

PROPERTY PRACTICE QUESTIONS

QUESTION 3

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Topic: Personal Property

Sub-topics: Finding, Bailment, Adverse Possession, Bona Fide Purchaser

Type: Essay

Difficulty: Medium

Time: 45 minutes

Upon graduating from law school and taking the bar exam, Jill decided she would take a one-month backpacking trip through Europe before starting her new job at the firm. Just before leaving, Jill realized that she had not arranged for someone to take of her dog, a chocolate lab Sammy. Because Jill adores Sammy and would not trust his care to just anyone, she decided to call Barb, her dear friend who gave Sammy to her as a present for her 29th birthday. Barb reassured Jill that she would be delighted to take care of Sammy at no cost to Jill. Jill left for her trip knowing that Sammy was in good hands. After all, Barb had been breeding, selling and raising labs for over fifteen years and would know exactly what Sammy needed.

However, the first week Barb noticed that Sammy had a bad infection in his left ear and decided that Jill was not taking very good care of him. She placed an advertisement in the Sunday paper in the hopes of finding a new, more competent owner for Sammy. Many interested buyers stopped by Barb's house to inquire about Sammy in the next few weeks. Sammy particularly took to one young man named Roger. However, because Roger was a starving artist, he indicated that he could not pay what

Sammy was worth. Barb felt so sorry for Roger she just gave Sammy to him, knowing he was in good hands.

When Jill returned, Barb told her that Sammy had “gotten loose” and that he never came back. Jill was devastated. Although she cried a lot over the next few weeks she stayed busy at her new job and never did report Sammy lost. In fact, she never even put up signs around the neighborhood describing her lost puppy or offering a reward.

Two months later, while driving home from work, she saw a chocolate lab running down the street. She immediately stopped her car, got out, and called, “Sammy!” The dog ran over to Jill wagging his tail furiously and jumping up on her. Sure enough, it was “her” Sammy (she could tell for sure because of a unique scar on his left eye). Jill was elated and the minute she got home she called Barb and left a message on her answering machine telling her about this strange twist of fate.

Barb, who still thought Jill was not capable of taking care of Sammy, phoned Roger to tell him where he could find “his” lost dog. Roger drove to Jill’s house, and after explaining that Sammy had escaped from his back yard, demanded that she return him. But Jill refused claiming that she was the rightful owner.

Address all pertinent issues raised and discuss how those issues might affect who will be determined to have rightful possession and/or ownership of Sammy.