PROPERTY LAW

Professor Crouch

QUIZ NO: ________________

Spring 2017

45 minutes

This quiz consists of THIRTEEN QUESTIONS – Six Numbered Pages

Multiple Choice: PLEASE CIRCLE THE BEST ANSWER FOR EACH QUESTION.

Short Answer: Answer within the box provided and Keep within the Word Limit

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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.

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.

Hand Writing: No credit for words I cannot read.

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.

CHALLENGES: If you see a particular answer as unfair, you may challenge it at this time by explaining the problem on a separate sheet of paper submitted with your exam number.

Thank you 😊
1 SHORT ANSWER: The woods behind my house are owned by another person. However, I have been regularly using the land for the past 10 years as a play space with my children – building forts as well as a permanent zip-line. During this time, the true owner has never entered the land. We have allowed a few others to come play there, but only with my permission. Question: In your view, what element of adverse possession is most lacking? Choose only one element and explain in 15 words or less.

2 SHORT ANSWER: O holds Blackacre in fee simple absolute. O wants help drafting a grant that would give A a defeasible estate that automatically passes to B “if the old OAK is ever killed.” Also, if A dies, the defeasance should end and full title pass to C. 25 words or less (Draft only the grant, no explanation).

3 SHORT ANSWER: What was the meaning and impact of the “rational basis” review applied by the Supreme Court in Kelo? 35 words or less.
4  SHORT ANSWER: Rhoda has invented a new glass-shaping process – to make double-pained curved windows. Rhoda is considering patenting the invention vs keeping the process as a Trade Secret. Advise in 20 words.

5  Alexander holds a life estate in WATERTOWN that he received from Dean Dean (AKA: D³). Dean Mitchell holds the remainder, although his already executed WILL provides for the remainder to be given to the Law School (Mizzou). Alexander then conveys her interest to Royce who – seeking to avoid tax consequences – gives his interest to Litton. At the time, however, Royce was a bit of a braggart and told Lambert he was Fee Simple Owner. After several years, Alexander dies (sadly) without a will of her own (Dean Mitchell is still alive). Who now owns WATERTOWN?

A) Litton, as long as Royce (the prior life estate holder) is still alive.
B) Dean Mitchell, although the Law School has a future interest.
C) Dean Mitchell (the law school has no interest).
D) Litton holds fee simple, but only if he has been occupying the space for 10 years.
E) Dean Dean (the Grantor) based upon an implicit reversion.

6  Matt buys Jared’s watch using a fake check (a form of larceny in Missouri). Matt then gives the watch to Drew as a holiday gift. Drew then sells the watch for Chris for fair market value. Neither Drew nor Chris have any knowledge of the original theft until two weeks later when Jared comes looking. Who is the rightful owner of the guitar?

A) The gift to Drew cleaned title (as a good faith recipient) and therefore good title passed to Chris.
B) As the first bona fide purchaser Chris now has good title and owes nothing to Jared
C) If we follow Colorado law, Jared still owns.
D) Chris is the owner, but only if he followed the notice requirements for extinguishing prior title.
E) Jared is the owner because Article 2 of the UCC was not enacted in Missouri.
7 O purported to grant real property rights to A as a fee simple subject to condition subsequent, with the condition that illegal methamphetamines are not brought onto the land. A is later arrested and pleads guilty to possession of methamphetamines in the home. Although publicly reported, O did not become aware of the conviction for 11 years. At that point, O tries to get the land back by filing an ejectment lawsuit. Will O be successful?

A) No, as soon A used the methamphetamines title transferred to O. However, 11 years have passed and thus A has adversely possessed the land.

B) No, O's purported reversion violates the rule against perpetuities and is void.

C) Yes, O’s right of reentry can be effectuated by an ejectment lawsuit.

D) No, the use-condition is a restraint on alienation and therefore void as against public policy.

E) The answer is either A or B, but I don’t know which.

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8 In 1975, Alpha, who has a fee simple absolute estate, conveys one acre of land “to Beta for life, then to Gamma.” Gamma died in 2003, leaving her estate to Delta. Beta died in 2016. What estate did Gamma initially receive? What estate did Delta have once Beta died?

A) Gamma initially holds a vested remainder that was divested (by Gamma’s death); at Beta’s death Delta holds no interest.

B) Gamma initially holds a vested remainder; at Beta’s death, Delta holds fee simple absolute.

C) Gamma initially holds a contingent remainder; at Beta’s death, Delta holds fee simple absolute.

D) Gamma initially holds a fee simple subject to executory limitation (contingent); at Beta’s death Delta holds the executory limitation.

E) None of the above.

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9 Which of the following is not typically true about property rights?

A) In order to become the owner of a piece of real property, the potential owner must record her title to the property.

B) Limitations exist on a property owner’s right to exclude others from his property.

C) An unjustified invasion of real property is typically treated harshly by courts.

D) There are several incentives to recording a title to real property.

E) Whether a visitor staying in your house were treated as either (a) licensees or (b) tenants would strongly affect the kind of property rights they would have.
10 Which of the following would violate the traditional Rule Against Perpetuities?

A) a. “To A for life, then to A’s children who reach the age of 20.”

B) b. “To A for life, then to A’s children for life.”

C) c. “To A so long as alcohol is never served on the property, then to B.”

D) d. “To A for life, then to A’s children who reach the age of 22.”

E) e. Answers C and D only.

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11 Hand is about to purchase an historic home from Holmes. In a final walkthrough before closing, he finds $10,000 that had apparently been hidden under a floorboard for over sixty years. Holmes did not know about the money. (NOTE: “Closing” is when the actual sale of a house takes place, typically a buyer will “walkthrough” just before closing to make sure everything is in good shape.) Choose the most correct statement:

A) Abandoned: The money was likely abandoned by the original owner. Abandoned property is normally granted to the finder. However, in this case Matlock could not claim title to the money because he did not yet own the house.

B) The faulty floorboard may make the title unmarketable. (This is not the correct answer, but remember the term “unmarketable title” for later in the semester)

C) If the true owner of the money cannot be located, then a court following Lindner would consider the money mislaid and award it to Holmes even though he is just about to sell the house.

D) Although the money is awarded to Holmes, Hand will receive a “finders fee” of 10% of the value so long as Hand followed the disclosure rules.

E) Both C and D are correct.

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Walter White parks his recreational vehicle (RV) on a portion of land owned by Hector Salamanca in central Missouri. Hector Salamanca knew Mr. White was on his property but did not take action against him. Mr. White starts a lucrative (but highly illegal) chemical business on the land. Four years later, Mr. Salamanca has a stroke that rendered him incapable of speaking or walking. A year after Mr. Salamanca’s stroke, Jesse takes over the chemical business from Mr. White and moves in to the RV (Mr. White moves away). Four years after Jesse’s arrival, Mr. Salamanca dies and wills his property to his nephew, Tuco. Tuco owns the land for two years before deciding to kick Jesse off of his property. Jesse claims adverse possession of the land where the RV has been parked this whole time. (Assume a 10-year period for Adverse Possession).

Adverse possession:

A) has not been acquired – although the RV is out in the open, the illicit business is being done in secret and therefore not “open and notorious.”

B) has not been acquired although the statute of limitations began running when Mr. White first arrived, the statute of limitations temporarily tolled when Mr. Salamanca had his stroke and became disabled.

C) has not been met because Tuco’s inheritance restarted the limitations period.

D) has been met since Mr. White and Jesse’s years on the land can be considered continuous (through tacking) and their combined time on the land goes beyond the ten year statute of limitations.

E) both B and C are correct.

13 Short Answer: A truly wonderful apple tree grows on Eve’s land. The canopy of the tree grows over a portion of land owned by her neighbor Serp. Serp believes the fruit growing over his land belong to him. It turns out that in the newly formed state of Western Kansuri, courts have never faced this question. Help the court decide (35 words).