Using the exercises as exam preparation // About Lindh v. Surman
LL&V §§A-E & F-J // Prof. Garet // Fall, 2015

Using the exercises as exam preparation:
- **Los Paisanos** (from 2009 LL&V exam): hard questions of fact, hard questions of law, choice of level of generality at which to state issues and holdings, use of normative reasoning within legal reasoning, use and limits of economic analysis
- **Return of the Ring** (from 2013 LL&V exam): use of normative reasoning within legal reasoning; use of normative reasoning within the lawyer-client relationship
- Also this pair of exercises is representative in that **Los Paisanos** is a fact-pattern essay question, while **Return of the Ring** is a short-answer question with length limits on the answers. Your exam will include both an essay question and a short-answer question.
- Let me know if you have any questions after you have compared your answer to the posted sample answers. (Note: the posted sample answer to **Return of the Ring** includes actual 2013 student answers with my comments.)

We will have more opportunities up ahead for you to apply, and explore the limits of, economic analysis and ex ante normative frameworks (efficiency, utility-maximization) within legal reasoning:
- **The Gould virus** (next week)
- **In re Akers-Baker transfer** (from 2011 LL&V exam) (assigned during last week of classes)
- **Cleaner Skies** (from 2010 LL&V exam) in the exercises appendix, pp. 539-541, but not assigned for class; I will post a sample answer to **Cleaner Skies** during the pre-exam study period.
- As we move forward, let me know if you have questions about economic analysis, our ex ante normative frameworks, their application to our exercises.

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**Triad of frameworks for normative reasoning.** If Rodger’s suit for restitution of the ring from Janis (Lindh v. Surman) were in your court, would you:

1. Identify the rule for property rights in engagement rings that creates the best incentives going forward (ex ante analysis), and apply that rule to the facts; or
2. Do justice between the parties by identifying and enforcing the expectations they had when the gift was made (a version of an ex post analysis); or
3. Choose and apply the rule that is easiest to administer, because there is little social good to be accomplished by incentivizing future actions of romantic partners, and because doing justice between the parties ex post is not worth the effort?

**Note:** **Lindh v. Surman** is our first common law case.
- It is a common law case because the law sources that the parties and judges cite as authority are judicial decisions (such as **Pavlicic**, pp. 276 & 280, and **Ruehling**, pp. 277 & 280) that are not based on any statute. See also the citations to secondary authority interpreting the cases, pp. 277 & 281.
- But note that although no Pennsylvania statute governs property rights in engagement rings, Pennsylvania governs marriage and divorce by statute; and the **Lindh** court cites a case construing the state no-fault divorce statute (**Jayne**, p. 279).
- Because it is a common law case, the parties and judges cite common law decisions in sister state courts (Kansas, New Mexico, New Jersey, pp. 278-279) as persuasive authority.

We will take a closer look at legal reasoning in common law, and the role of normative reasoning in common law legal reasoning, in classes ##22-26.