

FINAL EXAMINATION

REMEDIES

PROFESSOR LOIS SCHWARTZ

SUMMER 2006

INSTRUCTIONS

1. You will have **three (3) hours** to complete this examination. It is recommended that you spend 1.5 hours working on part one, the multiple-choice portion of the exam, and 1.5 hours working on part two, the essay portion.
2. This is a **closed book** examination. You may not use any outside materials during the exam.
3. The exam consists of two parts.
 - a. **PART ONE** consists of 30 multiple-choice questions. Answer each multiple-choice question by indicating one letter corresponding to the response you believe to be most correct. Correct multiple choice answers are to be marked on the separate ParSCORE test form using pen or pencil and following the instructions on that form. If you change your answer, place a clear **X** through the wrong answer and mark the correct answer. A machine will score the exam and any ambiguities will be counted as wrong answers.
 - b. **PART TWO** contains one essay which you will either write in the blue book(s) provided, or type using ExamSoft. If you are handwriting, write only on the right side of each page, and on every other line. Please write legibly. If you are typing your response using exam software, be sure to save your work frequently to the diskette.
4. Write your exam number on your exam envelope; at the top of this page and every page of questions hereafter; your ParSCORE test form; and each blue book you use. **Do not** use your name, student ID number or Social Security number on any exam materials.
5. At the conclusion of the exam, turn in **all** exam materials including the ParSCORE form, blue books, computer disks, scratch paper and the exam in the envelope provided and submit them to the exam proctor. **Do not seal** the envelope. Students who do not return all exam materials at the end of the exam may not be graded.

Good luck!

PART TWO

Essay Question

Allot 1.5 Hours (90 minutes)

The year is 2006. Patty Propertyowner is having some problems with Ned Neighbor, who owns the property adjoining hers. Ned acquired his property in 1986; Patty obtained title to her land in 1994. A predecessor in title to Ned had planted ten elm trees on Ned's property just inside the boundary line between the two properties. The trees have grown enormously. Their branches overhang Patty's property and their roots invade Patty's soil.

Patty has told Ned in the past that she admires the trees, but she now claims that Ned has negligently maintained the elm trees for the past ten years, never trimming them, and allowing the roots and branches to interfere with the cultivation of alfalfa crops on Patty's property. Over the past ten years, the branches and roots have made it impossible to grow alfalfa near the trees, and have reduced the annual yield of Patty's crops from \$50,000 to \$40,000. Ned argues that he is not at fault, and any physical interference with the trees will kill them.

Last year, Patty contacted her friend Victor, who owns a landscaping service. She asked him to give her some advice about what could be done about the trees. When Victor arrived, he told Patty he normally charges \$100 per hour for his time. Ned was afraid that Victor was preparing to cut down the trees, so he (Ned) and his father Dan kept a close watch on Victor. After three hours of thoroughly inspecting the roots and branches, Victor was descending the broken ladder Patty had carelessly loaned him and he fell, sustaining a severe head injury.

When Victor fell, Patty screamed for someone to help Victor. Ned and his father ran into Patty's house and called 911. While Ned was making the call, Dan noticed that Patty had left a diamond necklace on the dining room table. Dan pocketed it and immediately sold it to a jewelry store for \$5,000. In fact, the necklace was worth \$10,000. Dan used the \$5,000 to pay the medical bills he owed his physician, Dr. Proctor.

Eventually Victor managed to prepare a report for Patty that favored her position on the trees. She thanked him for it, but that was all.

1. If Patty sues Ned for encroachment, what remedies are available to her? Discuss.
2. Can Victor claim any remedy or remedies against Patty for the inspection of the trees? Discuss.

3. If Patty sues Dan for conversion, what remedies are available? Discuss.

Thanks for being such a great class!

Enjoy the remainder of your summer!