the executor of Darth's estate.

1. Binks files suit, seeking to recover the cost of damages to Redacare. (Binks is not seeking lost rent). First, Binks sues Obi. Obi defends that he is not liable, and files a countersuit against the executor of Padme's estate. The executor claims that the estate is no longer liable. What is the strongest arguments that Obi can make, and strongest argument that Padme's executor can make? How should the court resolve this dispute?
2. The executor of Darth's estate files suit to quiet title on Whiteacre, claiming that the property belongs to Darth's estate. The executor of Padme's estate counterclaims, and asserts that Whiteacre belongs to Padme's estate. Luke and Princess intervene, both claiming an interest in Whiteacre. How should the court resolve this dispute?
3. Obi files suit against Darth's estate, seeking 10% of the profits generated by the Death Star (in addition to destroying planets, the Death Star had a successful manufacturing plant). Obi asserts that Darth was only able to construct the Death Star with the power of the *force* he stole from him. (Obi did not file suit for conversion of the *force* from his body). What is the estate of Darth's strongest defense? How should the court resolve this dispute?
4. In light of the discovery of Darth's conveyance concerning Death Star, Chief Justice Yoda has asked you to supplement your answer to the third question in Part 1. Specifically, identify the present and future interests, if any, that existed at the time the conveyance was drafted for Darth, Luke, and Princess. In light of the newly-discovered conveyance, who now has the strongest claim to Death Star?
5. Chief Justice Yoda asks you to discuss the strengths and weaknesses of marital property laws based on a community-property model, rather than a common law model. Please pay special attention to the situation that confronts married couples that migrate from a state with one type of laws, to the other.