

Property II Examination
December 11, 2017
6:00 p.m. - 9:00 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 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. 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.

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

Good luck!

Part 1 (50%)

Instructions: You are a law clerk for the Chief Justice of the Wizengamot Supreme Court. You are asked to prepare a memorandum of no more than 1,000 words concerning five property disputes on Castleacre, Alleyacre, and Crossacre, involving Potter, Ron, Hermione, Dumbledore, and Voldemort. This jurisdiction applies all American common law rules and is bound by the United States Constitution.

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Hermione, the record owner of Castlecare, promised to give the property to her friends Potter and Ron “if something bad ever happened to me.” Potter and Ron understood that to mean “if she became ill.” Hermione understood it to mean “if she died.” Soon, Hermione became ill, and told Potter, “If you take care of me during my dying days, I will give you, and you alone Castleacre.” Hermione handed the deed to her magical owl, and instructed it to secure the deed until she dies, and then to deliver it to Potter, and no one else. The owl, who was very loyal, would follow Hermione’s directions precisely. Shortly before Hermione’s death, Ron trapped the owl and took the deed. After Hermione dies, Ron, with deed in hand, claims ownership of Castleacre. Potter sues Ron in the Wizengamot Supreme Court’s original jurisdiction, seeking to quiet title on Castleacre.

1. How should the Court resolve Potter and Ron’s competing claims over Castleacre?

Potter owns a store on Alleyacre that sells brooms. In the right hands, these brooms are not mere cleaning devices. Wizards and witches can, through the use of magic, fly on the brooms. The Legislature becomes concerned that Potter’s store is attracting so many wizards and witches onto Alleyacre, because they are considered dangerous. The Legislature promptly enacts a new law: “Within thirty days, all property owners must obtain a special exception from the Zoning Board to continue operating a dangerous business.” Potter requests such a special exception from the Zoning Board. The Zoning Board holds a hearing, at which evidence is presented that the use of magic by wizards and witches poses a threat to public safety. The Board rejects Potter’s evidence to the contrary that wizards and witches actually promote public safety. After the hearing, Potter’s special exception is denied. Potter then appeals that denial to the Wizengamot Supreme Court.

2. How should the Court resolve Potter’s appeal concerning the denial of his special exception?

In 1895, Voldemort granted Dumbledore an easement on Crossacre “for the purpose and with the right of constructing, maintaining and operating a railroad for public use in the conveyance of persons and property by the power of steam or otherwise.” For more than eighty years, Dumbledore operated the Hogwarts Express—a traditional steam locomotive—that travelled on rails across Crossacre, transporting passengers and property. However, in 1977, Dumbledore stopped operating the Hogwarts Express, but left all of the rails in place. (Longevity is very long in this jurisdiction.) Forty years later, Dumbledore decided to resume operation of the Hogwarts Express with a new magnetic-levitation technology: using powerful electromagnets on the bottom of the cars, the train would float one inch above the already-installed rails, and quickly glide

forward or backward. Voldemort files suit, asking the Wizengamot Supreme Court to enjoin Dumbledore from relying on the 1895 easement to operate the Hogwarts Express.

3. Should the Court allow Dumbledore to rely on the 1895 easement to operate the Hogwarts Express?

After some successful lobbying by Dumbledore, the Legislature promptly enacts a new law amending the trespass statute: "It shall not constitute a trespass when one temporarily floats at least half of an inch above private property." Dumbledore begins to float the Hogwarts Express one inch above the rails on Crossacre on a daily basis. Voldemort brings suit, alleging that the new law violates the Takings Clause of the Fifth Amendment.

4. Regardless of how you answered question number three, how should the Court resolve Voldemort's claim brought under the 5th Amendment's Takings Clause?

Frustrated with the situation at on Crossacre, Voldemort begins to chase Potter, his longtime foe, with the intent to kill him. Potter, a wizard, can magically make him broomstick levitate and fly. While escaping from Voldemort, Potter flies on his broom from Castleacre, across a park, and back to his store on Alleyacre. Potter ignores a sign at the entrance of the park that says "No vehicles in the park." After he lands on Alleyacre, Potter is arrested for trespassing.

5. How should the Court interpret the sign that says "No vehicles in the park" in deciding whether Potter is guilty of a trespass?

Part 2 (50%)

Instructions: Once upon a time, in a faraway land, a series of land transactions gave rise to several property disputes on Castleacre and Redacre. You are asked to prepare a memorandum of no more than 1,000 words addressing five issues involving Witch, Beast, Elle, Maurice, and Gaston. This jurisdiction applies all American common law rules and all statutes of limitations are ten years.

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Witch, who owns Castleacre, and Beast, who owns Redacre, agree to a series of transactions, which are each promptly recorded. First, Witch sells Castleacre to Beast; in that transaction, Beast covenants that Castleacre will only be used as a one-family residence. Second, Beast sells Redacre to Witch; in that transaction, Beast covenants that whoever resides on Redacre can use the library on Castleacre.

The following week, Maurice gets lost while traveling in the woods, and stumbles upon Castleacre. The property looks abandoned, as Maurice cannot find anyone on the lot. Maurice declares that Castleacre is his own, and announces that he will rent rooms in Castleacre for extra money. The first tenant turns out to be Beast, who does not reveal that he is the record owner of Castleacre. The second tenant is Elle, Maurice's daughter. Elle learns that Beast is the record owner of Castleacre, but does not tell her father. Each month, Beast pays Maurice rent, but Elle does not. After this arrangement continues for ten years, Witch files suit against Beast, Maurice, and Elle, seeking the enforcement of the real covenant at law limiting Castleacre to a one-family residence.

1. How should the court resolve Witch's claims against (a) Beast, (b) Maurice, and (c) Elle?

After the resolution of this first issue, Maurice ejects Elle from Castleacre due to her failure to pay rent. Witch leases Redacre to Elle. When Elle attempts to use the library on Castleacre she is locked out by Beast and Maurice. Elle files suit against Beast and Maurice, seeking the enforcement of the real covenant at law allowing access to the library.

2. How should the court resolve Elle's claims against (a) Beast and (b) Maurice concerning the enforcement of the real covenant at law?
3. Regardless of how you answered question number two, could Elle prevail against (a) Beast or (b) Maurice on equitable grounds?

Every day for the next ten years, Elle crosses onto Castleacre and sneaks into the library. Gaston then purchases Castleacre from Maurice. After the sale, Elle continues to cross onto Castleacre and sneak into the library.

4. Discuss whether the title Maurice gave to Gaston is marketable.
5. In England, the law courts do not enforce negative covenants between buyers and sellers. American courts do enforce such covenants. Discuss the advantages and disadvantages of the American approach.