INSTRUCTIONS FOR PART II ONLY:

1. Unless you are typing the exam, please write your answers in the blue books provided. Write on every other line and on every other page. (I.e., do not write on the backs of the pages. The ink shows through.) Begin each question in a separate bluebook. Write your student I.D. on the exam and on the outside of each bluebook.

2. You are in the State of Calm, a mythical jurisdiction in which there is very little law and in which the courts are influenced by precedents from other states. The State is part of the United States. It has adopted a statute of limitations in the jurisdiction of five (5) years for all property actions.

3. If a question is ambiguous in any material way, point out the ambiguity and explain how various interpretations of the ambiguity would affect your answer.

QUESTION I (45 minutes)(See attached diagram)

Amy bought an empty lot and built a new home in an undeveloped subdivision in 1980. In 1994, Amy’s 21-year-old daughter talked her mother into letting her add a music room to the rear of the family garage. The new room, which was completed in November 1994, extended the garage an additional twelve feet toward the rear of the lot. The boundary between Amy’s lot, and the lot behind it (which Bob owned) had never been well marked, but the addition occupied land that Amy always thought of as hers. In 2001, Bob sold his property to Carlos. Carlos recently applied for a permit to add a family room to the rear of his home. He discovered, however, that the music room extends four feet over the lot line, and that unless the music room is removed from his property, he will not be able to get a permit for the proposed addition.

Amy comes to you for advice. Your search of the record indicates that the deed Amy received when she purchased the property actually describes Carlos’s lot with the boundaries described as ABCD, and the deed Carlos received, which is consistent with the original subdivision plan and is likely to be correct, gives him title to ABEF. Amy informs you that it would cost thousands of dollars to tear down the part of the music room that extends onto Carlos’s property. She also tells you that the marshy land to west of her house is impossible to use, and she is not aware of anyone (including her family, Bob and Carlos) ever setting foot on it.

Advise Amy what land she can claim, any defenses or counter-claims Carlos is likely to raise, and who is likely to prevail.
Amy settles the issue of title and sells the property to sisters Xena and Yuan as joint tenants with a right of survivorship. Yuan sets up a band, which makes recordings in the music room. As the band’s popularity (and profits) increase, it decides to incorporate as Ze Band, Inc. Yuan discovers that tax advantages would accrue from transferring title of the music room to the company, and without telling Xena, she conveys the portion of the property (and only that portion) that includes the garage and the music room to “Ze Band, its successors and assigns, so long as the property is used for band purposes.”

A few months later, Yuan moves in with her boyfriend, and Xena, who had been living in the house by herself, rents the house to Wendy from April 1, 2003 to March 31, 2004. Wendy’s lease, which only Xena signs, describes the entire property without any exclusion for the garage or the music room. It also provides that she may assign or sublet only with permission from the landlord. On June 1, Wendy proposes to transfer her interest in the house to Vinnie for the balance of the term. Xena agrees on the condition that Wendy limit the transfer to the house itself without the garage or the music room, and Wendy does so in an oral agreement with Vinnie that makes no mention of any restrictions on transfer. On September 1st, without Xena’s knowledge or consent, Vinnie transfers an interest in the entire property to Ursula, including the garage and the music room. The written lease Vinnie prepares, however, provides that he may store his belongings in the attic for the remainder of the term, and “retake possession in the event that Ursula defaults on any of her obligations under the lease.” When Ursula arrives to take possession, she discovers that the band has locked the music room and stored its equipment in the garage. In addition, Ursula has a night job and the band practices during the daytime hours Ursula needs to sleep. Ursula pays the rent for September, but withholds the October rent in protest.

On October 15, 2003, Yuan dies in an automobile accident. Her will leaves all of her worldly possessions to her boyfriend. The band dissolves, and Yuan’s heartbroken boyfriend sells all of her musical equipment. At a point in mid-November when the garage and music room are empty, Ursula changes the locks to the music room and parks her car in the garage. Yuan’s boyfriend, who had his own plans for the property, is outraged and would like to evict her. Ursula, who is no longer bothered by band practice, proffers the full amount of December rent, but has not paid back rent for October or November.

A. Explain who can make what claims to the property after Yuan’s death and who is likely to prevail.
B. Describe any actions that either Xena or Yuan’s boyfriend can take against Ursula, any defenses she may have, and who is likely to prevail.
C. Describe any actions that either Xena or Yuan’s boyfriend can take against Wendy or Vinnie, any defenses they may have and who is likely to prevail.
D. If a court were to rule that Xena and Yuan’s boyfriend both have an interest in the property, describe any claims they could assert against each other, any defenses to those claims, and who is likely to prevail.

END OF EXAMINATION
HAPPY HOLIDAYS!