

PROPERTY 1208B & 1208C MIDYEAR EXAM

PROFESSOR J.F. DEBEER

19 DECEMBER 2005, 9:30 – 11:30 (2 HOURS)

THIS EXAM IS WORTH *EITHER* **33%** OR **0%** OF YOUR FINAL GRADE,
DEPENDING ON YOUR PERFORMANCE ON THE FINAL EXAM

YOU MAY USE NON-ELECTRONIC REFERENCE MATERIALS

(*E.G.* BOOKS OR NOTES, BUT NOT LAPTOPS, MOBILE PHONES OR PDAS)

THERE ARE 4 QUESTIONS TO CHOOSE FROM.

ANSWER ONLY 3 (THREE) QUESTIONS.

ALL 3 ANSWERS ARE WEIGHTED EQUALLY

PLEASE WRITE LEGIBLY AND

DOUBLE-SPACE YOUR ANSWERS IN **INK** ON **EVERY OTHER PAGE.**

PUT YOUR STUDENT NUMBER ON AND HAND IN
BOTH THE EXAM SHEET AND THE ANSWER BOOKLET

STUDENT NUMBER: _____

MEMORANDUM

To: Students-at-Law

From: Lionel Hutz, Senior Partner, I Can't Believe It's a Law Firm! LLP

Re: Three Urgent Tasks

Date: 19 December 2005

Welcome to your new position as students at the law firm, "I Can't Believe it's a Law Firm" LLP. Good for you for wanting to become law talking guys and gals. Can you imagine a world without lawyers?

Although this is technically your first day on the job, I'm sure you can handle the following urgent matters. **There are 4 tasks listed below – you must choose 3 (three) of them to do**. I need responses within the next two hours. That gives you **40 minutes for each of the 3 questions, all of which are equally important**. It is crucial that your answers are thorough, responsive, accurate, insightful, concise and well organized. Your performance evaluation will be based on those criteria.

First, I promised our client, General Motors, our advice on the following property related issue. In a 1976 recording of "One Piece at a Time", Johnny Cash sang about building a Cadillac out of parts that he'd taken while working on a General Motors' assembly line. General Motors now believes that the lyrics to this song tell a true story! (The lyrics are attached to this memo as Appendix A on pages 4 and 5.) We know that Johnny was the rightful owner of the steel frame used to build the car, but the other parts were clearly stolen. We also know that Ontario law applies to this matter, because the key events took place in Windsor. Finally, we know that the Cadillac that Johnny built was part of his estate when he died, and is now in the possession of his daughter, Rosanne Cash. The only other facts we have are contained in the lyrics to the song. I want you to explain how the law applies in these circumstances, ignoring any issues concerning criminal law, private international law and/or statutes of limitations.

Second, I have to appear in court later today to represent a client, Tim Rivers, who has contacted us at the last minute. He's having a dispute with the City of Ottawa about ownership of a parcel of land. Apparently, Tim was using this land as a golf range until the City asserted its rights to this property by putting up a fence. All we really know about the facts is contained in a newspaper article that appeared in the Ottawa Citizen last spring. (The article is attached to this memo as Appendix B on page 6.) I need you to brief me on how the law would apply to these facts, highlighting the relevance of any missing information.

Third, I am scheduled to attend an event tonight with a leading scholar from New Zealand named Andrew Brown. Andrew has just published an essay called “Owning Ideas” in The Guardian, one of Britain’s major newspapers. I was only able to obtain the first few lines of the article, which lays out his thoughts on recent developments in intellectual property law and policy. (The extract is attached to this memo as Appendix C on page 7.) I’d like to you to help me prepare some intelligent points for discussion. I do not want your random thoughts on the topic in general! I would prefer you to comment specifically on his remarks in this passage, ideally with references to materials and/or discussion from your property law class.

Fourth, tomorrow morning I have to fly to New York to participate in a meeting of the Global Policy Forum, which monitors policy making at the United Nations. The Forum has retained me as an expert consultant on property law issues, and now wants my advice on a specific question about the new Iraqi Constitution. They want my opinion on Article 23, which deals with the right to private property in Iraq. (An English translation of the relevant provision is attached to this memo as Appendix D on page 8.) To prepare for my meeting, I would like your insights on the practical and theoretical implications of this provision, especially as compared to the situation in Canada, based on what you’ve learned in your property law class.

As you can see, we have quite a varied law practice here at I Can’t Believe It’s a Law Firm! LLP. Remember, though, that **you only need to do 3 (three) out of these 4 (four) tasks!** I will finish the other remaining task myself during lunch today.

Thank you,

Lionel Hutz

Lionel Hutz,
I Can’t Believe It’s a Law Firm! LLP.

Hutz: Mrs. Simpson, your case is just what I need to rebuild my shattered practice. Care to join me in a belt of Scotch?

Marge: It's nine o'clock in the morning.

Hutz: Yeah, but I haven't slept in days.

APPENDIX A: JOHNNY CASH LYRICS

“ONE PIECE AT A TIME”

Well, I left Kentucky back in '49
an' went to Detroit workin' on a 'sembly line.
The first year they had me puttin' wheels on cadillacs.

Every day I'd watch them beauties roll by,
and sometimes I'd hang my head and cry,
'cause I always wanted me one that was long and black.

One day I devised myself a plan
that should be the envy of most any man.
I'd sneak it out of there in a lunchbox in my hand.

Now gettin' caught meant gettin' fired,
but I figured I'd have it all by the time I retired.
I'd have me a car worth at least a hundred grand.

[CHORUS]

I'd get it one piece at a time,
and it wouldn't cost me a dime.
You'll know it's me when I come through your town.
I'm gonna ride around in style.
I'm gonna drive everybody wild.
'Cause I'll have the only one there is a round.

So the very next day when I punched in,
with my big lunchbox and with help from my friends,
I left that day with a lunch box full of gears.

I've never considered myself a thief.
GM wouldn't miss just one little piece,
especially if I strung it out over several years.

The first day I got me a fuel pump,
and the next day I got me an engine and a trunk.
Then I got me a transmission and all of the chrome.

The little things I could get in my big lunchbox,
like nuts, an' bolts, and all four shocks,
but the big stuff we snuck out in my buddy's mobile home.

Now, up to now my plan went all right,
'til we tried to put it all together one night,
and that's when we noticed that something was definitely wrong.

The transmission was a '53,
and the motor turned out to be a '73,
and when we tried to put in the bolts all the holes were gone.

So we drilled it out so that it would fit,
and with a little bit of help with an A-daptor kit,
we had that engine runnin' just like a song.

Now the headlight' was another sight.
We had two on the left and one on the right,
but when we pulled out the switch all three of 'em come on.

The back end looked kinda funny too,
but we put it together and when we got thru,
well, that's when we noticed that we only had one tail-fin.

About that time my wife walked out,
and I could see in her eyes that she had her doubts,
but she opened the door and said "Honey, take me for a spin."

So we drove up town just to get the tags,
and I headed her right on down the main drag.
I could hear everybody laughin' for blocks around.

But up there at the court house they didn't laugh,
'cause to type it up it took the whole staff.
And when they got through the title weighed sixty pounds.

[REPEAT CHORUS]

[*Spoken*] Ugh! Yow, Red Ryder.
This is the Cotton Mouth in the Psycho-Billy Cadillac.
Come on. Huh. This is the Cotton Mouth.
And negatory on the cost of this mow-chine there Red Ryder.
You might say I went right up to the factory and picked it up.
It's cheaper that way.

Ugh! What model is it?
Well, it's a 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59 automobile ...
It's a 60, 61, 62, 63, 64, 65, 66, 67 ...

APPENDIX B: OTTAWA CITIZEN ARTICLE

“GOLF RANGE OWNER PLANS TO SUE CITY OVER FENCING ISSUE”

Carly Weeks, *The Ottawa Citizen*, May 19, 2005. p. C5.

Tim Rivers, owner of Thunderbird Golf and Go Karts on Conroy Road, says he plans to sue the city after work crews erected a fence that cut his driving range in half.

Earlier this month, Mr. Rivers bought 11.8 acres of the land he'd been leasing from the National Capital Commission ever since he opened his complex in 1981. He hoped to buy an adjacent six-acre parcel that belonged to the city -- land he had been using for 25 years as part of his driving range. But a few days after the NCC purchase, city crews installed a three-metre-high, 270-metre-long chain-link fence. The fence sections off the part of the land owned by the city, slicing Mr. Rivers' driving range in half.

Yesterday, Mr. Rivers said he had sent a letter to the city, advising it of his intention to sue for rights to the land, plus damages. The city, he said, has left him no choice but to go to court. The letter, delivered by Mr. Rivers' lawyer, alleges that he has "suffered substantial loss" since the city erected the fence May 6.

Mr. Rivers is prepared to mortgage his house if need be to cover costs if the city refuses to negotiate a settlement.

"I like to win," he said. "I don't like to lose and I won't let these people step over me."

The city, however, has no intention of negotiating, said city solicitor Jerry Bellomo, because Mr. Rivers has no right to the land. If Mr.

Rivers wants to take the city to court, the city will win, he said.

"They can take those steps if they wish, but we will fight it and we'll fight it successfully," Mr. Bellomo said yesterday. "Many residents challenge things we do. Very few are successful."

Mr. Rivers wants an order declaring that his business is entitled to the land by adverse possession, sometimes referred to as "squatter's rights." That means Mr. Rivers would gain rightful possession of the six-acre parcel even though it's owned by the city.

He also wants compensation for the loss of income resulting from the installation of the fence and for improvements he's made to the land over the years.

Mr. Rivers' driving range stretches across the city-owned parcel and the 11-acre piece of land that had been owned by the National Capital Commission.

The parcels have been undeveloped for nearly 25 years.

Mr. Rivers had been leasing the NCC-owned land, but occupied the city-owned land without an explicit agreement with the city. The city bought the land from a private businessman in 1990, but, Mr. Rivers said, made no fuss about his use of the land.

APPENDIX C: GUARDIAN ESSAY

“OWNING IDEAS”

Andrew Brown, *The Guardian*, Nov. 19, 2005

“The difference between ideas and things is obvious as soon as someone hits you over the head with an idea - so obvious that until recently it was entirely clear to the law. Things could have owners and ideas could not. Yet this simple distinction is being changed all around us. Ideas are increasingly treated as property - as things that have owners who may decide who gets to use them and on what terms. ...”

APPENDIX D: IRAQI CONSTITUTION

CONSTITUTION OF IRAQ

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CHAPTER TWO: RIGHTS AND FREEDOMS

PART ONE: RIGHTS

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FIRST: CIVIL AND POLITICAL RIGHTS

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SECOND: ECONOMIC, SOCIAL AND CULTURAL RIGHTS

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Article 23:

First: Personal property is protected. The proprietor shall have the right to benefit from, exploit and utilize personal property within the limits of the law.

Second: No property may be taken away except for the purposes of public benefit in return for just compensation. This will be organised by law.

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