FINAL EXAMINATION
TRUSTS AND FUTURE INTERESTS
DECEMBER, 1998

PART I ESSAY

TIME LIMIT: ONE HOUR

GENERAL INSTRUCTIONS:

1. Before the exam begins:

   a. Make sure that you have no books, outlines, notes, or anything not required for the exam in the room. You should have only pens and a watch. Scratch paper will be provided.

   b. Please put your examination number on the upper right-hand corner of each page.

   c. Quickly check to make sure that you have a total of 5 pages, numbered consecutively.

   d. Read the instructions on this page.

   e. DO NOT READ ANY QUESTION, AND DO NOT WRITE ANY NOTES (SUCH AS CHECK LISTS, OUTLINES, LIST OF ISSUES, ACRONYMS, OR ANYTHING ELSE) UNTIL YOU ARE INSTRUCTED TO BEGIN THE EXAMINATION. Except for your exam number of each page, you are not to make any mark on the exam or scratch paper until you are told to begin the exam.

2. Please do not use pencil to write this part of the examination. If you use a felt-tip or fountain pen, makes sure that your answer does not "bleed" on to the next sheet of paper.

3. WRITE ONLY ON THE LINES AND IN THE SPACE PROVIDED. WRITE ONLY ONE LINE OF SCRIPT ON EACH LINE. DO NOT WRITE IN THE MARGINS. DO NOT WRITE ON THE REVERSE SIDE OF THE PAGE. DO NOT WRITE IN A BELOW AVERAGE SIZE OF SCRIPT.

4. Do not take the examination from the room in which you are writing.

5. WHEN YOU ARE INSTRUCTED TO STOP WRITING, YOU MUST STOP WRITING IMMEDIATELY. If you finish Part I early, place it on the instructor's table at the front of the room, and begin to work on Part II.

SPECIFIC INSTRUCTIONS:

1. Do not assume facts not given, and do not change the facts.

2. If relevant in any of the questions, assume that the jurisdiction recognizes the orthodox Rule against Perpetuities. In all other respects, assume that the jurisdiction follows the prevailing American view, as reflected by the *Restatement (Second) of the Law of Trusts.*

3. Part I consists of 4 separate and unrelated questions. You can answer one question without having read the others.

4. Discuss each issue fairly raised, even if your answer on one issue is dispositive with regard to the trust to which it applies. For example, if you conclude that no trust was created, you still should discuss any other issue that is fairly raised and thus would be present if a trust were created.

1. Susan executed a deed whereby she conveyed Whiteacre "to Todd in trust for Frieda for life, then to convey to Frieda's children." Susan left the deed with her lawyer, Witt, with instructions to give the deed to Todd. When Witt tried to do so, Todd refused to take the deed, which remained in Witt's possession, unknown to Susan who since has died. Discuss the rights of Frieda and her children.

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2. Samuel bequeathed $400,000 "to Timmons to pay the income to Doris until she reaches the age of 35, then to distribute the principal to Doris." Doris, at the age of 25, executed an assignment of her interest to Walters, who soon thereafter filed suit to terminate the trust. What result, and why?

3. Sally executed a deed, valid in every respect and properly delivered and recorded whereby she conveyed Blackacre "to Terry in trust for the benefit of Allen for life, remainder to the heirs of Allen." Discuss the interests of the parties.

4. Smith bequeathed $50,000 "to Theresa in trust to pay the income to the Franklin High School Student Chess Club." The residue of Smith's estate was left to John, who has filed suit to compel Theresa to pay the $50,000 to him, as part of the residue of Smith's estate. What result, and Why?