Episode 22: Take an Exam with Us

Alison Monahan: Hello and welcome to the Law School Toolbox podcast. Today is a very special day because we're actually going to take an exam. Well, not really take it, but sort of take it. So stay tuned. Your Law School Toolbox hosts are Alison Monahan, that's me, and Lee Burgess. We're here to demystify the law school and early legal career experience so you'll be the best law student and lawyer you can be.

Together, we're the co creators of the Law School Toolbox, Bar Exam Toolbox, the Catapult Conference, and the Trebuchet Legal Careers site. I also run the Girl's Guide to Law School in all of my spare time. If you enjoy the show, please leave a review on iTunes, and if you have any questions, don't hesitate to reach out to us.

You can always reach us via the contact form on LawSchoolToolbox.com, and we'd love to hear from you. And with that, let's get started.

Lee Burgess: Today's episode is a little out of the norm, because we're actually going to take a law school exam. See Okay, well, let's be honest, we're probably not going to really take a law school exam, but we're going to go over a real question to show you how to approach an exam hypo like you're going to see on your final exams, likely in the next couple weeks.

If you've got access to the show notes, you'll find a copy of the question and a relevant attack plan there, along with our marked up copies of the hypo, one for Lee and one for Alison, and our scratch paper outlines. So go ahead and grab these documents if you can, so you can follow along.

Alison Monahan: Alright, so first off, let's review our attack plan for the topic that's covered in this property question, which is adverse possession.

It's not really relevant if you haven't studied this yet, because the attack plan, ideally, captures everything you need to know to do your analysis. That's why they're handy. In this case, we've included references to some cases that we read in our hypothetical class, which you may or may not have read.

It doesn't really matter. Just go with it. So, let's talk about what the attack plan says. I'm going to go ahead and read it to you. Okay, so we have an adverse possession attack plan. Adverse possession is a way to obtain title to land by possessing it for a certain period of time against the interests of the owners.

The plan And the requirements for qualifying possession are that it's continuous and uninterrupted through the statutory period. One of the things we consider

was whether the property was only used part of the year. There's a case called Howard that said that part year occupancy is okay if it's customary in the area and some improvements are made.

Number two, it has to be hostile. Hostile to the interests of the true owner. We have another case, Manillo. where even mistaken claim of title is okay. You don't need an intentional hostility. And we want to look at whether the use was permitted by the landowner, in which case there's no adverse possession.

Number three, open and notorious, so that it puts the true owner on notice that the trespasser is in possession. The question here is, would it have been clear to an observant owner or the public that the trespasser was using the property? Number four, actual, so that the true owner has a cause of action for trespass.

Number five, exclusive, so that there's no confusion as to who acquires title once the property, once the time has run. And you can't share occupancy with the owner or the public at large, but guests are okay if they're accompanied by the adverse possessor. And finally, it has to be for the statutory period, and this is going to differ by jurisdiction.

And there's a concept called privity of estate, and you may be able to use tacking to add together subsequent periods of possession, but you typically can't add together periods of squatting or trespassing. So that's our full attack plan for adverse possession. So Lee, what do we get out of this?

Lee Burgess: Well, I think attack plans really give us a nice tight summary of the law, and they also give us an organization of the law.

So we can take this kind of analytical approach, this list of things to apply to the fact pattern about adverse possession. So when we are reading our exam question, which we're going to do here in just a few minutes, we can almost match facts to this attack plan. And that's where we make the decisions about where the legal analysis needs to come from.

Alison Monahan: Right, and one of the things I think is interesting about Adverse Procession is it's really, you have to address all of these pieces. So this is one of those examples where it's not like you get to pick it. You don't get to pick and choose. You don't get to talk about, oh, well, I'll talk about whether it's hostile, but not about whether it's continuous.

This is an attack plan where you actually have to go through each of these steps. And that's different, you know, than a checklist that we've talked about before, where maybe you talk about some things, but not others. So, you know, I talked

to a student recently who had a sample test on adverse possession, and he said he didn't do very well because he forgot to talk about two out of the six of the elements, so that's probably not going to end well.

Lee Burgess: Definitely not.

Alison Monahan: It's like, yeah, that's a pretty easy way to lose. Oh, I don't know, about 20, 30 percent of your points right off the top.

Lee Burgess: I think it's important, though, to think about this attack plan where even if you haven't taken property, You might be able to think of other areas of the law that have a similar feeling to the, to this area of the law.

So, you know, maybe it's torts and you have a multi factor test and you have eight factors that you have to apply. And so you might have a similar attack plan with, you know, factors to do that torts analysis. So one of the things to just keep in mind is that even if you haven't studied adverse possession, this formula of kind of how the law is laid out can be applied to other areas of the law.

Alison Monahan: Right, and the point is that unless you can show each of these elements, you're not going to win. So you have to actually go through and show each one of them.

Lee Burgess: Yes, and that comes up over and over again in the law.

Alison Monahan: Yeah, exactly. It's like you gotta, you gotta check the boxes. If you can't check, if you can't, if you can check seven of the eight boxes, sorry, you don't win.

Lee Burgess: Yeah, exactly. Alright, so now let's move on to the question. We're gonna read through it and then talk about the highlights. If you want to see what we considered important as we read the question, we actually have our marked up questions in the show notes. So you'll see that they're very similar, even though we worked on them separately.

But, you know, sometimes it's fun to see what we underline and highlight and circle.

Alison Monahan: Yeah, I was actually surprised that they were so similar, even though we did not work together on them.

Lee Burgess: That's true. Maybe the longer we work together, we, like, are molding into the same person.

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Alison Monahan: Yeah, like how your dog comes to look like you eventually.

Exactly. But I think it makes a good point, and we'll talk about this after we read the question, is, you know, what are we looking for? You and I are basically at this point, you know, We're sort of experts on reading these sort of questions. We're looking for the same things.

Lee Burgess: Yeah, exactly. Alright, so, first of all, my intro to this hypo is when I first wrote this hypo, I had just seen The Hunger Games.

So, that's where this hypo comes from. Alright, in 2030, when Katniss Everdeen was 10 years old, she started visiting a lakeside cabin in the woods with her father. Her father had been intermittently visiting this deserted cabin for approximately five years. before he brought Katniss with him. Her father used to leave his hunting equipment in the cabin between hunts in the woods.

He would also stay at the cabin periodically overnight, lighting fires and sleeping on the single mattress on the floor. He had put a lock on the cabin door so he, and later Katniss, were the only people who could use the cabin. When Katniss was 15 years old, her father was killed in a mining accident.

She still went to the cabin after his death and continued using it in the same way her father had. leaving bows and arrows in the cabin and staying there on occasion, even sometimes bringing her hunting partner Gale. Some of the neighboring cabins were occupied year round, but many were used only during the hunting season.

Neither Katniss nor her father expended much time or energy making improvements to the cabin, but they would fix obvious problems, such as a leaking roof or a broken window. This particular cabin was actually owned by Mike, whose family had owned that property for 100 years. Mike only had negative memories of the cabin because his sister disappeared while playing in the woods in 2025.

During that time he dove into a deep depression and was even institutionalized for about 5 years until 2030. It is now 2037 and Mike hasn't visited the cabin since 2025. However, he still considers it his property. Mike has since married Elisabeth and wants to sell the cabin and the associated property in order to buy a new house for he and his wife.

He went up to visit the cabin recently and found the door locked. He was enraged. Katniss walked up to the cabin and said, Hey, get away from my cabin. Your cabin, screamed Mike. This is my cabin. Katniss wants to gain title to the

property under the doctrine of adverse possession. You're a new associate at the law firm of Mockingjay and Associates.

And the partner has asked you to analyze whether Katniss's adverse possession claim is likely to be successful. Another associate has been assigned to analyze whether Mike's mental state impacts Katniss's claim so you could ignore that issue. Now your job is to do the analysis.

Alison Monahan: Wow.

So there's a lot going on here, right?

Lee Burgess: There is a lot going on. And I think it's important to note for those who are just listening that this fact pattern is just Make a bit under a page, single space. So this is actually a pretty typical length, even sometimes shorter than what you'll see as an exam question.

Alison Monahan: It's probably shorter, and I think it's probably a tiny bit easier because the professor has actually given you a bit of direction on where to take it.

Lee Burgess: Mm hmm.

Alison Monahan: They told you to talk about adverse possession.

Lee Burgess: Right, and it's kind of a big single issue fact pattern, you know, some of the fact patterns you're gonna get on your exams This might be one piece of a much longer story. You know, who knows what Mike's going to do after this.

Alison Monahan: Right, exactly. Or you might, you know, you might have to also analyze his mental state.

So that's a great example here where it could be really easy to go off track on this question if you don't read the call of the question carefully because you might say like, oh, well, what about the fact that he was institutionalized and do a whole bunch on that when your professor has explicitly told you to ignore that issue.

Lee Burgess: Right. So, you know, as you were listening to this question or you were reading along on your computer that should have been one major thing that you took a note of is the call of the question. And I think at our last podcast episode, when we were talking about what the professors are looking for.

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Following the directions and answering the call of the question asked is critically important. And here, as Alison was just saying, you had to make sure that you followed the directions.

Alison Monahan: Absolutely.

Lee Burgess: Yeah.

Alison Monahan: So, I mean, what for you jumped out as you read this question? What are you underlining? What are you taking notes on?

And I can give you sort of what I was doing, and then you can see if that, yeah. So, I mean, I think any type of, any time you have names in a question, it's really important to make sure that you understand who all of the people are. Sometimes, particularly in a class like property, it can be helpful to sort of make a family tree, almost, of like, you know, who's related to whom, because property is passing these different people, and, you know, if you miss the fact that someone's a brother or sister, that could be completely catastrophic.

Dates, especially relevant here with adverse possession, when it's always going to be an issue of when did this start, when does it end, what is the statute of limitations and then really the key facts and the key legal issues. So at least for me as I'm reading through this, I'm thinking, yeah, I mean, I'm underlining things that seem like they're pretty critical facts, and then if I have a, an idea about a legal issue that that triggers, I usually make a note in the margins.

What type of stuff do you do?

Lee Burgess: Yeah, I mean, I do a lot of that as well. I think we're, we're really similar in that way. I think you know, when I get a question like this, or especially like a contracts question as well, anytime you start to see numbers, which freak a lot of lawyers out or law students out.

It's really important that you focus, focus, focus on those numbers. Because professors typically don't like numbers either. So if there are dates, you know, 2030, 10 years old, 5 years before, 15 years old, 2025. You know, like all of those things, that's another thing you can do on your scratch paper is really make a timeline with some of these dates.

Because I think that can kind of clarify it and maybe make you less anxious about all of the dates on the page. So I think property is where that comes up a lot. If you take like a wills and trust class later, of course that comes up a lot but also in

contracts, oftentimes dates are very important with offer and acceptance and things like that.

Alison Monahan: Yeah, you want to make sure you understand what happened when, what happened before something else, what happened after something, you know. Those kind of things matter in the law.

Lee Burgess: Yep, exactly. Now, I might be able to cheat a little bit since I actually wrote most of this hypothetical, but the other things, if I was reading this as a student, then I would you know, it really has to do with the fact of facts that seem a little odd or a little unique, you know, so why is it important that there was a single mattress on the floor and that they slept there overnight?

Like, that seems a little, like, unnecessary to include, but it was included. Or what about the fact that she brought this hunting partner Gale, like he's only mentioned once like that seems a little odd Like why was that included and so really reading it with this idea of like, you know the author of this hypo or your professor has really included very individual things to trigger a response from you and you're looking for those facts.

Alison Monahan: There's a lot of detail in here and you really, as you said, you really have to ask yourself why is that detail included?

Lee Burgess: Yeah.

Alison Monahan: You know, why does it matter if they fix the obvious problem? Like what, you know, do they make improvements? Why is this in here? But if you go back to your attack plan, you'll pretty immediately see why some of this stuff is important, right?

And so that's the advantage of the attack plan is that. You've got that either in your head as a reference or, you know, if this is an open book exam, you could just pull out your attack plan and literally go through these steps and start thinking about, well, why are these facts important, which is going to give you a huge advantage.

Lee Burgess: Exactly. And I think the more of these hypos you read and why it's very important to read a lot of your professor's past exams, you know, as many as you can get your hands on, Is there, you can only get so creative with some of these facts and you're going to start to see familiar things come up, you know, if this was like a professor's fact pattern and you'd read three other fact patterns

they'd written on adverse possession, you might say like, oh, they always include something about the other, you know, other homes and how they were occupied.

Like that's always in every hypo. So I bet I have to talk about that.

Alison Monahan: Yeah, and it might be that in some cases it comes out differently, the facts point in a different direction, but, you know, identifying that issue is really the key thing.

Lee Burgess: Yeah.

Alison Monahan: Alright, so what did you do after, I mean, assuming, you know, that you were not the teacher writing this, you were a student, what, what have you done after reading this question?

Lee Burgess: Well, I always make a scratch paper outline, and, you know, this is something that Alison and I are both really passionate about, is that students should do an outline on paper, and we, I think we talked about this in our disasters episode, but that, you know, you never want to have all of your eggs in the basket of your computer screen in case something in the technology world goes poorly, but I think, you know, making either some sort of a mind map or a more typical exam outline on your scratch paper really helps you organize your thoughts and plan your answer before you write.

And it's really, really critical, it's a huge difference when reading exam answers between students who have planned their answer before they have written versus students who just start writing. You can really tell the difference when you're grading them.

Alison Monahan: Right. I think it's interesting if you look at our two outlines, which we made independently, you'll see that despite the fact that they look really different, you know, mine has a lot of bubbles and things tying together as different colors, but we're basically doing the same thing.

Both of us have written down The six elements of adverse possession, and then we have written down the facts that we think are relevant to the discussion of those elements. So that's really what you're trying to do in your scratch paper outline. You're saying, what's the law, what are the facts, and then what am I going to talk about?

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Lee Burgess: Exactly. So, you know, you and I definitely don't make our outlines the same way, which isn't shocking since we do have a lot of, you know, different perspective as far as like how we think visually through this stuff. So, if you can access our outlines, I think you can see that they're different. But Allison, you know, what about your outline?

Mine's pretty linear. What about yours?

Alison Monahan: Right. Well, that's what I'm saying. They look really different at a glance. You know, you've, you've gotten numbers and you've just listed stuff out and I've gotten, you know, different colors. I've drawn them. But the key thing is we're doing the same exact process.

They just look different. It's whatever makes sense to you in the moment. And, you know, the scratch paper outline is something you might want to practice different ways on your practice exam so you can see, like, oh, this seems most intuitive to me.

Lee Burgess: And do you use a lot of, like, shorthand and kind of cryptic writing on your outlines?

Alison Monahan: No, because I'm, I hate that, so. I use a lot of color. Like, for me, color is really key. In terms of trying to identify, like, partly this is a reminder for when you're in the process of writing, you know, halfway through, an hour into the exam, you're going to be going back to this and you want to have a quick way to remind yourself like what are the really important things I need to talk about and sometimes with my outlines I'd literally go through and cross off each issue as I talked about it to make sure I'd covered everything.

Lee Burgess: Yeah, I mean, I think for me I do a lot more shorthand just to save time because I can really get overindulgent about how much I write down. And I think that some students can get pulled into that too is you start almost writing the essay.

Alison Monahan: It needs to be like, really short notes. Yeah, like chicken scratch.

This should be taking you you know, five minutes, maybe ten minutes max. Anyway, trying to get the really important stuff, like what are the dates? You know, what are the issues? What are the facts that relate to this? What are the key questions? So this is not, yeah, you don't wanna be writing out like, whole sentences, this is just complete shorthand

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Lee Burgess: Yep. But the only way that you know how much you can write down, or how much you need to write down, is by doing the practice. It's all trial and error. You know, you, you can do one of these scratch papers and then try and write out your answer and be like, What was I thinking? I am totally lost. Like, I can't even understand what I wrote down 10 minutes ago.

So that's a problem. Yeah, so like don't do it that way again, you know, or if you try kind of the mind map method and you're like, but I don't see the linear way that the law is supposed to be laid out, then don't do it that way. You know, I mean, it's, it's really about trial and error, which goes back to why the practice is so important.

Alison Monahan: Yeah, absolutely, and nobody's going to be grading your scratch paper outline. You can do whatever you want with it.

Lee Burgess: Right, nobody's going to likely see it. You usually have to turn it in, but I think they just shred all of that stuff.

Alison Monahan: Yeah, I mean, your professor's not going to look at it and be like, well, I don't really like the way they laid out this outline.

Exactly. They are not going to have time for that. Yeah.

Lee Burgess: You know, one other thing that Sometimes I include on scratch paper and Alison, I can't remember if you do this too, but it's if I have a role, so like here I'm supposed to be a new associate and I'm writing to a partner And sometimes I'll make notes like that on the top of my scratch paper.

So I remember what voice I'm supposed to be using I think if you have a professor who is giving you a role, you know, what if I was writing a letter to a potential client? You know, my voice might be slightly different or my tone might be slightly different. So I think making sure that's included on the scratch paper so it can stay in the forefront of your mind can be important as well.

Alison Monahan: Yeah. I think anything that you think is really important, I mean, in this case, you might make a note, like, do not discuss Mike's mental state. Because who knows, you know, an hour into the exam, you're like, Oh my God, there was that thing about him being in the hospital. I should talk about that.

Lee Burgess: Right. Exactly.

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Alison Monahan: Better that you see the top of your page. Oh, right. I don't need to talk about that.

Lee Burgess: Yeah.

Alison Monahan: Right.

Lee Burgess: Okay. So once we've done these scratch paper outlines, what's the next thing we do?

Alison Monahan: Well, at that point we really start writing, right? I mean, you don't have a lot of time to like be perfecting your scratch paper outline.

You want to have it and it is important to spend a little bit of time on it, but at some point you've got to jump in and start writing.

Lee Burgess: So let's say that this was an hour question. How much time do you think you would plan or spend reading and planning your answer?

Alison Monahan: I mean, I think it's going to take you a minimum of probably, maybe, I mean, this question is relatively short, but I would say typically at least five minutes just to read the question.

I typically read the question twice.

Lee Burgess: Me too.

Alison Monahan: I think, I think generally that's advisable. Once just to get a sense of it, kind of make some initial notes, and then the second time to really dig in. As I'm going through that second time, I'm probably making my outline you know, as I'm going. Or immediately after.

I think that entire process is probably going to be, you know, 10 to 15 minutes.

Lee Burgess: Yeah, I agree. So that's a good rule of thumb, you know, about 10 to 15 minutes per every hour of exam. You know, so if it's a 90 minute question, you might need a little bit more time to prep and prepare. But, you know, just, just as a, again, some, a starting place so you can continue to tweak your own process.

Alison Monahan: Right. And so basically we start writing. We want to, you know, if it asks for an introduction, we want to put in that header about, you know, I'm a new associate, blah, blah, blah, just to make it look nice. But then you just jump in.

You go element by element. And you know, in this case, it's pretty clear because you've got the six different elements.

You're going to state the issue and the rule. You're going to do your analysis and you're going to draw your conclusion. And, you know, I think sometimes, you've got major issues, and you've got minor issues, and so we'll talk a little bit about how to handle these, but let's just kind of jump in and do this analysis and actually look at whether her possession was continuous or not.

So-

Lee Burgess: Well, one, one thing before we dive in, if you're thinking about, like, laying out your exam answer, one, you want to do it in the order that was described. In your attack plan. But the other thing is you probably want a header for this section. Right. You know, and with something like the adverse possession where you have, you know, these six elements, you want to have a header for each one of the elements.

So when the professor is quickly scanning through, they can say like, check, they talked about continuous check, right? They talked about hostile. So you wanna lead with a header.

Alison Monahan: Yeah, absolutely. And I think, you know, people can sometimes go overboard with this, but I think it typically, it's good to use some formatting to make those headers stand out and really pop.

All right, so like you can see here, our first header is, was Katniss occupancy continuous? So that clearly states what we're going to be talking about. And I'm just going to read through some of this and we can talk about it as we go. So, the first thing Katniss must show to prevail on her adverse possession claim is that her occupancy was continuous for the statutory period.

So essentially, that's the rule. Now, the primary issue here is that Katniss only used the cabin part of the year as a hunting cabin during the hunting season. Therefore, Mike may have an argument that her occupancy was not sufficiently continuous because it wasn't year round. So there we pretty clearly stated our issue, right?

So what do we do next?

Lee Burgess: Well, we need to think in our brains if there were any nuanced rules that maybe came out of the cases that we could apply here. And here, I think one of the

things we talked about in our attack plan was is that in your class you likely would have read a case that talks about occupancy and what is continuous.

And if you have a and that you know, typical occupancy could be just during the summer season and things like that. So you would raise this issue for yourself and then say, well I have additional law that I need to argue. So here Katniss is going to argue that under the case law from Howard vs. Kunto which is a case you may read in your property class, that part year occupancy is probably going to be okay if that's what the neighboring cabins were used for and then whether or not they made improvements and treated the property like their own.

Alison Monahan: Yeah, absolutely. So we're not going to read, bore you with reading every detail of this answer, but you can look at it. But that's exactly what we do. We say basically there's this Howard vs. Kunto doctrine. There it was a summer cabin, here it's a hunting cabin. How is that similar? How is that different?

And then, you know, as we know from our outline, You It also matters whether you make improvements. So if she made fewer improvements, does that matter? Well, we need to do that analysis. So we actually go through that analysis in the answer, and then we draw our conclusion. And that's what we're going to do for each element.

Lee Burgess: Right, and I think what's important to note here is that if you weren't being thoughtful about the facts in this fact pattern and the law, and that you recognized that you'd read cases that made this continuous This rule, kind of nuanced, that you could just skim right past this issue and just say of course it was continuous, she used it for years, moving on, you know, or whatever.

Alison Monahan: Or, alternately you could go the other way and say, well, it wasn't continuous because she only used it part of the year.

Lee Burgess: Right.

Alison Monahan: You could go wrong both directions.

Lee Burgess: Right, and that is not a passing answer. That's actually not a passing answer.

Alison Monahan: Yeah, yeah, no, this is kind of a, you know, this is an important nuance and then your professor has given you enough facts to talk about in terms of the occupancy, but also in terms of the improvements, and you, it's really critical that you pick up on all of those.

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Because otherwise, you know, you're not getting those points that are on the table.

Lee Burgess: Exactly. So, you know, I think, do you think this was a major issue or a minor issue in this question?

Alison Monahan: Yeah, I think in this case, this is a pretty major issue. I mean, you had a lot of sort of weighty stuff to dig into. Do you agree?

Lee Burgess: I do. And then, you know, this rule that came out of this Howard versus Kunto case of kind of these two things that you need to look at, you know, What all the neighbors did, what, you know, how, what was kind of the normal use of the property, as well as this issue around improvements. That gives you a lot of talk, a lot to talk about.

Alison Monahan: Yeah, absolutely. And I think it's important to learn to-

Lee Burgess: That's why if you ignore this issue, you don't pass.

Alison Monahan: Yeah, you would definitely be at the bottom of the curve if you miss this. And this is why it's important to learn how to distinguish major issues from minor issues, because sometimes students will spend a ton of time on something that's actually like, as we call it, a slam dunk issue.

It's one of those things where it's like, you know the answer. Everyone should get this right. I mean, but what happens in a lot of cases is people just don't discuss it, right?

Lee Burgess: Right. They just ignore it and think, well, this is obvious. The professor doesn't want me to talk about it. No.

Alison Monahan: Ha! Terrible idea.

Lee Burgess: Terrible idea.

Alison Monahan: I mean, I think you can think of an exam as almost like, you know, you're just going down and you're collecting those points. And you know, there's a set number of points that you can get in the entire, in the entire exam and you get the same point. for an easy point or a hard point.

Lee Burgess: Yeah.

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Alison Monahan: So if you, if you lose those easy points, because either you forget about them or you just think like, oh, I don't have time to talk about this. This is so obvious. I don't need to mention it. Terrible idea.

Lee Burgess: Yeah, because what your professor is looking for is whether or not you can think like a lawyer. And so if you don't write down what you're thinking, they don't know if you can think like a lawyer.

Alison Monahan: Right, and sometimes things that seem really minor can actually be a little more complicated when you write them down. So for example, in this answer, one of the issues you need to address is whether her use was hostile. So at first glance, this is a really easy question because we're told the actual owner yelled at her and said, Get off of my property.

And some students will just skip this, like we said, because they know the outcome is clear. As we've mentioned, terrible idea.

Lee Burgess: Terrible.

Alison Monahan: Big mistake. Even easy points count. Your job on the exam is just to collect every single point you can get. So you need to write down the full analysis even for these easy questions.

You just do it quickly. So for example, in the answer, header number two is, was Katniss occupancy hostile? What's the rule? Well, Katniss must show that her occupancy was hostile to Mike's interest to prevail on her possession claim. What do we think she can do this? Well, this should be an easy showing for her to make, because Mike confronted her when he saw her using the cabin, and both parties claimed ownership of the cabin.

Prior to that, Katniss, or her father, had placed a lock on the door, clearly establishing her hostility to Mike's ownership interest by locking him out of his own cabin. And this is where things actually get a little more complicated, because we then can say it's somewhat unclear from the facts whether Katniss believed she had inherited the cabin from her father, or whether she knew that he was squatting in the cabin.

In either case, her interest is sufficiently hostile, and here we can actually cite a case. See Manillo, where even a mistaking claim of title was sufficient to establish hostility. Therefore, Katniss will almost certainly prevail on the hostile element. So this is an interesting point because A is actually a little more

complicated than it seemed if you just said, oh, well, he yelled at her, so it's hostile.

It's like, well, what about the lock? And then does she really think about it? You know, what does she actually believe? Does it matter? So this is bringing in more law, but this is still, I'd say, a pretty straightforward issue.

Lee Burgess: Yeah, but I think, you know, the thing about this issue is I think you could really see what the difference between, like, an A answer and maybe a B or C answer would be.

You know, the A answer is going to bring in this discussion of Manilo and whether her, you know, subjective belief that she had inherited the cabin Influences this element, whereas maybe the C or lower B answer just basically says, hey, they had a lock on the door and Mike yelled at them, yelled at her, didn't want her to be in there, that's hostile.

And so, you know, your sophisticated understanding of the law is what can kind of take you up the curve, because not everybody's going to raise the Manila issue, but everybody's probably going to raise, that was subtle, but everybody's probably going to raise Mike yelling at her.

Alison Monahan: Right, exactly. Or, for example, like, was, was, for element number four, was her use an actual trespass.

Like, this is a true slam dunk issue.

You know, Katniss must show that she trespassed and used the cabin as if it were her own rule. She should have no problem satisfying this element because she visited the cabin regularly during the hunting season. She stayed overnight. She put a lock on the door. She set fires and so on.

All of these are activities that would be undertaken by an owner. Therefore, Katniss is likely to prevail on this point. So that is sort of classic slam dunk legal analysis. State the rule, state essentially your conclusion, use a because, add the facts, give the reasons, and then draw your final conclusion.

Lee Burgess: Yep, but again, we still took the time to list out the facts that made this a slam dunk issue. Right.

Alison Monahan: And that because is really key because a lot of, you know, the lower B or C answer would have just said. Katniss must show she trespassed. She should have no problem satisfying this element. Therefore, she's going to prevail.

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Lee Burgess: Yeah, exactly.

Alison Monahan: So that's like, well, why? Why? That might be obvious. Just write it down.

Lee Burgess: Yeah. Not a, not a good thing.

Alison Monahan: Use because.

Lee Burgess: So another thing that I would recommend that you do with this hypo in the sample answer, whether or not you are taking property, I don't think it really matters. And so, what I want to do first is maybe take the question and the answer and check off every fact as we argue it.

You know, in the question. Because one of the things you're going to see is we pretty much use every single fact, almost every single word, in the hypo. That is important to really realize because when you sit down to take your exams, it is so easy to just think that your professors are putting in filler and there will be some professors who do put in filler, but the majority don't.

The majority don't want to spend time writing filler for their exam questions. And so you have to really start to understand that every word or every fact that is kind of added has a purpose and it's your job to figure out what that purpose is.

Alison Monahan: Although here it's actually sort of interesting because I agree with you completely in the sections that are relevant to the adverse possession claim.

Right. There are some sort of extraneous things, like it doesn't actually matter that Mike wants to sell the property. It doesn't matter that he wants to get married. Like, none of that is at all relevant to this question. True.

Lee Burgess: That is, those are filler facts. So, you know, but I, I do think that sometimes students assume too many things are filler facts.

Alison Monahan: Yeah, I think if you're in sort of-

Lee Burgess: Any fact that you think is weird.

Alison Monahan: Yeah, if you're in the realm of like stuff that's relating to this question, you know, relating to these elements, those are probably not there accidentally. Right. And, you know, so you can't, you can't skip over, yeah, you can't skip over things because they seem strange.

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Lee Burgess: Yeah, and we hear that from students. We, I've heard so many times, I didn't know what to do with this, so I just ignored it. Yeah, exactly. Yeah, that's not a good approach.

Alison Monahan: If you don't know what to do with something, that's probably a sign that your professor has intentionally created some sort of ambiguity.

And that you really need to dig into it. 100%. And you may not know, when you say you don't know what to do with it, I think sometimes people mean they don't know what the, what outcome it leads to, you know, initially, but that's not a problem. That's sort of the point.

Lee Burgess: Yeah. Exactly.

Well, I think we're about out of time.

Alison Monahan: I won't bore you with the entire exam answer, but you know, it is a good exercise to read these. And so we encourage you to actually take a look at it.

Lee Burgess: Yeah. You know, I think if you take nothing else from this question. And our discussion of it. It's just that. These hypos can be a little more complicated and nuanced than they seem.

So by practicing them, by getting comfortable with, especially your professor's past exams, when you get into the exam room, you're going to be like, oh, this seems familiar. I know what to do with this. And that's going to set you up for, you know, the best chance of really working the question and hunting for all of the possible points that you can.

Alison Monahan: Yeah. And I think too, I think you can take away from this, the huge advantage of having a good attack plan.

Because all we really had to do was go through that. It had both of the cases we needed. You know, it triggered you to think about, like, would either of these apply? It has some, like, really solid questions you need to ask yourself.

Like, that's what you're really going for. You want to have that all sorted out before you walk into your exam.

Lee Burgess: Exactly. All right. Well, if you enjoyed this episode of the Law School Toolbox podcast and you would give us an A, For effort on our hypo. I don't know. Please take a second to leave a review and a ratings on iTunes We would really appreciate it and be sure to subscribe so you don't miss anything If you have any

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questions or comments, please don't hesitate to reach out to Lee or Alison at Lee@LawSchoolToolbox.com or Alison@LawSchoolToolbox.com, or you can always contact us via our website contact form at LawSchoolToolbox.com. So thanks for listening, practice those exam answers, and we'll talk to you soon.