

Write your Exam Number Here: _____

Introduction: There are five multiple choice questions and two essay questions. This is a 4-hour in-class examination. The exam covers concepts derived from the assigned reading and in class discussions. The best answers will apply these concepts to provide a full explanatory answer to each question presented.

Materials allowed: During the exam, you may use your assigned casebook, and any reading assigned or distributed as part of the course, and any of your own work-product. Your work product includes any material that you substantially participated in developing. Thus, your “group outline” would be permitted, but a commercial outline would not be permitted. No other materials may be used during the exam. You may not access the network during the exam.

Blind Grading: Write your examination number in the space indicated above on this page. Do not put your name on anything in connection with this examination. At the end of the exam, you must return this paper.

Writing answers: The essay questions are divided into subsections. The best answers will follow the same exam structure. Thus, the answer to question 6(a) should be labeled 6(a). Fully explain your reasoning and thought process supporting each answer -- including an analysis of why potential answers were excluded.

Word limits: I have imposed word limits on each essay question. There will be a penalty for going over the word limit *and* you will receive no points for the portions beyond the limit. *A diagram does not count toward the word limit.*

Location: You should assume that all events take place in the United States and that all characters are located in the United States, except as otherwise indicated.

Thank you: I truly enjoyed teaching property law this semester. I wish you the best of luck on the examination and look forward to seeing you at the law school over the next few years. DC

Multiple Choice Questions

This section includes five multiple choice questions. Please select the one single best answer for each question (only one answer per question). There is no “scantron” answer sheet – rather you should simply type/write your multiple choice answers as part of your exam answer.

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Question 1: The City Council of CALIacre wants to use Royce’s land to establish a corporate law themed tourist attraction run by Lambert. Based upon a professional business plan developed by a recent business school graduate, the proceeds from the attraction are to go back to the city for infrastructure budget relief with the hope of eventually reducing the tax burden of its citizenry. Royce, having always despised the lucky charms of Lambert, wants nothing more than to keep his land and see Lambert’s dream fail. Thus, Royce resists all offers by CALIacre’s governing board and eminent domain proceedings ensue.

Assuming CALIacre follows the federal approach to eminent domain and has NOT meaningfully restricted it through statute, choose the most correct answer:

- A) Royce keeps his land because the purpose of the taking is to raise money, which has been found to violate the Constitution’s 5th Amendment.
- B) If the government is attempting to transfer Royce’s private land to a private individual then it is in violation of violating the Constitution’s 5th Amendment even though the ultimate goal is a legitimate government interest.
- C) Royce loses his land because the City Council is seeking to take Royce’s land for the general purpose of economic development and the City Council has a rational basis for believing that the taking will achieve that goal.
- D) Royce loses his land because the City Council is seeking to take the land for the purpose of providing education to the public and the taking is narrowly tailored to achieve that legitimate governmental purpose.
- E) Both C and D are correct so long as just compensation is provided.

Question 2: Crouch purchases a new ukulele from Steve using counterfeit money. Crouch then sells the ukulele for value to Royce who then sells the ukulele to Sis. Choose the best answer regarding rights to the ukulele.

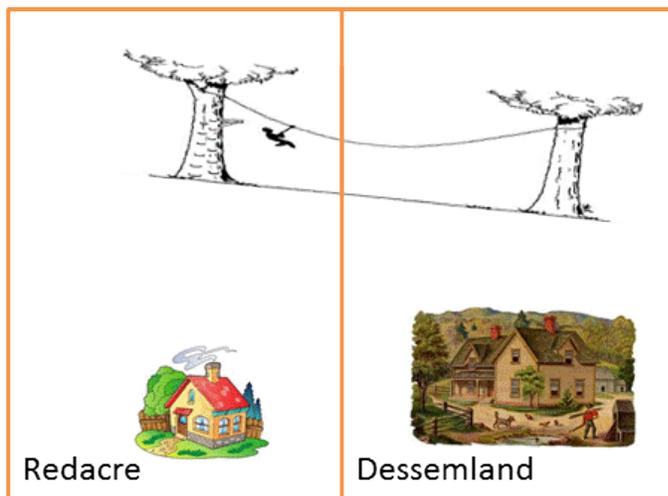
- A) Although Royce received voidable title from Crouch, Royce provided good title to Sis so long as she was a *bona fide* purchaser with no knowledge of the counterfeiting.
- B) Steve is estopped from recovering the musical instrument from Royce or his assignee under UCC 2-403 because Royce received good title from Crouch, so long as Royce was a “good faith” purchaser.
- C) Steve has ultimate rights to the ukulele.
- D) Steve has no cause of action.
- E) Both B and D are correct.

Question 3: Nick and Winston are neighbors. Winston has three vicious outdoor emus, and Nick has small children who enjoy playing in their yard. Nick and Winston sign a written agreement that would require Jess to build a 7 foot fence to prevent the emus from interacting and potentially hurting the children. In turn, the covenant requires Nick to maintain the 7 foot fence in good working condition for the next 30 years. The agreement also purports to “run with the land” and “bind all subsequent owners of the two estates.” What would a court most likely say about this agreement?

- A) The agreement should be considered a real covenant because both the benefit and the burden touch and concern the land.
- B) The agreement could potentially be considered a real covenant because Winston and Nick have horizontal privity of estate.
- C) Despite the lack of horizontal privity of estate, a new owner of Winston’s property could enforce the real covenant against Nick.
- D) Despite the lack of horizontal privity of estate, a new owner of Winston’s property could enforce the equitable servitude against Nick.
- E) Both C and D are correct.

Question 4: Crouch enters a contract to purchase Redacre from Royce, wanting a place where he can play his ukulele without being disturbed. The contract stipulates that Royce will provide marketable title.

During the final inspection before closing, Crouch notices a zip-line running through the property's back yard. The zip-line belongs to a neighbor, Dessem, who informs Crouch that the backyard of Redacre is part of the property he purchased from Litton two years ago, but he only uses it for zip-lining. When Crouch goes to the county recorder of deeds, he finds no record of Litton ever owning Redacre or its backyard, but he does find an easement in the chain of title allowing Litton to install and use a zip-line in the back yard, which, according to the records was conveyed to Dessem. Aside from the zip-line easement, Royce has owned Redacre outright for eight months and his title can be traced to a successful adverse possession 100 years ago. Assume this jurisdiction has a pure race statute. Which of the following are true?



- A) Crouch can avoid the contract with Royce because the zip-line easement is an encumbrance on the land in violation of the promise of marketable title.
- B) If Dessem does nothing, Crouch would own Redacre outright after purchasing it and recording the conveyance, Dessem's easement would no longer be enforceable.
- C) Dessem has been adversely possessing the back yard of Redacre.
- D) Because its chain of title begins with adverse possession, Royce's title is considered a wild deed.
- E) Because Dessem is the prior purchaser and recording is not mandatory, his rights are superior to Royce's.

Question 5: Gordon has a large backyard and began a Sunday afternoon lawnmower racing series with his roommate Edwards. Although there is no specific covenant against racing, the subdivision Home Owner's Association hopes to take some action to stop the frowned upon activity. Choose the most correct answer:

- A) The racing would not be a nuisance so long as it does not substantially interfere with the neighboring landowners use and enjoyment of their property.
- B) Nuisance law would not apply because subdivision CCRs have largely eliminated the need for such common law relief.
- C) The racing would not be a nuisance so long as Gordon & Edwards do not intend to cause any harm.
- D) The Homeowner's association could vote-in a new restriction against lawnmower racing. However, because Gordon & Edwards were already racing, the new covenant could not be applied to stop their activity.
- E) If the racing is found to be a nuisance, the Homeowners association would likely be required to pay any costs and expenses associated with moving the racing series to a new location.

Essay Questions

Question 6

The year is 2024 and personalized nanobots are becoming more popular. There are a wide variety of nanobots. Two exciting forms are (1) health-promoters that are small enough to pass through the human bloodstream identifying and correcting cardiovascular defects well before they become problems with the effect of significantly extending the human lifespan; and (2) wearable sensory enhancers that can fly some distance away from their human ‘master’ to provide a wide variety of sensory feedback (including chemo-sensors, audio and video recording, and weather-related information).

Although most US citizens see the beneficial promise of nanobots, less than 1% of the population actually wear them – primarily because of the relatively high expense and lack of insurance coverage. In addition, several religious organizations have established anti-nanobot doctrines – concluding that the use of nanobots serves as a major step along the pathway of despoliation of the human condition.

Stormy is a member of the Lycaonian Unity Denomination (LUD) whose members are known as LUD-ites. LUD is one of the faith communities with an anti-nanobot doctrine. Stormy personally believes that nanobots are the work of the devil, and thus are bad.

Stormy is also a successful entrepreneur – owning a number of apartments and retail spaces that he leases-out. Stormy works hard to be fair and upfront with all of his tenants and has taken time to understand the anti-discrimination laws in order avoid running afoul of the law. The properties are located in a jurisdiction with adverse possession laws similar to that of Missouri in 2014 (at least to the extent we covered Missouri law in this course).

Question 6(a) [Word Limit 500 Words]

Based upon his religious beliefs, Stormy has begun including “no nanobot” provisions in his real estate leases. Under the lease provision, lessees agree that nanobots will not be used or even allowed on the premises during the lease; that any violation of the nonanobot provision permits Stormy (at his option) to either physically exclude the nanobots or cancel the lease, retake possession, and collect consequential damages. In addition, the lease provides that Stormy has the right to conduct occasional nanobot searches of the leased premises without prior notification of the tenant.

Landers, a wealthy individual was enamored with one of Stormy’s properties. However, Landers has more than 1,000 healthcare nanobots inside of her body doing the work that

they do. Landers went ahead and signed a three-year lease, believing that the clause would be unenforceable under the (i) warranty of habitability; (ii) warranty of quiet enjoyment; (iii) *State v. Shack*, and (iv) the fair housing act (as religious discrimination).

About one month after the lease began, Stormy conducted his first nanobot search and discovered the high-density of nanobots on Landers body. At that point, Stormy peacefully asked Landers to leave the premises and never return while nanobots are on his person. Landers complied but soon thereafter arrived at your office asking for advice. Provide your unbiased legal opinion (written in 500 words or less) regarding the Landers situation. Does it matter whether the leased property is commercial versus residential?

Question 6(b) [Word Limit 100 Words]

The surveillance nanobots are quite small (mosquito size) and quiet. Thus, although Stormy regularly visits one of his commercial real estate properties, he does not actually notice that a number of surveillance nanobots are also flying about in the space. Stormy eventually finds out that the nanobots are present using his electronic scanner. It turns out that the neighboring bank assigns the nanobots to its security guards to monitor for any attempted break-ins. Stormy confronts the bank manager who feigned ineptitude – saying “I’m sorry, but there is nothing we can do to stop the bots from roaming over your property.”

Does Stormy have a private cause of action against the bank?

Question 6(c) [Word Limit 50 Words]

The year is now 2028 and Stormy has died. His niece and closest living relative, Nado, was at his side as he passed peacefully from a sudden incurable illness.

Stormy had duly executed his Will in 2025, in which he gave all of his commercial real estate properties to Nado and all of his residential real estate properties to LUD. Prior to his death, Stormy held fee simple absolute title to these properties but each of the two grants in the Will purported to give only fee simple determinable title to the devisees and creating a possibility of reverter to be triggered “if nanobots are ever used on the properties.” The Will also indicates that Stormy’s vintage set of Freyermuth tomes should go to go his friend and oft legal advisor Tito. However, in 2027 (after executing the Will but before his death) the books had been stolen from Stormy’s house and then quickly sold to a bona fide purchaser named Lex.

As of 2026, who has what rights to the real estate and books?

Question 6(d) [Word Limit 250 Words]

Respond to the following using the same fact pattern as in part 6(c).

Once Stormy's estate is properly distributed, who has what rights to the real estate and the books?

Question 6(e) [Word limit 500 words]

Assume that Nado is the fee simple absolute owner of the commercial real estate properties – having received quitclaim deeds from all of the potential rights-holders listed above. One of the properties is an industrial building that had *not* been leased but has been actually occupied for several years by a homeless man named Rolls. Rolls broke into the building on a wintery night in 2020 during a bout of temporary insanity, but soon recognized that the building would be a good place to squat until someone kicked him out. Over time, Rolls made some improvements – putting a lock on the door for security (he broke the original entering) and bringing in a patio fire pit that he had obtained from a nearby neighborhood so as to provide some warmth. Rolls came and went several times a day from the building's main door. Although the door was visible from other nearby factory buildings, no one really mentally registered what Rolls was doing –paying little attention to the activities of a homeless man. Further, the rooms that Rolls primarily used were not easily seen from the outside because paper was substantially covering the windows. (The second floor windows were not covered, but Rolls never went to the second floor because a leg injury made climbing stairs difficult). In 2028 Rolls' lover Tip began staying with him in the building. After a fight between the two in 2031, Rolls left but Tip stayed and continued to live in the building. Obviously, the occupation violates a number of local laws, health codes, and zoning ordinances. However, during all this time, neither Stormy nor Nado actually knew of the occupation and no government official took any action.

All of these facts came to light in 2032 when Nado contracted to sell all of his properties to Restata via warrantee deed. On inspection and prior to purchase, Restata discovered Tip.

On the eve of closing, please advise Restata of her rights and options assuming that all of the above could be proven in court.

Question 7 [Word Limit 300 Words]

In many U.S. states, property held as tenancy-by-the-entirety is sheltered against certain creditors. Many tort victims (and others) have been injured by this rule because they have been unable to collect on their judgments in instances where only one spouse is liable. A major limit on tenancy-by-the-entirety is that it can only exist with regard to property-rights held within a marriage. However, as the definition of marriage expands to include same-sex couples, some policy makers have suggested that tenancy-by-the-entirety should be eliminated altogether. At the other end of the spectrum, policy pundits suggest that the availability of tenancy-by-the-entirety should further expanded so that non-married pairs should also be able to take advantage of the ownership form if they so choose.

Acting as an advocate for one of these two positions, provide a 300-word essay defending your position against the status-quo and explaining how you would handle the transition.