

BUSINESS LAW
MR. EVANS

EXAMINATION
SPRING

Please select one question from each of the following groups, for a total of five questions. Compose an essay in which you address the legal issues raised in each question. You should explain what you believe would be the outcome; in addition, you should explain how the law would apply to the facts of the case.

- I. Chapter 11, questions 5, 8, 9, 14
- II. Chapter 13, questions 12, 15, 19, 22
- III. Chapter 47, questions 1, 3, 9, 15
- IV. Chapter 48, questions 10, 12, 16, 17
- V. Chapter 49, questions 8, 10, 11, 14

and granted the new owners "their rights to the water of Butler Springs" but they said nothing about the access road. The ranch was subsequently sold several times, and all the owners used the access road and watering hole. In 2014, the Nelsons purchased the ranch. Shortly thereafter, the Johnsons notified the Nelsons that they had evicted the Nelsons' right to use the access road and Butler Springs. In 2017, the Johnsons closed the access road by locking the gates across the road. The Nelsons brought this action, claiming easements to both the access road and Butler Springs. Does an easement in favor of the Nelsons exist? Why or why not?

15. Clayton and Maggie Gadaghe owned a house at 552 Somerset Place, N.W. (the Somerset property) as tenants by the entirety. They had three children: Bernis Gadaghe, Johnnie Widon, and Marion Widon. When Maggie Gadaghe died in 1996, Clayton became the sole owner of the Somerset property. The following year, Clayton remarried, but the marriage was unsuccessful. To avoid a possible loss of the Somerset property, Bernis forwarded Clayton funds to satisfy the accrued wife's financial demands. In exchange, Clayton conveyed the property to Bernis and himself as joint tenants. In 2011, Clayton conveyed his interest in the Somerset property to his daughter, Marion Widon. In 2011, Clayton died. Bernis died in 2017, and Johnnie Widon died in 2014. In these proceedings, Marion Widon claims to be a tenant in common with the estate of Bernis Gadaghe. The estate claims that when Clayton died, Widon's interest was extinguished and Bernis became the sole owner of the Somerset property. Who is correct? Why?

16. By separate laws, Justin and a few others owned an apartment at the Orion Terrace apartment complex.

TAKING SIDES

On June 28, 2008, Martin Hendschek and Schleg Hendschek were married, and on January 3, 2009, a house previously owned by Martin was conveyed to them as joint tenants and set as tenants in common. Schleg Hendschek paid no part of the consideration for the premises. On August 3, 2016, Martin Hendschek died executed a Declaration of Election to Serve Survivorship of Joint Tenancy by which he endorsed to preserve an interest in the premises for Ruth Hedges, his daughter by a previous marriage. On the same day, he executed his last will and testament. By the terms of which he directed that his wife, Schleg Hendschek, receive the minimum amount to which she was entitled under

When they died, on their joint payments, the last level First National Bank, brought an action to quiet title. The court ruled in favor of the bank and directed them. The court's decision, however, had failed to maintain on the ground that the husband had failed to maintain the premises in conformity with the Planning Code of Washington, D.C. They alleged that approximately 1,500 violations of this code had arisen since the time of their first home. Discuss the merits of this case.

17. On January 14, 2013, Evan Shaw Robinson died and left his daughter, Melissa Trifiro, and two sons, W. C. Sewell and Billy Sewell, "jointly and severally, and unto their heirs, assigns and successors forever," with the power retaining a life estate. W. C. Sewell died on September 18, 2014, and Billy Sewell died on May 11, 2015.

Ms. Robinson died on February 17, 2017. Ms. Trifiro then sought a declaration that her mother had intended to convey the property to the grantees as joint tenants, thereby making her, by virtue of her husband's death, sole owner of the property. Descendants of W. C. and Billy Sewell opposed the complaint on the ground that the deed created a tenancy in common among the grantees. Who is correct? Explain.

18. Fay and Loretta OTCameli were married and owned several bank accounts as joint tenants with rights of survivorship. While accompanied by Loretta's sister, Mary Ann, Fay went to the banks where Fay and Loretta had joint accounts and withdrew all the funds from those accounts. Fay deposited the funds into new accounts in his name alone and designated all but the money market account as payable on death to Mary Ann. Did Fay sever and destroy the joint tenancy? What rights, if any, does Loretta have to the withdrawn funds? Explain.

the laws of the State of Minnesota, Martin Hendschek and with a will set off on October 8, 2016.

19. What are the arguments that the joint ownership was severed by Martin Hendschek's declaration, thus creating a tenancy in common?
20. What are the arguments that the joint tenancy was not severed by Martin Hendschek's declaration and thus the property passed to Schleg Hendschek by survivorship upon Martin Hendschek's death?
21. Which argument should prevail? Explain.

- Smith demanded some hundred crates of grade A and fifty crates each of grades B and C. Jones refused to give them up unless Smith could identify particular crates. This Smith could not do, Smith brought an action against Jones to recover what he demanded or its value. **What judgment?**
8. Barnes, the owner and operator of Blackacre, decided to close farming operations and liquidate his holdings. Barnes sold fifty head of yearling Merino sheep to Billing and then sold Blackacre to Chiles. He retained and delivered to Billing a bill of sale for the sheep and was paid for them. It was understood that Billing would send a truck for the sheep within a few days. At the same time, Barnes executed a warranty deed conveying Blackacre to Chiles. Chiles took possession of the farm and brought along one hundred head of his yearling Merino sheep and turned them into the pasture, not knowing the sheep Barnes had billing were still in the pasture. After the sheep arrived, it was impossible to identify the fifty head belonging to Billing, despite whether Billing will recover the fifty head of sheep from Chiles.
9. Susan purchased Kerns to take her very old grandfather clock on the basis of Kerns's representation that he was advised at reporting such clocks and ensuring them to their original condition and could do the job for \$600. The clock had been badly damaged for years, even immediately after the clock to First Shop for \$300. First Shop was in the business of reporting large quantities of clocks to its customers. The clock was in such poor shape that it was not repairable. Susan told the First Shop and clearly identified it. Susan then sold the clock to Kerns for \$100. Kerns had given Kerns to report. First Shop had replaced more than half of the movement by having exact duplicate custom made; the clock's exterior had been restored by a skilled cabinetmaker. All materials belonged to First Shop, and its employees accomplished the work. First Shop asserts it bought the clock in the normal course of business from Kerns, who represented that it belonged to him. The fair market value of the clock in its damaged condition was \$300, and the value of repairs made is \$250. Susan used First Shop for repairs of the clock. First Shop defended that it then paid for the clock and, in the alternative, that Susan must pay the value of the repairs if she is entitled to regain possession. **What will the court decide? Why?**
10. Under an oral agreement, Hiver rented from Barnum a vehicle for a filing station. Hiver placed on the car a highly conspicuous marking which he used to identify and reserve foreign trucks that he placed in a dealer's reservation. Later, Hiver prepared a note that contained a provision allowing him to recover the equipment at the termination of the lease. This note was not executed. Hiver then reported to Barnum that a renewed clause B contained. Several years later, another lease was proposed, which both Hiver and Barnum did sign. The lease did not mention removal of the equipment, its use, or termination of this lease. Hiver returned the equipment, and Barnum brought an action to recover possession of the equipment. **What judgment?**
11. Dixon sold a piece of real estate, describing it by its legal description and making no mention of any improvements or fixtures on it. The land had upon it a residence, a barn, a tall fence, a stack of hay, some growing corn, and a windmill. The residence had a stove built into the west wall of the living room and a heating system consisting of a furnace, steam pipes, and radiators. The house was clean, book tables, and other fixtures. On the house was a lightning rod. In the basement was a room for the students. **What of these things passed by the deed and which did not?**
12. John Susan owned a safe deposit box at the Trust Company Bank of Evanston, State of IL. On December 12, 2014, Susan went to the bank with stock certificates to place in the safe deposit box. After he was admitted to the vault and had placed the stock certificates in the box, Susan found lying on a chair in the private booth of the vault a \$5,000 engraved leather handbag owned by the State of Wisconsin with coupons attached. On June 30, 2015, Susan picked up the handbag, observing that it did not carry the name of the owner, left the vault and went to the office of the president of the bank. He told the president what had occurred and delivered the handbag to the president only after obtaining his promise that should the owner not call for the hand or because known to the bank by June 30, 2015, the bank would deliver the hand to Susan. On July 1, 2015, Susan learned that the owner of the hand had not called for it, nor was the identity known to the bank. Susan then asked that the hand be returned to him. The bank refused, stating that it would continue to hold the hand until the owner claimed it. **Explain whether Susan will prevail in his action to recover possession of the hand.**
13. Lila, an insurance broker who handled all insurance for Tempo Co., purchased a fire policy from Insurance Company Insuring Tempo Co.'s factory against fire in the amount of \$1.5 million. Before the policy was delivered to Tempo and while it was still in Lila's hands, Tempo advised Lila to cancel the policy. Prior to canceling, however, Tempo suffered a loss. Tempo now sues Lila against Insurance Company on the policy. The premium had been billed to Lila but was unpaid at the time of loss. Is an action by Tempo Co. against Insurance Company, **what judgment?**
14. On July 15, Adler purchased in Chicago a black urban limousine from a dealer who was licensed to sell vehicles belonging to drive in Chicago to St. Louis. Adler then transported a friend, Markovich, who was in liability insurance business, and told him that he wanted liability insurance on the automobile, insured in amount of \$50,000 for injuries to one person and to \$100,000 for

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25. I am/was a part-time program manager employed with San Microsystems in Palo Alto, California. Upon beginning employment, I had signed a contract that included a noncompetition clause that states that I shall not, directly or indirectly, compete with San Microsystems for a period of 12 months after termination of my employment.

20. Bennett 2012 and 2017; Williams published a number

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22. Universal City Studios, Inc. (Universal), entered into general contract with Turner Construction Company (Turner) for the construction of the Jurassic Park ride (Turner) entered into a subcontract with Pacific Coastern Turner entered into a subcontract with Pacific Coastern Turner, Inc. (PCTI), for PCR to furnish and install all

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23. Chris Stuchlik worked at a delivery store at a Christmas Party restaurant owned by Western Pines. The store has one car in making deliveries. His hourly wage ranged from the legal minimum wage to approximately \$6.00 above minimum wage. Western Pines sometimes has a fixed rate of \$4.00 per delivery regardless of the number of miles driven or actual expenses incurred. Stuchlik brought this class action against Western Pines alleging that the rate set which drivers were reimbursed for delivery expenses (which drivers say and have shown that the drivers were paid less than the legal minimum wage).

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TAKI N O S I D E

BarbWeb provided online products and services to business professionals in the information technology (IT) industry. BarbWeb operated through a family of Web sites offering information, products, and services for IT professionals in

use for factoring tasks and solving technology problems in the business setting. Tarbush developed this content primarily through licensing agreements with third parties. Schick began his employment with Tarbush in his New York City office.

5. Harris owned a farm that was worth about \$600 per acre. By false representations of fact, Harris induced Pringle to buy the farm at \$1,500 per acre. Shortly after taking possession of the farm, Pringle discovered oil under the land. Harris, on learning this, sues to have the sale set aside on the ground that it was voidable because of fraud. Result?
6. On February 2, Phillips induced Miller to purchase from her fifty shares of stock in the XYZ Corporation for \$10,000, representing that the actual book value of each share was \$200. A certificate for fifty shares was delivered to Miller. On February 16, Miller discovered that the book value on February 2 was only \$50 per share. Will Miller be successful in a lawsuit against Phillips? Why or why not?
7. Doris mistakenly accused Peter's son, Steven, of negligently burning down her barn. Peter believed that his son was guilty of the wrong and that he, Peter, was personally liable for the damage, as Steven was only fifteen years old. Upon demand made by Doris, Peter paid Doris \$25,000 for the damage to her barn. After making this payment, Peter learned that his son had not caused the burning of Doris's barn and was in no way responsible for its burning. Peter then sued Doris to recover the \$25,000 he had paid her. Will he be successful?
8. Jones, a farmer, found an odd-looking stone in his fields. He went to Smith, the town jeweler, and asked him what he thought it was. Smith said he did not know but thought it might be a ruby. Jones asked Smith what he would pay for it, and Smith said \$200, whereupon Jones sold it to Smith for \$200. The stone turned out to be an uncut diamond worth \$3,000. Jones brought an action against Smith to recover the stone. On trial, it was proved that Smith actually did not know the stone was a diamond when he bought it, but he thought it might be a ruby. Can Jones void the sale? Explain.
9. Decedent Judith Johnson, a bedridden, lonely woman of eighty-six years, owned outright Greenacre, her ancestral estate. Ficky, her physician and friend, visited her weekly and was held in the highest regard by Johnson. Johnson was extremely fearful of suffering and depended upon Ficky to ease her anxiety and pain. Several months before her death, she deeded Greenacre to Ficky for \$10,000. The fair market value of Greenacre at this time was \$250,000. Johnson was survived by two children and six grandchildren. Johnson's children challenged the validity of the deed. Should the deed be declared invalid due to Ficky's undue influence? Explain.

C A S E P R O B L E M S

10. Dorothy and John Huiffschneider listed their house and lot for sale with C. B. Property. The asking price was \$165,000, and the owners told C. B. that the size of the property was 6.8 acres. Dean Olson, a salesman for C. B., advertised the property in local newspapers as consisting of six acres. James and Jean Holcomb signed a contract to purchase the property through Olson after first inspecting the property with Olson and being assured by Olson that the property was at least 6.6 acres. The Holcombs never asked for or received a copy of the survey. In actuality, the lot was only 4.6 acres. The Holcombs now seek to rescind the contract. Decision?
11. In February, Gardner, a schoolteacher with no experience in running a tavern, entered into a contract to purchase for \$40,000 the Punjab Tavern from Meiling. The contract was contingent upon Gardner's obtaining a five-year lease for the tavern's premises and a liquor license from the State. Prior to the formation of the contract, Meiling had made no representations to Gardner concerning the gross income of the tavern. Approximately three months after the contract was signed, Gardner and Meiling met with an inspector from the Oregon Liquor Control Commission (OLCC) to discuss transfer of the liquor license. Meiling reported to the agent, in Gardner's presence, that the tavern's gross income figures for February, March, and April were \$5,710, \$4,918, and \$5,009, respectively. The OLCC granted the required license, the transaction was closed, and Gardner took possession on June 10. After discovering that the tavern's income was very low and that the tavern had very few female patrons, Gardner contacted Meiling's bookkeeping service and learned that the actual gross income for those three months had been approximately \$1,400 to \$2,000. Will a court grant Gardner rescission of the contract? Explain.
12. Christine Boyd was designated as the beneficiary of a life insurance policy issued by Aetna Life Insurance Company on the life of Christine's husband, Jimmie Boyd. The policy insured against Jimmie's permanent total disability and also provided for a death benefit to be paid on Jimmie's death. Several years after the policy was issued, Jimmie and Christine separated. Jimmie began to travel extensively, and Christine therefore was unable to keep track of his whereabouts or his state of health. Jimmie, however, continued to pay the premiums on the policy until Christine tried to cash in the policy to alleviate her financial distress. A loan previously had been made on the policy, however, leaving its cash surrender value, and thus the amount that Christine received, at only \$4,19. Shortly thereafter, Christine learned that Jimmie had been permanently and totally disabled before the surrender of the policy. Aetna also was unaware of Jimmie's condition, and Christine requested that the surrendered policy be reinstated and that the disability payments be made. Jimmie died soon thereafter, and Christine then requested that Aetna pay the death benefit. Decision?