

## Sample Questions from Critical Legal Thought Final Paper Assignments

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Please answer two of the following questions. Limit each answer to 1,500 words:

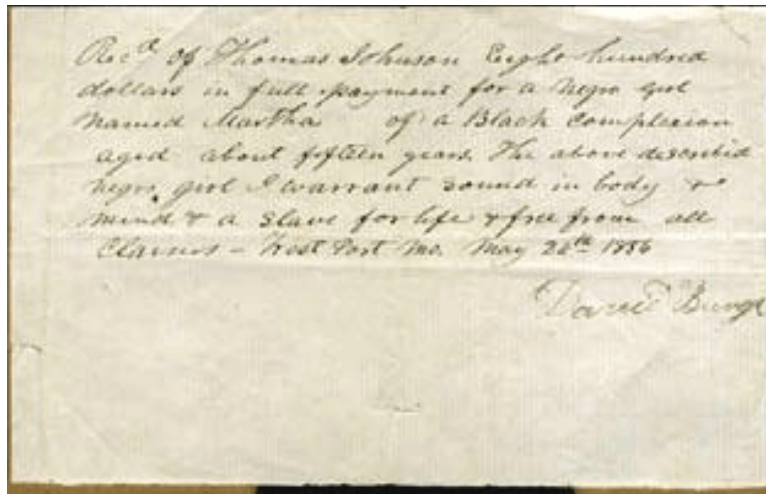
1. In *Whiteness as Property* Cheryl Harris suggests an analogy between whiteness and property. Building on her insights in that article, discuss whether and if so how maleness could be understood as a property interest. To what degree does the analogy of whiteness to maleness work, and to what degree does her analysis fail when brought to bear on sex-based inequality?
2. In *An Essay on the Deconstruction of Contract Doctrine* Clare Dalton seeks to expose a number of central tensions that underlie traditional contract doctrine. Apply this method of critique to the core commitments of one of the other first year courses.
3. Many of the readings we have covered contend with the relationship between the rule of law and the demands of justice. Discuss how the following authors would frame that relationship: Patricia Williams, Robert Cover, Shoshana Felman, and John Noonan.
4. In *Of Law and the River*, Paul Carrington wrote:

Maintaining intellectual courage in law presents one difficulty that has no analogue in the professionalism of steamboat pilots. One cannot believe in the worth of one's professional skill and judgments as a lawyer unless one also has some minimal belief in the idea of law and the institutions that enforce it ... The law ... is a mere hope that people who apply the lash of power will seek to obey the law's command. Let us not be modest: it is an act of considerable courage to maintain belief in such a hope. p. 226

Do you agree with Carrington's yoking of intellectual courage to faith in the law? In explaining your agreement or disagreement with Carrington, explain how your position builds on or takes issue with arguments made by some of the authors we have read this semester.

5. Many of the readings we have covered contend with the relationship between the rule of law and the demands of justice. Discuss how the following authors would frame that relationship: Patrick Devlin, John Noonan, Mark Tushnet, Catharine MacKinnon.
6. Jay Fineman discussed several approaches to the law of promissory estoppel. Using the same tools of analysis, discuss the law of proximate causation. In your answer, explain the "official story" of proximate causation within tort law as well as how the tools he used offer different ways of understanding it. Do you draw the same sorts of conclusions about proximate causation in tort law as Fineman does about promissory estoppel in contract? Explain why you do or do not do so.
7. David Berger and Thomas Johnson entered into the Bill of Sale copied below. If Johnson brings an action to nullify the agreement when he learns that Burger is unable to deliver

clear title to the subject of the agreement how would Patricia Williams, Robert Cover, and Shoshana Felman each discuss the nature of the legal claims underlying such an action?



Rec<sup>d</sup> of Thomas Johnson Eight hundred  
dollars in full payment for a Negro girl  
named Martha of a Black complexion  
aged about fifteen years. The above described  
Negro girl I warrant sound in body &  
mind & a slave for life & free from all  
claims - Westport Mo. May 26<sup>th</sup> 1856  
David Burger

*“Rec d of Thomas Johnson Eight hundred dollars in full payment for a Negro girl named Martha of a Black complexion aged about fifteen years. The above described Negro girl I warrant sound in body & mind & a slave for life & free from all claims – Westport Mo. May 26th 1856*

*David Burger”*