

Property Section D

Professor Grimmelmann

Final Exam – Spring 2009

May 14, 1:30 PM – Closed Book

This exam consists of **THREE** questions. Each question is worth 33 points, for a total of 100 points. (Every gets the 100th point for free.)

You have **FOUR** hours to complete this exam.

This is a closed-book exam. You may not consult with any person or thing while taking it. You may not discuss the exam or your answers with anyone under any circumstances until after the end of exam period. **Your work must be exclusively your own.**

Please pay attention to the specific questions being asked and answer them. Support your answers with detailed analysis, reference to specific statutes and cases as appropriate, and an explanation of how you have applied the law to the facts. Keep any citations as simple as possible (e.g. “Pierson v. Post”). Feel free to shorten your answers by using an outline format or bullet points, so long as the substance of your points is clear.

If anything about a question is ambiguous, say what you think it means, and answer accordingly. If you need to assume additional facts to answer a question, say what those facts are and how they affected your answer. No reasonable resolution of an ambiguity will be penalized.

Professor Grimmelmann will not answer ANY questions pertaining to exam content during the administration of the exam. If there are errors in the exam, it will nonetheless be fairer and less disruptive if all of you have exactly the same experience taking it.

This exam has **4 pages total**, including this cover sheet.

GOOD LUCK!

(1) **Burial at Sea**

Cary was well known to be cranky and eccentric. For many years, he lived on a houseboat (the “Buttercup”) docked at the Florence Marina. He died in 1985. In his will, he instructed that he be cremated, that his remains be placed on the Buttercup, that the Revenge be towed out into the middle of Lake Florence, and that it be set afire. Cary’s executor, Andre, followed these instructions. After burning for half an hour, the Buttercup capsized and sank. The will left “all that remains of my [Cary’s] estate after the burial” to Cary’s grand-nephew, Wallace.

In May 2008, the state of Guilder (within which Lake Florence is wholly located), completed a dam on the main river flowing into Lake Florence. Over the course of the next six weeks, the water level in Lake Florence dropped by thirty feet. The receding waters exposed a large ring of mud flats, ranging from a few hundred feet to almost a mile in width.

In September 2008, Billie, a marine biologist, was studying the mud flats, taking soil and water samples, when she came across the mud-encrusted ruins of the Buttercup. One end was embedded a few feet into the muck; the other was exposed. Billie explored inside the Buttercup; she found two valuable antique tabletop lamps, which she took with her.

The site where the Buttercup came to rest was about half a mile in from what had previously been the shoreline of Lake Florence. The closest stretch of shoreline belonged to a plot of undeveloped land, owned by Mandy.

For the last fifteen years, a beachcomber named Fred has been living on Mandy’s land, in a lean-to he built from plywood and rope. After seeing Billie poking around on the mud flats, Fred went down to see what was going on. Over the course of October 2008, he dug the Buttercup out of the muck, cleaned it up, and started living in it, instead of his lean-to.

Word of Robin’s find has gotten out. Wallace, Andre, Billie, Mandy, Fred, and the Guilder state government are all now suing each other. Judge Wagner, for whom you are clerking, has been assigned the case. **Write a memorandum telling the judge to whom she should award ownership of the Buttercup and the lamps, and whether any of the parties should be ordered to pay damages to any of the others.**

(2) **When I Paint My Masterpiece**

Pablo owned in fee simple a two-story red-brick house, located in the Whistler's Brook subdivision in the town of Turnersville. He properly executed a deed giving the house:

“To Alice and Gertrude for life, as tenants in common, then to Henri.”

Alice and Gertrude are sisters; Henri is Alice's son. Alice and Gertrude have never gotten along; Alice craves neatness and order, while Gertrude has always been a free spirit.

For a few years, everything was relatively peaceful. But then, this past fall, Gertrude invited her friend Salvador, a graffiti artist, to paint a mural on the front wall of the house. The result, titled “I See You,” filled the entire two-story wall and turned the front of the house into a gigantic face contorted in pain. The upstairs windows were eyes and the door became a giant gaping mouth.

Gertrude loves the mural, but no one else does. Alice and Henri are horrified by it; Alice, in particular, was so upset that she's temporarily moved out. Henri, unsurprisingly, is taking his mother's side. Their neighbor Claude is furious about the mural, which he thinks is hideous. The town of Turnersville served notice on Alice and Gertrude claiming that the mural is in violation of the local zoning ordinance, which prohibits the use of exterior paint colors other than Ocean Spray, Springtime Meadow, and Warm Tapioca. The homeowners' association for Whistler's Brook held a special meeting and passed a resolution ordering removal of the mural as “harmful to the good vibes of our peaceful neighborhood.” And to top matters off, Gertrude and Salvador had a falling-out; Salvador now claims he has the right to remove the wall, which he plans to sell to a wealthy art collector.

You represent Gertrude. She's delighted with the mural and wants to keep on living in the house. **Write a memorandum giving her your most realistic assessment of her odds of retaining the house and mural.**

(3) **Animal House**

Felix, a medical student, has come to you for legal advice. He and his friend Zvi, a veterinary student, rented a two-bedroom apartment from Leo in September at \$1600/month.

One day in April, Felix came home from grocery shopping to find an alligator in the living room. It was only about a foot long, but it was clearly an alligator. Zvi explained that he'd adopted the alligator from the reptile shelter where he volunteered. Felix was still trying to digest this fact when Leo arrived and went ballistic, saying that pets were strictly prohibited by the lease. Felix dug out a copy of the lease, and pointed out that it didn't contain a no-pets clause. "It does now!" said Leo. "Get that alligator out by Monday or I'll come down here and kill it myself!"

Come Monday morning, the alligator was gone—and so was Zvi. He left behind a note saying he was dropping out of school to start a reptile farm of his own. When Felix explained this to Leo, Leo said he'd hold Felix responsible for Zvi's share of the rent. Felix frantically searched for a replacement roommate; through great fortune, Robin, one of Zvi's former classmates, was looking for an apartment. When Felix brought Robin to Leo, however, Leo said "No more vets! Not after the last one!" This time Leo pulled out a copy of the lease, and pointed to a clause prohibiting assignments and subleases without Leo's consent.

To Felix's immense surprise, when he returned home a few days later from class, he found a slightly scruffy and fairly spacey looking woman in Zvi's former bedroom. She introduced herself as Fawn, and explained that Leo had brought her in as a replacement tenant for Zvi.

That was when Felix decided to come seek your advice. Felix would like to stay in the apartment. He doesn't want Fawn as a roommate; he'd much rather room with Robin, whom he knows and trusts. Felix can't afford to pay more than the \$800 a month each in rent he thought he was getting into at the start of the lease. Also, it appears that the baby alligator chewed through some of the electrical wiring in the kitchen; the refrigerator now works only intermittently and the lights flicker in a really ominous way.

Write Felix a memorandum explaining his rights, potential liabilities, and legal options.