

REMEDIES

Cell phones are not permitted on your person. Cell phones are to be powered off and left in your car or with your personal items at the front of the room or you will face disciplinary charges.

**REMEDIES FINAL EXAM
PROFESSOR COYNE
SPRING 2017**

Exam Number: _____

*Ethics and equity and principles of justice
do not change with the calendar.*

David Herbert Lawrence

Use your ID number on the blue book. Write legibly and coherently.

You will be graded on your knowledge, ability to analyze the issues and your treatment of the issues. No more than six (6) pages handwritten, one side only, three (3) typed double spaced pages. I will not read anything that exceeds the page limitation.

PART 1

AJ Karens of Boston, Massachusetts was the Executive Officer and Vice President for NEcannabis247.com, a Maine corporation with offices in Boston, Providence, and Hartford. NEcannabis247.com provides proprietary information, supplies, medical assistance, genetically engineered seeds and management to the exploding marijuana industry in New England. It does this through its websites, NEcannabis247.com and NEPot.com and through its highly—and expensively- trained specialists most of whom have advanced degrees in science, law and business. NEcannabis247 has a rural growing and manufacturing facility in Andover, Massachusetts near the Merrimack River and Tewksbury border called Higher Ground. All of its employees sign Confidentiality/Nondisclosure /Noncompete Agreements, preventing them from disclosing proprietary company information to anyone and prohibiting them from working for any competing marijuana business of any sort for one year after departing the company. NEcannabis247 has an insurance policy with New Boston Insurance headquarter in New Boston, Connecticut, providing for protection against the misappropriation of company property.

Last month Karens, along with three other “executive herbalists”, Amy Brown, Al Nicks and Joe Jones , who were working in NEcannabis247’s growing and manufacturing facility in Andover, Massachusetts, left NEcannabis247 to create StirthePot.com and formed

a New York corporation of the same name in an building adjacent to Higher Ground in Andover. Two weeks ago, NEcannabis247 discovered that its new customer catalog, Fall marketing plans, customer lists, seeds, atomizers and other improved marijuana delivery devices were missing from the secure area the company maintained in Andover.

NEcannabis247.com filed a claim for the missing property valued at over \$500,000 with New Boston Insurance. New Boston Insurance has denied coverage for any of the losses and filed suit in Federal District Court in Connecticut requesting a Declaratory Judgment affirming its position that since Connecticut does not provide for the use of legalized marijuana, insurance cannot cover that illegal activity.

NEcannabis247.com is irate with Karens and the others and demands that you legally “burn those fields to the ground.” The company feels that it has already been significantly damaged, as it has lost four of the largest dispensaries in the Northeast to StirthePot and revenues are in steep decline.

In investigating the loss of company property and securing the boundary of Higher Ground’s 20 acre property, NEcannabis247 discovered that the foundation for StirthePot.com’s building encroaches on NEcannabis247.com’s property by a few inches for the full length of the 300-foot building. It also discovered that the only means of access to StirthePot.com’s building is through NEcannabis247.com’s land.

After StirthePot began its operations adjacent to Higher Ground, neighbors started to complain about the strong odor of marijuana emitting from the farms in Andover and have complained about the strong smell at both harvest time and as the product is “ field tested” by burning it outdoors in 50 gallon drums.

Please write an essay describing what steps you would take to remedy these problems, and how you would expect the Court to deal with the procedural issues involved resolving these matters.

PART 2

Please fully define the following terms. After fully defining the term then apply the term, if applicable, to the fact pattern in Part 1.

1. Constructive Trust and Resulting Trust _____

2. Expectancy and Reliance Damages

3. Injunctive Relief

4. Wang Test

5. De Minimus

6. Ecclesiastical Courts

7. Equitable Defenses

8. 93A and 176D

9. Post Judgment Remedies

10. Findings of Fact and Conclusions of Law _____

Myfiles/RemiesFINALSpring2017

**REMEDIES MIDTERM EXAM
PROFESSOR COYNE
SPRING 2016**

ID Number

*I know what is legal, not what is right.
And I'll stick to what is legal . . . I'm not God.*

Sir Thomas More

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PART 1

Roman Mirna of Andover, Massachusetts was the Chief Operating Officer for BootcampU.com, a Delaware corporation with offices in Boston and Los Angeles. BootcampU's proprietary software allows for students to prepare to take classes over the internet in order to obtain bachelor's and law degrees. All of its professors sign Confidentiality/Nondisclosure /Noncompete Agreements, preventing them from disclosing proprietary company information to anyone and prohibiting them from working for any competing educational institution for one year after departing the company. BootcampU has an insurance policy with Connecticut Insurance headquartered in Groton, Connecticut, providing for protection against the misappropriation of company property.

Last month Mirna, along with three other professors, Carmen Keyon, Beth Stephens and Victor Patrick, all of Boston, MA, left BootcampU to create College4U.com and formed a New York corporation of the same name with offices in New York City. Two weeks ago, BootcampU discovered that its new course software, course catalog, customer lists, designs and other proprietary information were missing. The company also discovered that Mirna had recently registered the domain name BootcampU.com which redirects visitors to College4U.com.

The company is irate with Mirna and the others and demands that you “drive them out of business anyway you can as they are killing us.” The company feels that it has already been significantly damaged, as it has lost customers to this new company and revenues have started to decline.

Please write an essay describing what steps you would take to remedy this problem, and how you would expect the Court to deal with the procedural issues necessary to resolve this matter.

PART 2

Fully define the following terms and then apply the terms, if applicable, to the fact pattern on the first page.

Expectancy and Reliance Damages _____

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Injunctive Relief _____

Findings of Fact and Conclusions of Law _____

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Last month Gifty, along with three other professors, Karen Collins, Helena Joao and Gary Nicks, all of Boston, MA, left BourbonU to create College4U.com and formed a New York corporation of the same name with offices in New York City. Two weeks ago, BourbonU discovered that its new course software, course catalog, customer lists, designs and other proprietary information were missing. The company also discovered that Gifty had recently registered the domain name BourbonU.co which redirects visitors to College4U.com.

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2. Expectancy and Reliance Damages

3. Injunctive Relief

4. Wang Test

5. De Minimus

6. Ecclesiastical Courts _____

7. Equitable Defenses _____

8. 93A and 176D _____

9. Post Judgment Remedies _____

10. Findings of Fact and Conclusions of Law_____

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REMEDIES FINAL EXAM
PROFESSOR COYNE
SPRING 2016

ID Number: _____

Be a voice not an echo.

Einstein

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PART 1

Steve Michaels, owner of Motorcycle Museum Inc., a Massachusetts Corporation in Lynn, Massachusetts, says the crematorium next door spews human ash on vehicles visiting the museum and its grounds. Steve Michaels said the ashes come from the chimney of the Romanus Funeral Home run by Emmanuel and Mirna Romanus of nearby Marblehead, Massachusetts. "This was our dream, to come here and have this motorcycle museum," said Steve's wife, Lori. That dream became a reality for the couple six years ago, which has now become a nightmare.

"To be thinking of wiping up someone's human remains, it's just disgusting," Lori Michaels said. Steve Michaels has documented the alleged problem with photos. He says ashes from the crematorium are landing on his property — and that is not all, "Sometimes, the smell is so intense, it's nauseating," he said.

He has taken his complaint to Lynn City Manager, Elizabeth Roberts, who says the funeral home has the proper permits and she thinks they are not doing anything wrong. "It's similar to neighbors who can't agree on a fence or lighting," Roberts said Wednesday. "It really isn't an issue town gets involved in."

Massachusetts inspects crematoriums at least every three years. The owners of the Romanus

Funeral home have an active state license. In a statement to reporters on Tuesday, Romanus said, "The Romanus family has been operating funeral homes in Massachusetts for over 25 years. Our crematorium is closely regulated by the state and inspected frequently. We have received no indication of any violations. You have to break a few eggs to make a cake you know."

However, according to the Massachusetts Department of Environmental Services, emissions from crematoriums should be rather clear and are usually odorless. Wednesday, museum visitors, Ryan and Kat Samson, caught a whiff while television cameras were rolling and immediately vomited. "It didn't smell like a diesel truck going up the road or someone's furnace malfunctioning. It was definitely a really disgusting odor," the Samsons said. When they were told that the smell was likely coming from burning remains, the Samsons ran to their car and sped away from the museum.

Mr. Michaels said, "It's just affected our lives very deeply. I cannot sleep and do not even want to think about eating. I just cry constantly". They can no longer use the swimming pool that is attached to the museum and with all the latest news stories of visitors to the museum having their cars covered in human ash, business to the museum has dropped off sharply in the last month.

Mr. Michaels also discovered that the ash has permanently damaged his 1938 Harley Davidson that his grandfather first gave him a ride on and sparked his interest in motorcycles. The motorcycle was inoperable and used as a garden decoration but meant the world to the Michaels. In researching this matter, they also discovered that the funeral home's fence sits on a small portion of their land adjacent to the garden.

The Michaels consult with you and tell you they want you to immediately take whatever steps you can to remedy these problems and "put an end to that filthy disgusting place. Make them miserable. Make them pay!"

Meanwhile, Mr. Romanus says he will continue serving this community as he has for decades.

Discuss what steps you would take and why?

Discuss the procedural steps involved in the court process you will pursue.

PART 2

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1. Constructive Trust and Resulting Trust _____

2. Expectancy and Reliance Damages _____

3. Injunctive Relief _____

4. Wang Test

5. De Minimus

6. Ecclesiastical Courts

7. Equitable Defenses

8. 93A and 176D

9. Post Judgment Remedies

10. Americans with Disabilities Act

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REMEDIES FINAL EXAM
PROFESSOR COYNE
SUMMER SESSION I 2016

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Einstein

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2. Expectancy and Reliance Damages _____

3. InjunctiveRelief _____

4. Wang Test

5. De Minimus

6. Ecclesiastical Courts

7. Equitable Defenses

8. 93A and 176D

9. Post Judgment Remedies

10. Americans with Disabilities Act

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**REMEDIES FINAL EXAM
PROFESSOR COYNE
SPRING 2015**

ID Number: _____

I'm for truth, no matter who tells it. I'm for justice, no matter who it's for or against.

Malcolm X

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PART 1

Obed Andies and Carmen Victor of 10 Richards Drive Andover, Massachusetts come to see you for your advice. Ms. Victor is a former Olympic bronze medalist. After they had been married for many years and professionally successful, they found themselves unable to conceive a child through traditional means so they decided to seek help from East Coast Fertility Center Inc. of Boston, Massachusetts. East Coast has clinics in most major east coast cities and bills itself as the world's largest sperm bank and fertility center with the most well educated and sophisticated donors in the world.

Andies and Victor had particular requirements for the egg and sperm donors for their child as they were both from large close-knit professional, athletic, and ethnically diverse families and desired a child who would meet their aspirational and personal goals. Their doctor at the clinic, Rosa Tompkins, promised them that everything would be fine and that they had put their lives in the right hands.

About 10 years ago, they selected sperm donor No. 666 who the clinic indicated was a mixed race medical student who played quarterback for his college football team. The clinic instead gave them donor number 1666 who was a red-haired, fair-skinned Irishman who left school in the 6th grade to work as a carnival worker. They did not fare so well with the egg donor

either. While the egg donor they selected was advertised as meeting their needs, she had lied on her biographical intake and instead was an 18-year-old substance abuser with a history of mental illness for which she had been in and out of mental health facilities over her young life. The fertilized egg was implanted in Victor who ultimately gave birth to their child; blonde haired blue eyed Nick Elizabeths Andies.

They discovered the mix-up when Nick was 8 years old after yet another dispute with their neighbors, Stephen and Natalie Romeo who live next door to them at 8 Richards Drive in Andover. Nick is a hellion of a child. He would frequently fight with neighborhood children especially the Romeo children and recently went into their yard and took their prized purebred puppy, Gabriella, and drowned her in the Romeo's pool and set their pool cabana on fire. Andies' and Victor's home insurance company, Boston Mutual Insurance, has refused to cover the damages to the Romeo's pool as it says that it was an intentional act not covered under the policy.

This has escalated neighborhood tensions to the point that the Romeos decided to put up a high fence between the yards. In doing so, the surveyor discovered that the Romeo's pool encroaches on the land at 10 Richards Drive by 3 feet running the length of the 50-foot pool. The surveyor also discovered that the shed belonging to Andies and Victor is on the Romeo's land.

As one might imagine, all of this has made Andies and Victor's lives very difficult and their personal relationship has suffered. Between the frequent doctor's visits for Nick who they love dearly and the escalating tensions in the neighborhood and with law enforcement, their dream child has turned their lives into a nightmare. Victor recently finished her book on her life story. Lifetime purchased the movie rights to the book.

East Coast recently apologized for the "mix up" and issued a refund check for the six vials of wrong sperm.

Andies and Victor come to see you to discuss these problems. How would you proceed and why?

PART 2

Please fully define the following concepts. After fully defining the concept, apply the concept, if applicable, to the fact pattern in Part 1. If not applicable to fact pattern, state that in your response.

1. Constructive Trust and Resulting Trust _____

2. Expectancy and Reliance Damages _____

3. Injunctive Relief _____

4. Wang Test _____

5. De Minimus

6. Ecclesiastical Courts

7. Equitable Defenses

8. 93A and 176D

9. Post Judgment Remedies _____

10. Rule 11 _____

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**REMEDIES FINAL EXAM
PROFESSOR COYNE
SPRING 2014**

ID Number: _____

The only way I can keep clear of force is by justice. Far from being willing to execute his enemies, a real king must be willing to execute his friends.

T.H. White

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PART 1

Jim Erins of Boston, Massachusetts was chief “bourbonologist” and the Vice President of KentuckyBourbons.US Corp., (KBCorp) a Delaware corporation with offices in Boston, Massachusetts and Concord, New Hampshire. KentuckyBourbons.US is a manufacturer and distributor of bourbon and provides proprietary information, supplies, (including specially engineered corn seed), and consulting services to small batch whiskey distillers in the Northeast. It does this through its website, KentuckyBourbons.US, and through its highly—and expensively-trained—agriculturists and bourbonologists who the company intensively trains at its highly regarded Bourbon U in Andover, Massachusetts and online at BourbonU.com. The grueling company-paid program at BU takes two full years to complete and involves business, science, cooking, marketing, and law. The school is renowned for perfecting the skill of its bourbonologists with its hands on training, tasting, and testing program.

KBCorp has a manufacturing facility and farm to grow corn—an essential ingredient in bourbon--in Andover, Massachusetts near the Merrimack River and the Tewksbury border called Everal Akers. For many years now, area neighbors have complained about the strong odor of fermenting whiskey emitting from KBCorp’s facility at Everal Akers. Area neighbors have demanded to meet with the company. While many do complain about the

strong odors, others remark that they love the “caramel, woody and vanilla” smells.

All of KBCorp’s bourbonologists sign Confidentiality and Noncompete Agreements, preventing them from disclosing proprietary company information to anyone, prohibiting them from working for any competing bourbon business in any capacity or sharing any of the confidential information, they received from the company for one year after departing the company.

Last month Erins, along with three other bourbonologists, Marcia Kelly, Nicole Marks, and Maurice George, who were all, working at KBCorp’s facility in Andover, Massachusetts, left KBCorp to create [FinestBourbons.US](#) and [FinestBourbons.Com](#) (FBS). They formed a New York corporation called FBS Corp. and began operations in Rhode Island. Two weeks ago, KBCorp discovered that its latest customer lists, fall product catalog, proprietary fall marketing plan, customer preference spreadsheets, seeds, and special recipes, that Erins and Kelly had access to, were missing from the secure area the company maintained in Andover. The company also discovered that Erins along with his partner, Charlie Matt, recently registered the domain name [KentuckyBourbons.com](#) that redirects visitors to [FinestBourbons.US](#) and [FinestBourbons.Com](#).

KBCorp has an insurance policy with Live Free Insurance Inc. headquartered in Concord, New Hampshire, through its office in Concord, New Hampshire. The policy provides for protection against the theft of company property.

KBCorp filed a claim valued at over \$1,000,000 for the missing property with Live Free Insurance. Live Free denied coverage for any of the losses and filed suit in Federal District Court in New Hampshire. The suit requests a Declaratory Judgment affirming its position that only whiskey manufactured in Kentucky can call itself bourbon and since the only place KBCorp manufactures bourbon is in Andover, it is committing fraud in violation of Massachusetts consumer protection laws and therefore insurance cannot cover such illegal and fraudulent activity.

KBCorp is irate with Erins and the others and demands that you go to court and “bury those bastards and do whatever it takes to make them hurt.” The company claims that it has lost four of its best clients, three of its best bourbonologists and its revenues are in serious decline.

[Bourbon247.com Inc.](#), a Lexington, Kentucky corporation, recently filed suit in Lexington, Kentucky against both KBCorp and FBS Corp. for violating federal law and fraudulent and deceptive trade practices in their use of the word bourbon on the label of the whiskey they are distributing and for the design of their websites which it claims are

deceptively similar to its and likely to confuse their customers.

Please write an essay describing what steps you would take to remedy these problems, and how you would expect the Court to deal with the procedural issues involved in resolving these matters.

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NEMD has a manufacturing and growing facility in rural Andover, Massachusetts near the Merrimack River and the Tewksbury border called “Sunshine Sands.” All of NEMD’s employees sign Confidentiality/Nondisclosure/Noncompete Agreements, preventing them from disclosing proprietary company information to anyone and prohibiting them from working for any competing medicinal marijuana business in any capacity or sharing any of the confidential information they received from the company for one year after departing the company.

Last month Goodkid, along with three other “executive herbalists”, Racheloa Brown, Titi Tiller and Gary Patrick, who were all working at NEMD’s growing and manufacturing facility in Andover, Massachusetts, left NEMD to create WeedMD247.com (WeedMD).

They formed a New York corporation of the same name and began operations in a building adjacent to Sunshine Sands in Andover. Two weeks ago, NEMD discovered that its latest customer lists, new product catalog, proprietary fall marketing plan, customer preference spreadsheets, seeds, atomizers and other improved marijuana delivery devices were missing from the secure area the company maintained in Andover. The company also discovered that Goodkid along with her financial partner, Tim Josephs, recently registered the domain name NEMarijuanadispensari.com which redirects visitors to WeedMD247.com and WeedRx.org, its sister site.

NEMD has an insurance policy with Live Free or Die Insurance Inc. headquartered in Concord, New Hampshire, through its office in Hartford, Connecticut. The policy provides for protection against the theft of company property.

NEMD filed a claim valued at over \$500,000 for the missing property with Live Free or Die Insurance. Live Free or Die denied coverage for any of the losses and filed suit in Federal District Court in Connecticut requesting a Declaratory Judgment affirming its position that since Connecticut law does not provide for the use of medicinal marijuana, insurance cannot cover such illegal activity.

NEMD is also irate with Goodkid and the others and demands that you go to court and "burn that witch and those fields to the ground." The company feels that it has already been significantly damaged, as it has lost 4 of the largest dispensaries in New England to Weed MD and revenues are in serious decline.

In securing the boundary of Sunshine Sands 20 acre property from the local high school kids who would frequently party in the marijuana fields, NEMD discovered that the foundation for WeedMD's building encroaches on NEMD's property by a few inches for the full length of the 300-foot building. It also discovered that the only means of access to WeedMD's building is through NEMD's land.

After WeedMD began its operations adjacent to Sunshine Sands, area neighbors started to complain about the strong odor of marijuana emitting from the adjacent marijuana farms. They complained about the odor at both harvest time and as the product is "field tested" by burning it outdoors in 50 gallon drums.

Please write an essay describing what steps you would take to remedy these problems, and how you would expect the Court to deal with the procedural issues involved in resolving these matters.

PART 2

Please fully define the following concepts. After fully defining the concept, apply the concept, if applicable, to the fact pattern in Part 1. If not applicable to fact pattern, state that in your response.

1. Injunctive Relief _____

2. Wang Test _____

3. De Minimus _____

4. Expectancy and Reliance Damages

5. Constructive Trust and Resulting Trust

6. Ecclesiastical Courts

7. Equitable Defenses

8. 93A and 176D

9. Post Judgment Remedies

10. Bond

Cell phones are not permitted on your person. Cell phones are to be powered off and left in your car or with your personal items at the front of the room or you will face disciplinary charges.

**REMEDIES FINAL EXAM
PROFESSOR COYNE
SPRING 2012**

*Ethics and equity and principles of justice
do not change with the calendar.*

David Herbert Lawrence

Use your ID number on the blue book. Write legibly and coherently.

You will be graded on your knowledge, ability to analyze the issues and your treatment of the issues. No more than six (6) pages handwritten, one side only, three (3) typed double spaced pages. I will not read anything that exceeds the page limitation.

PART 1

Fred Steps of Andover, Massachusetts was the Chief Operating Officer for BootcampU.com, a Delaware corporation with offices in Boston and Los Angeles. BootcampU's proprietary software allows for students to prepare to take classes over the internet in order to obtain a bachelor degree. All of its professors sign Confidentiality/Nondisclosure /Noncompete Agreements, preventing them from disclosing proprietary company information to anyone and prohibiting them from working for any competing educational institution for one year after departing the company. BootcampU has an insurance policy with Connecticut Insurance headquartered in Groton, Connecticut, providing for protection against the misappropriation of company property.

Last month Steps, along with three other professors, Gina Elina, Gibson Scott and Amber Rivers, all of Boston, MA, left BootcampU to create College4U.com and formed a New York corporation of the same name in an office building adjacent to the Boston office of BootcampU. Two weeks ago, BootcampU discovered that its new course software, course catalog, customer lists, designs and other proprietary information were missing. The company also discovered that Steps had recently registered the domain name BootcampU.com which redirects visitors to College4U.com.

Connecticut Insurance has denied coverage for any of the losses and filed suit in Federal Court in Connecticut requesting a Declaratory Judgment affirming its position.

The company is irate with Steps and the others and demands that you “drive them out of business anyway you can as they are killing us.” The company feels that it has already been significantly damaged, as it has lost customers to this new company and revenues have started to decline.

In investigating the loss of company property, Steps also discovered that the foundation for College4U.com’s building encroaches on BootcampU.com’s property by a few inches the full length of the 300-foot building and the only means of access to College4U.com’s building is through BootcampU.com’s property.

Please write an essay describing what steps you would take to remedy these problems, and how you would expect the Court to deal with the procedural issues involved resolving these matters.

PART 2

Please fully define the following terms. After fully defining the term then apply the term, if applicable, to the fact pattern in Part 1.

Injunctive Relief _____

Wang Test _____

Evidentiary Hearing

Expectancy and Reliance Damages

Constructive Trust and Resulting Trust

Hierarchical Structure

Fraudulent Concealment, Laches and Estoppel

93A and 176D

Offer of Judgment

Findings of Fact and Conclusions of Law

Cell phones are not permitted on your person. Cell phones are to be powered off and left in your car or with your personal items at the front of the room or you will face disciplinary charges.

REMEDIES FINAL EXAM
PROFESSOR COYNE
SUMMER 2012

Exam Number: _____

*Ethics and equity and principles of justice
do not change with the calendar.*

David Herbert Lawrence

Use your ID number on the blue book. Write legibly and coherently.

You will be graded on your knowledge, ability to analyze the issues and your treatment of the issues. No more than six (6) pages handwritten, one side only, three (3) typed double spaced pages. I will not read anything that exceeds the page limitation.

PART 1

Jake Josephs of Andover, Massachusetts was the Chief Information Officer for BootcampU.edu, a Delaware corporation with offices in Boston, Los Angeles and London. BootcampU's proprietary software allows for a student to take classes over the internet, submit assignments and obtain a bachelor degree. All of its employees sign Confidentiality/Nondisclosure /Noncompete Agreements, preventing them from disclosing proprietary company information to anyone and prohibiting them from working for any competing educational institution that does business in the same area for one year after departing the company. BootcampU has an insurance policy with New London Insurance headquartered in New London, Connecticut, providing for protection against the misappropriation of company property.

Last month Josephs, along with three other professors, Rachel Dennis, Craig Edwin and Kate Devons, who were working in BootcampU's South Boston office, left BootcampU to create College4U.com and formed a New York corporation of the same name in an office building adjacent to the South Boston office of BootcampU. Two weeks ago, BootcampU discovered that its new course software, course catalog, customer lists, course designs and other proprietary information were missing. The company also discovered that Josephs had recently registered the domain name BootcampU.com which redirects visitors to College4U.com.

New London Insurance has denied coverage for any of the losses and filed suit in

Federal District Court in Connecticut requesting a Declaratory Judgment affirming its position.

The company is irate with Josephs and the others and demands that you “drive them out of business anyway you can as they are killing us.” The company feels that it has already been significantly damaged, as it has lost customers to this new company and revenues have started to decline.

In investigating the loss of company property, BootcampU also discovered that the foundation for College4U.com’s building encroaches on BootcampU.edu’s property by a few inches for the full length of the 300-foot building and the only means of access to College4U.com’s building is through BootcampU.edu’s land.

Please write an essay describing what steps you would take to remedy these problems, and how you would expect the Court to deal with the procedural issues involved resolving these matters.

PART 2

Please fully define the following terms. After fully defining the term then apply the term, if applicable, to the fact pattern in Part 1.

1. Injunctive Relief _____

2. Wang Test _____

3. Evidentiary Hearing

4. Expectancy and Reliance Damages

5. Constructive Trust and Resulting Trust

6. Hierarchical Structure

7. Fraudulent Concealment, Laches and Estoppel

8. 93A and 176D

9. Offer of Judgment

10. Findings of Fact and Conclusions of Law

Faint, illegible text or markings at the top left of the page.

A series of approximately 13 horizontal lines, likely representing a list or a form for notes.

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MASSACHUSETTS SCHOOL OF LAW at ANDOVER
REMEDIES: PURSUING AND ENDING CONFLICT
SUMMER 2010

INSTRUCTOR:

Professor Michael Coyne
978.681.0800/ coyne@msslaw.edu
Webpage: MSLAW.EDU/COYNE.HTM

You must email me your answers to 3 or 4 Sections each week.

SECTION 1

1. Is it good lawyering to fail to attempt to give any notice on a TRO in order to obtain a tactical advantage?
2. Under what circumstances is it appropriate to use an injunction in an attempt to force a speedier resolution of a case?
3. Under what circumstances would you inform your client to intentionally violate a court order?
4. How does a lawyer balance the need to make money through hourly fees with the client's right to a speedy resolution of the matter?

SECTION 2

1. What must an individual prove in order to establish an ADA claim?
2. Are there some claims that public policy should prohibit an employee from waiving as a condition of employment?
3. What do you think the essential skills or qualities are that a lawyer should possess for which no allowance can be made?

SECTION 3

1. What could Rudzewicz and McShara have done to avoid the exercise of Florida jurisdiction?
2. How does the law define "traditional notions of fair play and substantial justice?"
3. Does a disparity in bargaining power affect one's contractual rights under the law?
4. What conduct would amount to "rascality" under G.L. c. 93A?
5. Is it ethical for Athanas' attorneys to defend this suit knowing that their client intentionally breached the contract?
6. How would you deal with a client like Athanas?

SECTION 4

1. In a sentence or two, list each of the five principles by which you believe an individual—even an attorney—should live.
2. Under what circumstances is an Ex Parte Order appropriate?
3. What steps will you take to ensure that you do not violate Rule 11?
4. How will you use technology to make you a better lawyer?
5. What's a class action?
6. What technology skills will you acquire or master in the next year?

SECTION 5

1. What factors does the court look at to determine if an injunction should issue?
2. Under what circumstances are you entitled to an evidentiary hearing on a request for a preliminary injunction?
3. What is a constructive trust?
4. What is a receiver?
5. What does a magistrate do in Federal Court?

6. What do you wish you understood better about Civil Procedure?

SECTION 6

1. Explain removal jurisdiction.
2. What must the Appeals Court find in order to reverse the grant or denial of an injunction?
3. You represent a party opposing injunctive relief. Please argue why you need a bond.
4. What are the four essential elements of a common law fraud action?
5. Under what circumstances would you file a Motion to Dismiss?
6. Briefly explain each of the grounds for filing a Motion to Dismiss.

SECTION 7

1. According to Rule 56 and *Judson v. Essex Agriculture & Technical Institute*, 418 Mass. 159 (1994), in reviewing a grant of Summary Judgment in Massachusetts, what must the Appeals Court determine?
2. What factors are considered in determining if an employee's tortious conduct was performed within the scope of his employment?
3. Describe what conduct is actionable under G.L. 176D.
4. Under what circumstances can an insurance company settle a claim over its insured's objections?
5. Describe what conduct violates G.L. c. 93A.
6. What are the key components that should be found in every Civil Complaint?

SECTION 8

1. On the registration form you sign each semester at MSL is a choice of law clause which states that Maine law applies to any controversy that arises. The form also has a required arbitration clause that says all disputes will be resolved in binding arbitration with Law School Dispute Resolution Services, Inc. Should these

- clauses be enforced?
2. Should the reason for the dispute you have with the Massachusetts School of Law affect the enforceability of the clauses described in 1 above?
 3. How would you research the background of the judge you are appearing before?
 4. How does a required arbitration clause in a contract affect your right to obtain injunctive relief, especially on an emergency basis.

SECTION 9

1. Were Warner Wolf's lawyers ethically challenged?
2. Shouldn't Vanessa Redgrave have the right to speak out under the 1st Amendment and still be allowed to perform at the B.S.O.?
3. What rights should a woman who carries another's fertilized egg to term have to visit the child born from her womb? Does your decision change depending on whether the surrogate has been paid for her services?
4. What rights should grandparents have to visit their grandchildren over a parent's (divorced or otherwise) objection?
5. As a matter of principle or morality, should the selling of eggs or sperm for profit be prohibited?
6. Under what circumstances would your moral or religious views on important issues affect your handling of a client's case?

SECTION 10

1. Should wealthy parents be able to recover damages when a vasectomy, which was supposed to ensure that husband would father no more children, turns out to be ineffective and the wife gives birth to a healthy child?
2. If a father has not taken an active role in raising his children—other than paying child support—should he have a right to oppose a petition to change that child's name which was filed by mother and her new husband?
3. What is the difference in rights and penalties between civil and criminal contempt?

4. Is it ethical to tell your client in a divorce case to wipe out the joint saving or checking account to pay you and put the other side at a disadvantage prior to filing the complaint?

SECTION 11

1. What is the measure of damages for destroyed real and personal property?
2. How would you establish the value a destroyed item which was special to you (i.e., one your grandmother may have given you), yet has little value to the public at large, remembering that proof of the amount of damages may not be founded on mere conjecture or speculation?
3. What are findings of fact and conclusions of law? When are they used?
4. How would you prove damages for pain and suffering?

SECTION 12

1. When and why should one try and obtain a Declaratory Judgment?
2. What are the legal prerequisites of obtaining a Declaratory Judgment?
3. Why shouldn't the law assist citizen groups in cleaning up their communities from morally and/or legally offensive activity?

SECTION 13

1. What is the difference between a public and private nuisance?
2. What is a de minimis encroachment?
3. Why was Myers v. Arnold rightly decided?
4. What are compulsory and permissive counterclaims?

SECTION 14

1. Please explain the legal requirements of a resulting trust and a constructive trust?
2. Please explain fraudulent concealment, estoppel and laches.
3. Under what circumstances is it appropriate for civil courts to become involved in

“church matters?”

SECTION 15

1. What is a post judgment remedy?
2. What steps should one take to attempt to collect a judgment? What measures can be used?
3. What must you prove in order to win a RICO action?
4. What is the standard used in order to approve the grant of an attachment?

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REMEDIES
SPRING 2010 - FINAL
Professor Coyne

Exam Number: _____

Live the life you have imagined.

Thoreau

Use your social security number on the blue book. Write legibly and coherently.

I will grade your responses on your knowledge of the law, ability to analyze the issues and your elegant expression of the issues.

No more than six (6) pages handwritten, one side only, or four (4) typed double spaced pages for Part 1, and place your answers in the space provided for Part 2. I will not read anything that exceeds the page limitation. Enjoy your summer!

QUESTION ONE

Pursuant to a written agreement, Urnew Fonestore, Inc., agreed to sell the real estate and cell phone business at 1 Main Street in Boston, Massachusetts, to Joe Peterdemetra for nine hundred and fifty-thousand dollars (\$950,000). Part of that agreement contained non-compete and non-disclosure provisions for Jeff and Joe Ryan, of Providence, Rhode Island, the brothers who operated Urnew Fonestore, Inc. Closing is to take place on June 1, 2010. At the time he entered into the agreement, Mr. Peterdemetra knew that the new middle school was supposed to open at 3 Main Street in January of 2010.

Urnew Fonestore, Inc. had been struggling since its inception in 2005, but it had always operated profitably. The opening of the middle school that year brought Urnew Fonestore, Inc. an unexpected boom in business. During the first four months of 2010, Urnew made a net profit of two hundred and twenty-five thousand dollars (\$225,000). The Ryan brothers on behalf of Urnew Fonestore, Inc. just informed Mr. Peterdemetra that they would not sell the business and real estate to him unless he agreed to increase the price by \$1,000,000 and provide each of the Ryan brothers \$50,000 in cash. They said if he tried to force them to sell, then they will simply open a new business across the street called Urnew Fonestore 2.0, Inc.

The Ryan brothers and Urnew Fonestore also said that they would not sell because

they recently discovered that the underground storage tanks belonging to the gas station next door are located on a small portion of Fonestore's property.

Mr. Peterdemetra is very upset. He did not mind putting the time in to make the business successful and he wants what is rightfully his. He is particularly concerned that the Ryan Brothers are trying to "cripple and extort me," and will bleed the business dry.

Mr. Peterdemetra seeks your advice.

How would you proceed and why?

QUESTION TWO

Nicky Beckimegg owns a building that houses his bakery, Nick's Donuts, and his home above the bakery. Nick has run this business for 15 years, and it is a very profitable business. Recently his head chef, Jeff Jones, left to start his own bakery despite having a non-competition agreement that prohibited him from working for anyone for two years after he left Nick's Donuts.

Beckimegg also has found that the adjoining junkyard and waste facility, Sanford and Son's building encroaches on Beckimegg's land approximately 10 inches running for a length of 200 feet. He demanded that the junkyard owner remove the offending structures but the owner refuses to do so.

Beckimegg has never liked the junkyard being next door. There have been numerous arguments between them. Three years ago, Beckimegg recovered a judgment against Sanford and Sons, Inc., after the owner's pit bull bit him. That judgment for \$500,000.00 remains unpaid.

On the other side of the bakery is the Church of Good Hope. Beckimegg goes there for spiritual awakening and counseling from Reverend Doug. Reverend Doug grew very close to Beckimegg, and after sexually assaulting him told him that he should give \$500,000 to the Church if he ever wants to find eternal salvation. Pete recently gave \$500,000.00 to the Church, but now feels taken advantage of and wants the Church to return his money and pay for what Reverend Doug did.

In the space provided briefly define each term below and describe how, if at all, it applies to the above fact pattern.

1. Injunctive Relief

2. Post-Judgment Remedies

3. Finding of Facts and Conclusions of Law

4. Public & Private Nuisance

5. Equitable Defenses

6. Declaratory Judgment

7. Constructive and Resulting Trust

8. Evidentiary Hearing

9. Valuation of Damages

10. Ecclesiastical Courts

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REMEDIES
SPRING 2008 - FINAL
Professor Coyne

Aim above morality. Be not simply good, be good for something.
Thoreau

Use your social security number on the blue book and this examination.

Your knowledge of the law, analysis of the issues and thorough treatment of the issues are the basis for your grade. Please write or print legibly.

You may write no more than six (6) pages, one side only, or four (4) typed double spaced pages for Part One. Please place your answers in the spaces provided for on Part Two. Enjoy life.

QUESTION ONE

Amazin Books Inc. (ABI) is the nation's largest online bookstore. It has a retail store at 45 Main Street in Amesbury, Massachusetts in a mall owned by MLC Development, Inc. of Salem, New Hampshire. Recently MLC Development and ABI entered into a long-term lease of over 30 years so that ABI could expand its store to increase its offerings to customers, increase its customer base and expand its shipping to internet customers. It now operates on a 24/7 basis shipping books around the world through Federal Express Inc of Tennessee. Amazin.com offers "every book you'd ever need" through its website and ships its books throughout the world.

Diane and George live immediately behind the mall in a beautiful residential neighborhood. George, a disabled war veteran, works at ABI so he simply walks through the woods to get to work. Diane has become upset at recent activities at ABI including the increased lighting that now shines on her house throughout the night and the odors from idling trucks that always invaded the neighborhood.

Diane along with Peter, Dan, Jeff and Kirby (who all live nearby) discussed this situation and formed a neighborhood watch group called Citizen Soldiers Inc. to begin conducting surveillance activities of ABI. The group elected Kirby as the treasurer and he immediately began making speeches in which he criticized ABI making numerous accusations about the company's officers and their involvement in pornography. Their surveillance activities have uncovered various health violations but no support for Kirby's allegations.

ABI has threatened to sue Citizen Soldiers for Kirby's remarks and what they say are their baseless harassing activities.

ABI's detectives learned that George was Diane's partner. First, ABI took away George's ability to get up from his accounting desk and stretch for 5 minutes every hour that was necessitated by his service connected disability. Later when he complained about ABI terminating his accommodation, ABI fired George. ABI then audited George's work and discovered that George had secretly been transferring \$9,999. from ABI each month to a vendor listed as the Loveshack. The Loveshack accounts were further traced and found to have been used to provide the \$300,000 purchase price of Diane and George's house that is now worth over \$450,000.

Diane discovered that MLC Development has long had a history of disputes with its neighbors and the foundation for the mall encroaches on the land that surrounds Dan and Jeff's home. This encroachment has existed since the mall was developed and cannot be removed except at significant cost.

Discuss the civil and equitable rights of the parties, paying particular attention to the procedure that will be used to resolve the various issues.

Question 2. Please fully define the following concepts.
After doing so please explain how, if at all, the concept relates to the fact pattern in Question 1.

Restitution and Expectancy Damages _____

93A and 176D Actions

Common Law Fraud

Attachment

Laches and Estoppel

Contempt

Constructive and Resulting Trusts

Injunctive Relief _____

Findings of Fact and Conclusions of Law _____

De Minimus _____

REMEDIES
SPRING 2005 - FINAL
Professor Coyne

Common sense often makes good law.

William O. Douglas

Use your social security number on the blue book. Write legibly and coherently.

You will be graded on your knowledge, ability to analyze the issues and your treatment of the issues.

No more than six (6) pages handwritten, one side only, or four (4) typed double spaced pages for Part One, and place your answers in the space provided for Part Two. I will not read anything that exceeds the page limitation. Enjoy your summer!

QUESTION ONE

Tony Sullivan of Salem, New Hampshire was the chief software designer for PassBar.com, Inc., a Florida corporation with offices in Orlando, Florida and Andover, Massachusetts. PassBar.com's proprietary software allows for the high quality transmission of live bar review lectures over the internet. PassBar.com is an online law teaching website that requires its employees to sign Confidentiality/Nondisclosure /Noncompete Agreements, preventing their employees from disclosing proprietary company information to anyone and prohibiting these employees from working for any competing online company for three years after departing the company. PassBar.com has an insurance policy with Metropolitan Insurance, a corporation, headquartered in Boston, Massachusetts, providing for protection against the theft of company property.

Last month Sullivan informed PassBar.com, Inc. that he would no longer be working at PassBar.com and along with eight other employees would be leaving to create PasstheBar.net, a division of P.D., Inc., a Maine corporation with offices in Portland, Maine. Two weekends ago, PassBar.com discovered that its new marketing plan, software designs, customer lists, and other proprietary information was missing. The company also discovered that Sullivan had recently registered the domain name PasstheBar.net and is marketing a product similar to PassBar.com's advanced design for transmission of educational lessons over the internet that Sullivan helped design.

PassBar.com had also entered into a contract, at Sullivan's urging, with ParBri. Inc. of New York to sell them DVD's of PassBar.com Inc.'s old lectures for 1.5 million dollars. PassBar expected to make over \$2,000,000 on this agreement as consumers could purchase

updates to the DVDs directly on line. Based on the agreement, PassBar.com went out and purchased \$350,000 of special order DVDs that were only useable with ParBri Inc.'s proprietary software decoding system . Because of what has happened, ParBri now refuses to go through with the agreement.

The company is livid with Sullivan and the others and demands that you "drive Sullivan into the ground and bury those clowns," before they can further ruin its business. The company feels that it has already been significantly damaged as a result of all the employees leaving with company information, as it has lost a few customers to PasstheBar.net . It demands that you immediately help rectify the situation.

Passthe Bar.net claims that these employees' contracts expired long ago, that they took nothing when they left and this is just a business dispute and PassBar.com frivolous actions cost them over \$10,000 per month.

Please describe what steps you would take to remedy this problem, and how you would expect the Court to deal with this situation. Please specifically describe the procedural and substantive problems the Court should address while this matter is in litigation.

QUESTION TWO (Answer On Pages 3-5)

Bruce Letwin has found that the district's sanitary waste facility encroaches on Bruce's land for approximately 20 inches running for a length of 200 feet on his eastern boundary line. He demanded that the district remove the offending portion of the building but the district refuses to do so, and it has remained there for the last 18 years.

Bruce has never liked the waste facility being next door. There have been numerous arguments between him and its managers over the smell and its hours of operation.

On the other side of the waste facility is the Church of Good Voyage. Bruce goes there for spiritual awakening and counseling from Reverend Jennifer. Reverend Jennifer grew very close to Bruce, and told him that he should give \$100,000 to the Church if he ever wants to become a deacon in the church. Bruce recently gave \$100,000.00 to the Church, but now feels taken advantage of and wants the Church to return his money and, and he wants to sue Reverend Jennifer for discrimination as she always treated him differently from the female priests.

In the space provided briefly define each term below and describe how, if at all, it applies to the above fact pattern.

Damages _____

93A and 176D Actions _____

Wang Test _____

Declaratory Judgment

Equitable Defenses

Bond

Constructive and Resulting Trusts

Injunctive Relief

Findings of Fact and Conclusions of Law

Post Judgment Remedies

REMEDIES
SPRING 2007 - FINAL
Professor Coyne

Common sense often makes good law.

William O. Douglas

Use your social security number on the blue book and this examination. Write legibly and coherently.

Your grade is based on your knowledge of the law, analysis of the issues and thorough treatment of the issues.

You may write no more than six (6) pages, one side only, or four (4) typed double spaced pages for Part One. Please place your answers in the spaces provided for on Part Two. I will not read anything that exceeds the page limitation. Enjoy your summer!

QUESTION ONE

Consumer Drug Stores of Virginia (CDS) is the nation's largest retail drugstore chain. It has a retail store at 45 Main Street in North Andover, Massachusetts in a strip mall owned by Messing Development, Inc. of Tewksbury, Massachusetts. Recently Messing Development and CDS entered into a long-term lease so that CDS could expand its store to increase its offerings to customers and increase its customer base. It received a building permit to expand the store and its operating permit allows it to have retail operations from 7:00 a.m. until 11:00 p.m.

Peter and Paula Pudder live immediately behind the strip mall at 12 Second Street in North Andover, with Peter's elderly mother Ida. They are concerned that the proposed larger store with a drive-up window will create additional noise, trash and lighting issues. This is of special concern as the three family house they live in is occupied by Ida, who is not well and needs her rest, Peter and Paula who convinced Ida to transfer title to the home to them on the promise that would later take care of Peter's brothers Dan, Jeff and Kirby, and also Rebecca Baker, a tenant who has started to withhold her \$1,000 monthly rent because of recent activities at CDS.

Beginning in November of 2006, CDS has had truck deliveries at the rear of its store throughout the week and sometimes between 2 and 4 a.m. in the morning. Not only is there lots of noise from the truck drivers and CDS workers, but the trucks are left running in the winter creating more noise and diesel fumes that often permeate the surrounding neighborhood.

When Peter, Dan, Jeff and Kirby (who all live nearby) discussed this situation with the store operator in North Andover, Billy Budd of Salem, New Hampshire, he said it would stop. Budd claims it has now stopped and says that there is nothing else he can do. He did offer them some coupons for free sleeping pills.

In investigating this matter, Kirby, who is a licensed surveyor, discovered that Messing Development has long had a history of disputes with its neighbors and the foundation for the strip mall encroaches on the property at 12 Second Street. The encroachment runs the entire length of the property for 200 feet and the encroachment is as few as 8 inches to as much as 4 feet at its widest point. It was discovered that this has existed since the building was built in 1983 and cannot be removed except at significant cost to CDS.

Peter and Paula Pudder come into your office to discuss their situation with you. What are their rights and responsibilities? Discuss specifically the procedural issues and remedies that your legal training indicates are likely to be involved in this action.

QUESTION TWO

Lucent Technologies, Inc., a large Massachusetts telecommunications corporation, employs over five thousand employees at its facilities in North Andover, Massachusetts and San Diego, California. Lucent is considered by many to be one of the leaders in emerging technology and internet-related business strategies.

Lucent recently learned that ten individuals, who it believes are its employees, have set up a website on American Online, Inc., a Delaware corporation, called 'NOTLUCENT.COM'. These individuals have in written materials, chat rooms and bulletin boards displayed information regarding company working conditions, retirement plans, management strategies and products. While a few of the employees are using their real names online, including Mark Jerry who also works for Lucent's major competitor TATINC of Nashua, New Hampshire, others are using screen names so their actual identity is unknown. All of the individuals appear to work at the company's North Andover plant since the proprietary information discussed pertains to products only manufactured and distributed at the North Andover plant.

Lucent consults with you regarding what they describe as inappropriate "company bashing." They are very concerned that their image as a good employer is suffering and that their intellectual property, trademarks and contractual agreements with others are being compromised. Some resellers of their products have cancelled orders for these new products complaining that the information on NOTLUCENT.COM has seriously hurt their ability to drum up new business. Lucent believes that the information on the website helped a company create a product very similar in design, packaging and function to Lucent's new Echo Reduction Software which enhances the quality of voice and video distributed over the Internet and it's now losing over \$5,000 a month in sales.

Management is incensed at these developments.

Contempt _____

Rascality _____

Findings of Fact and Conclusions of Law _____

Gestational Surrogacy Contracts _____

Equitable Defenses _____

Declaratory Judgment _____

Constructive and Resulting Trusts _____

De Minimis _____

Hierarchical Structure _____

Rule 68 Offer of Judgment _____

REMEDIES
SPRING 2004 - FINAL
Professor Coyne

*Go confidently in the direction of your
dreams. Live the life you have imagined.*

Thoreau

Use your social security number on the blue book. Write legibly and coherently.

You will be graded on your knowledge, ability to analyze the issues and your treatment of the issues.

No more than six (6) pages handwritten, one side only, or four (4) typed double spaced pages for Part One, and place your answers in the space provided for Part Two. I will not read anything that exceeds the page limitation. Enjoy your summer!

QUESTION ONE

Pursuant to an extensive written agreement, Doughboy Donuts, Inc., agreed to sell the real estate and donut business at 1 Main Street in Andover, Massachusetts, to Julian Lebeck for seven hundred and fifty-thousand dollars (\$750,000). Part of that agreement contained non-compete and non-disclosure provisions for Billy and Bob Devlin, of Salem, New Hampshire, the brothers who operated Doughboy Donuts, Inc. Closing was to take place on May 1, 2004. At the time he entered into the agreement, Mr. Lebeck knew that the police academy was supposed to open at 3 Main Street on January 1, 2004.

Doughboy Donuts, inc. had been struggling since its inception in 1999, but it had always operated profitably during its first four years of operations. The opening of the police academy brought Doughboy Donuts, Inc. an unexpected boom in business. During the first four months of 2004, Doughboy made a net profit of one hundred and twenty-five thousand dollars (\$125,000). The Devlin brothers and Doughboy Donuts, Inc. recently informed Mr. Lebeck that they would not sell the business and real estate to him and said if they were forced to then they will simply open a new business across the street called New Doughboy Donuts.

Mr. Lebeck is very upset. He did not mind putting the time in to make the business successful and he wants what is rightfully his. He is particularly concerned that the Devlin

Brothers will bleed the business dry, while the case is proceeding and cost him “hundreds of thousands of dollars.”

Mr. Lebeck seeks your advice and asks that you move very quickly.

How would you proceed and why?

QUESTION TWO

Peter Pala owns a building which houses both his bakery, Peter’s Pies, and his home above the bakery. Pete has run this business for 15 years, and it is a very profitable business. Recently his head chef, Peter Pumpkin, left to start his own bakery despite having a non-competition agreement that prohibited him from working for anyone for two years after he left Peter's Pies.

Pala also has found that the adjoining junkyard and waste facility, Sandford and Sons, Inc.’s building encroaches on Pala’s land approximately 10 inches running for a length of 200 feet. He demanded that the junkyard owner remove the offending structures but the owner refuses to do so.

Pala has never liked the junkyard being next door. There have been numerous arguments between them. Three years ago Pala recovered a judgment against Sandford and Sons, Inc., after the owner’s pit bull bit him. That judgment for \$50,000.00 remains unpaid.

On the other side of the bakery is the Church of Good Hope. Pala goes there for spiritual awakening and counseling from Reverend Doug. Reverend Doug grew very close to Pala, and after sexually assaulting him told him that he should give \$500,000 to the Church if he ever wants to find eternal salvation. Pete recently gave \$500,000.00 to the Church, but now feels taken advantage of and wants the Church to return his money and pay for what Reverend Doug did.

In the space provided briefly define each term below and describe how, if at all, it applies to the above fact pattern.

Contempt _____

Post-Judgment Remedies _____

Finding of Facts and Conclusions of Law _____

Wang Test _____

Equitable Defenses _____



Declaratory Judgment _____

Constructive and Resulting Trust _____

Bonds _____

Valuation of Damages _____

Rule 68 Offer of Judgment _____

REMEDIES
SPRING 2003 - FINAL
Professor Coyne

*We have got to stop having our profession ruined
by the people who can afford to take five days off
and fly to San Francisco, rather than practice law.*

F. Bosley Crowther

Use your social security number on the blue book. Write legibly and coherently.

You will be graded on your knowledge, ability to analyze the issues and your treatment of the issues.

No more than six (6) pages handwritten, one side only, or four (4) typed double spaced pages for Part One, and place your answers in the space provided for Part Two. I will not read anything that exceeds the page limitation.

QUESTION ONE

WebsitesRus.Com.Inc. is a Corporation formed under Massachusetts law which has no physical place of business. It is entirely internet-based, and its employees perform their jobs from offices in their homes. The employees meet and converse electronically. Twice a year all the employees meet at the Andover Wyndham for extensive training, brainstorming and the sharing of new concepts.

WebsitesRus.Com.Inc. sells turnkey websites over the Internet to lawyers, doctors and other professionals and maintains those websites for a monthly fee. It has developed software pricing and marketing strategies so that, in just three years, it has become the largest marketer of websites on the Internet. Its business plan shows that, if it continues to grow at the same rate, it will be the largest company of this sort in North America in five years. Six months ago, it received a letter from ToysRus.Com demanding that WebsitesRus.Com stop infringing on its registered trademark.

Recently, two members of WebsitesRus.Com.Inc.'s management, Steve Hyde and Tim Douglas, both of Massachusetts, left the company and took some key employees with them. They started running Website2U.Com in Salem, New Hampshire, another internet-based website business which has adopted many of the same strategies as WebsitesRus.Com's

business. Sales have dropped significantly for WebsitesRus.Com.

The Chief Executive Officer of WebsitesRus.Com.Inc., Rosa Smith, calls you in a panic. "Do whatever it takes to shut them down!" She screamed, and urged you to take action quickly. She states that she has always hated Hyde and Douglas and feels that they are intentionally trying to hurt her business, because she previously reported some of their behavior to the police.

How would you proceed?

Please discuss how you would satisfy all procedural requirements.

QUESTION TWO

Development Corporation ("DC") of Plymouth, Massachusetts. DC wants to purchase a parcel of land in Plymouth County, Massachusetts from Pete, Inc. DC desires to sue Pete, because Pete agreed to sell the property to DC, but unbeknown to DC, Pete, Inc. later entered into a Purchase and Sale Agreement with America, Inc., a frequent rival and vicious competitor of DC, for the sale of the property for a million dollars. America, Inc. bought the land and began construction of condominiums on the land. A small portion of the foundations for those condominiums was mistakenly put on the neighboring pig farmer's land.

DC, nonetheless, entered into discussions with America, Inc. in an effort to purchase the property outright, while it negotiated with Pete on his breach of contract. It believed things would be satisfactorily resolved until America, Inc. announced that it found a new partner for the project, Athanas Development, Inc. ("ADI"). DC went to Superior Court and obtained an ex parte injunction prohibiting the sale of the property to the new partnership of Athanas and America, Inc. The sale nonetheless took place as scheduled when Andy Starkley, the President of America, Inc. said the hell with DC, signed the deed, and completed the sale. Starkley took the cash proceeds from the sale and went to the Bahamas.

In the space provided briefly define each term below and describe how, if at all, it applies to the above fact pattern.

Contempt

Encroachment

Finding of Facts and Conclusions of Law

Wang Test

Equitable Defenses

Declaratory Judgment

Constructive and Resulting Trust

Ecclesiastical Courts

93A

Offers of Judgment

myfiles/RemediesFinal.Sp2003

**REMEDIES FINAL EXAM
PROFESSOR COYNE
SPRING 2002**

Law never made men a whit more just.

Henry David Thoreau

Use your social security number on the blue book. Write legibly and coherently.

You will be graded on your knowledge, ability to analyze the issues and your treatment of the issues.

No more than five (5) pages handwritten, one side only, four (4) typed double spaced pages. I will not read anything that exceeds the page limitation.

QUESTION ONE

Your client is the Waterview Development Corporation (WDC) of Boston, Massachusetts. WDC attempted to complete the purchase of a parcel of land in Essex County, Massachusetts from the Trust Corporation, a Washington, D.C. corporation. WDC desires to sue the Trust Corporation as receiver of the assets of Homeinsurance Inc., a New York Corporation that was the previous owner of the Essex County land and had dealt extensively with WDC in attempting to develop this property. WDC even gave \$500,000.00 to Homeinsurance when Homeinsurance initially purchased the property in Ipswich, Massachusetts.

In July 1998, Homeinsurance agreed to sell the property outright to WDC. Unbeknown to WDC, Homeinsurance shortly thereafter entered into a Purchase and Sale Agreement with Condos America Inc., a frequent rival and vicious competitor of WDC, for the sale of the property for 20 million dollars. Following a series of heated negotiations, in March of 1999 Homeinsurance and WDC agreed that Homeinsurance could sell the property to Condos America Inc. as long as WDC received 60% of the sales price.

In October of 1999 the Trust Corporation was appointed receiver for Homeinsurance. In December of 1999 the Trust Corporation, as receiver of Homeinsurance, offered the Essex County tract for sale in its 2000 Winter/Spring Land Catalogue. Both WDC and Condos America separately took issue with the offering, claiming that it breached the agreements reached with Homeinsurance. WDC nonetheless entered into discussions with the Trust Corporation in an effort to purchase the property outright and believed things had been satisfactorily resolved until the Trust Corporation recently announced that it would sell the property to Condos America Inc. for 20 million dollars and tender none of the proceeds to WDC.

WDC is furious at this turn of events and consults you regarding its rights. It wants you to

take immediate action. What steps would you take?

QUESTION TWO

Peter Pala owns a building which houses both his bakery, Peter's Pies, and his home above the bakery. Pete has run this business for 15 years, and it is a very profitable business.

Pete has found that the adjoining junkyard and waste facility, Sandford and Sons, Inc.'s building encroaches on Pete's land approximately 10 inches for a length of 200 feet.

Pete has never liked the junkyard being next door, and they have argued on numerous occasions. Three years ago Pete recovered a judgment against Sandford and Sons, Inc., as the owner's pit bull bit him in a very sensitive part of his body causing him extensive damage. That judgment for \$10,000.00 remains unpaid.

On the other side of the baker is the Church of Good Voyage. Pete goes there for spiritual awakening and counseling from Reverend Doug. Reverend Doug told Pete to give everything he owns to the Church if he ever wants to get to the "top drawer," which is a place that church members believe provides them eternal salvation. Pete recently gave all his worldly possessions to the Church, but now feels he may have been taken advantage of.

In the space provided, briefly define the following and describe how, if at all, it applies to the above fact pattern.

Fraudulent Concealment

De Minimis

Attachment

Rascality

Public and Private Nuisance

Declaratory Relief

Personal Services Contract

Hierarchical Structure

Preliminary Injunction

myfiles/RemediesFinal.Sp2002

**REMEDIES FINAL EXAM
PROFESSOR COYNE
FINAL SPRING 2001**

*The only thing necessary for the triumph
of evil is for good men to do nothing.*

Edmund Burke

Use your social security number on the blue book. Write legibly and coherently.

You will be graded on your knowledge, ability to analyze the issues and your treatment of the issues.

No more than five (6) pages handwritten, one side only, three (3) typed double spaced pages. I will not read anything that exceeds the page limitation.

PART I

Ima Winner of Providence, Rhode Island is a software designer for Passbar.com Inc., a New York corporation with offices in New York, New York and Boston, Massachusetts. PassBar.com is a website which prepares law students to pass the bar. It requires its senior employees to sign detailed employment agreements which contain Confidentiality/Nondisclosure/Noncompete clauses, preventing the employees from disclosing proprietary company information and prohibiting employees from working for any competing online training company for one year after departing Passbar. Passbar's employees are also bonded and insured by Prudential Insurance of America, a Connecticut corporation, which provides for protection against the theft of company property. Prudential denied coverage on two claims Passbar submitted to Prudential in the last year allegedly because of insufficient information.

At the beginning of this month, Winner informed Passbar that he would no longer be working at Passbar and along with its chief website designer, Mike Malaguti, and head instructor, Joe Devlin, would be leaving to join Ibarreview.com, a New Jersey corporation, which calls itself the Internet's leading bar review. Passbar later discovered that its new instructional manual, online testing material and other proprietary information had been taken from the vault. The company also discovered that Winner had recently registered the domain name Passbar.net and was now using the name Passbar.net to redirect mistaken Passbar.com visitors to the Ibarreview site.

The company believes that Winner, Malaguti and Devlin have sabotaged the company

and want you to stop them "dead in their tracks". The company states that it has already lost many new accounts for the upcoming July bar examination because of their actions and wants you to help rectify the situation.

Please describe what steps you would take to remedy this problem, and how you would expect the Court to deal with this situation.

PART II

In the space provided briefly explain the following.

Preliminary Injunction _____

Declaratory Relief _____

Estoppel _____

Constructive and Resulting Trust _____

De minimis _____

Public and Private Nuisance _____

Surrogacy Contracts _____

Bonds _____

Counterclaims _____

Rascality _____

Evidentiary Hearing _____

Laches _____

Contempt _____

Specificity _____

Findings of Fact and Conclusions of Law _____

Ecclesiastical Courts _____

Receivers _____

Offers of Judgment _____

Required Arbitration Clauses _____

Attachments _____

Local Rules of Court _____

myfiles/Remedies.FinalSp2001

REMEDIES
Spring 2000 - FINAL
Professor Coyne

An eminent lawyer cannot be a dishonest man.

Daniel Webster (1847)

Use your social security number on the blue book. Write legibly and coherently.

You will be graded on your knowledge, ability to analyze the issues and your treatment of the issues.

No more than five (5) pages handwritten, one side only, or four (4) typed double spaced pages for Part One and three (3) pages for Part Three. I will not read anything that exceeds the page limitation.

PART ONE (Five Pages Maximum)

A and C Software, Inc. is a Massachusetts corporation located in Lawrence, Massachusetts, produces software for attorneys and also runs a website called AttorneyandCounselor.com. For two hundred dollars (\$200.00) each month, AttorneyandCounselor.com allows attorneys to place a description of their law firm on the website, describing the educational background, clients, specialties, qualifications and rates of the members of the firm. In a short period of time, A and C Software, Inc. has become a leader in its field with revenue of over 3 million dollars per year. Recently, Joe Cropani, one of the founders of A and C Software, Inc., left and started a competing company in the building next door, which is owned by Landlords, Inc., a New Hampshire corporation. Cropani has been encouraging a number of key employees to leave A and C Software, Inc. and join him in competing with his old company. Two of these employees recently left to join Cropani and A and C Software, Inc.'s revenues have recently started to decline significantly.

At the beginning of last month when A and C Software, Inc. opened after the long holiday weekend, it noticed that over 3 inches of water had collected in the basement of its building, destroying many thousands of dollars of software, and shutting down the internet servers for AttorneyandCounselor.com for three full days. An investigation subsequently revealed that the owner of the building next door, Landlords, Inc., changed the rain gutters coming from the roof, so that the water from its roof would be distributed away from its land and towards the land of A and Software, Inc.

Last weekend, after a very bad rainstorm, the basement of A and C Software, Inc. was again

flooded with nearly 7 inches of water, shutting down the internet servers and destroying "tons" of software.

A and C Software, Inc. consults you regarding its legal rights and asks that you do something about these problems immediately. What is your advice?

PART TWO

Coherently and Concisely address the following:

CONTEMPT:

ECCLESIASTICAL COURT:

CONSTRUCTIVE AND RESULTING TRUSTS:

ESTOPPEL:

BOND:

LACHES:

DECLARATORY JUDGMENT:

SPECIFIC PERFORMANCE:

NUISANCE:

RASCALITY:

PART THREE (Three Pages Maximum)

I think it is most important to recognize that when dealing with surrogacy contracts . . .

myfiles/remediesfinal.spring2000

REMEDIES
Spring 1999 - FINAL
Professor Coyne

*To protect those who are not able to protect
themselves is a duty which every one owes to society.*

Edward Macnaghten (1890)

Use your social security number on the blue book. Write legibly and coherently.

You will be graded on your knowledge, ability to analyze the issues and your treatment of the issues.

No more than five (5) pages handwritten, one side only, or four (4) typed double spaced pages for Part One and three (3) pages for Part Three. I will not read anything that exceeds the page limitation.

PART ONE (Five Pages Maximum)

SANDYSHORES.COM Inc is a Delaware Corporation that operates an Internet based advertising service for hotels, motels, restaurants and travel related services which are in any way related to the beach. For a set fee, SANDYSHORES.COM accepts an advertisement and a link to the site so that all who visit SANDYSHORES.COM will be able to immediately visit the website of the hotel restaurant or travel agency. The visitor will then be able to view prices and make reservations.

In just three years, SANDYSHORES.COM has become the largest vacation related website existing on the Internet. It boasts that it will increase traffic to a retail establishment's website by 1000 % and triple a company's revenues.

During 1997 Sonny Shore, the vice president for sales for SANDYSHORES.COM Inc, visited Donkeys' On The Rocks Inn in Barnstable, Massachusetts and solicited their business. Donkeys' On The Rocks Inn and SANDYSHORES.COM Inc then entered into a five-year contract which required Donkeys' On The Rocks Inn to pay SANDYSHORES.COM the sum of \$5,000.00 per year. The contract allowed Donkeys' On The Rocks Inn to place an advertisement on the SANDYSHORES.COM's website and a link to Donkeys' website would appear at SANDYSHORES.COM.

During the first two years of the agreement, things could not have gone better for Donkeys'

On The Rocks Inn. Its occupancy rate rose dramatically and its revenues increased by over \$10,000.00 per month. Unfortunately, Jay Donkeys and Sonny Shores had a falling out in the Spring of 1999. Sonny Shores claimed that Jay Donkeys cheated him out of money due from an unrelated personal transaction between them and because of that he would terminate the contract.

Sonny Shores terminated the contract the following week.

Donkeys' On The Rocks Inn consults you regarding this situation. It is terribly concerned that its removal from SANDYSHORES.COM is having a terrible effect on its revenues and summer bookings. Its revenues are now down \$15,000.00 from the previous month, bookings are very poor for the upcoming summer and things look pretty bleak.

What would you do?

PART TWO

Coherently and Concisely address the following:

CONTEMPT:

DE MINIMIS:

CONSTRUCTIVE AND RESULTING TRUSTS:

POST JUDGMENT REMEDIES:

BOND

LACHES:

ARBITRATION:

SPECIFIC PERFORMANCE:

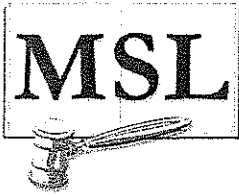
NUISANCE:

VERIFIED COMPLAINT:

PART THREE (Three Pages Maximum)

I think it is most important to recognize that Remedies . . .

myfiles/remediesfinal



**REMEDIES MIDTERM EXAM
PROFESSOR COYNE
SPRING 2010**

He who seeks equity must do so with equity.

Use your ID number on the blue book (which is the last six digits of your Social Security number plus the numbers "59"). Write legibly and coherently.

Your knowledge and ability to analyze the issues should be clear from the manner you express those thoughts on this test.

Write no more than six (6) handwritten pages using only one side of each paper or four (4) typed double spaced pages. I will not read anything that exceeds the page limitation.

PART I

Question One

Nine handicapped members of the Bliss Golf and Country Club, Inc. consult you regarding what they think are claims involving discrimination, and breach of contract claims. They allege that the Club, a place of public accommodation, discriminated unfairly against them because of their disabilities and breached their contractual agreements.

There were two major membership categories at the Club: primary and limited. Primary members had the broadest range of access to the golf course and facilities. The access of limited members was, well, limited. In 2009, there were 325 primary members, of who seven were handicapped. Among the ninety limited members, twenty-four had some form of disability. As those with disabilities lobbied to change their memberships to primary, the Club rules for making such a change, such as what payment needed to be made with an application, underwent frequent revision, and places on the waiting list for primary membership fluctuated without explanation. For example, one limited member with disabilities seeking primary status began the process as number nine on the waiting list but after some additional months had fallen to number eighteen. Some candidates unaccountably disappeared altogether from the waiting list for primary membership. The

able-bodied leapfrogged to primary membership while those with disabilities waited forever.

For limited members, starting time on the golf course-referred to in the record generally as “tee time”-was restricted. On Wednesdays, limited members could not tee off from 10 A.M. to 2 P.M.; on Saturdays and Sundays limited members could not play until after 1:30 P.M.; limited members could book tee times only twenty-four hours in advance and, as a practical matter, were, therefore, often frozen out. They often received far less in value from their \$2,500 per year memberships because of the limited tee times.

In the spring of 2010, Karen Richardson organized a “Civil Rights for the Disabled” tournament. The tournament quickly enrolled a field of 40 people with 72 people being the full complement of players. Robert Hanagan, the golf chair of the Club, told Richardson to fill out the field with “anyone you can get, forget those people they slow the course down anyway”. For failure to comply with Hanagan's edict, Richardson was summoned to appear before the Club rules committee. When the committee met in judgment of Richardson, Scott Gleason, a member of the committee, referred to Hanagan as “God when it came to golf at the Bliss Country Club and we do not defy God.” Punishment meted out to Richardson, an avid golfer preparing for the tournament, was biblically stern: she was suspended from play for twenty-one days and the tournament was threatened with cancelation. Richardson and Gleason are now scheduling another golf tournament for the same date.

On the other hand, when two long-term primary membership male members, one of whom was a member of the board of governors, cavorted in the buff with two servers in the Club swimming pool-an infraction of the rules-the response was indulgent. Volker Wrampe, the general manager was, upon inquiry, told by the Club president, “Not to worry about it. We do it all the time.”

Richardson and the 8 others are now in your office requesting your help. The tournament is 8 days away. How would you proceed and why?

PART 2

Define the following terms and then, if applicable, apply the terms to the fact pattern on the first page.

93A and 176D actions _____

Wang Test _____

Evidentiary Hearing _____

Expectancy and Reliance Damages _____

Bond _____

keep @ UVA w/ exam

**REMEDIES MIDTERM EXAM
PROFESSOR COYNE
SPRING 2008**

He who seeks equity must do so with equity.

Use your social security number on the blue book. Write legibly and coherently.

Your knowledge and ability to analyze the issues should be clear from the manner you express those thoughts on this test.

Write no more than six (6) handwritten pages using only one side of each paper or four (4) typed double spaced pages. I will not read anything that exceeds the page limitation.

PART 1

FIRSTYEARSUCCESS, Inc., a Massachusetts corporation located on Washington Avenue in Plymouth, Massachusetts, produces study review materials for law students and runs a website called FIRSTYEARSUCCESS.COM. All of FIRSTYEARSUCCESS' employees have signed non-compete/non-disclosure agreements precluding them from using any of the proprietary information belonging to the company and from working for any company in the same business in the United States for one year after they leave FIRSTYEARSUCCESS, Inc.

For an initial fee of \$500.00 and for \$10.00 per month, law graduates/students can sign up online with FIRSTYEARSUCCESS.COM to study for their examinations over the internet and place a description of themselves on the website to find suitable dates. The description provides their educational background and standards for dating. The contract that students execute online requires all disputes be resolved by binding arbitration in Omaha, Nebraska

In a short period, its proprietary and copyrighted study review materials and software has allowed FIRSTYEARSUCCESS, Inc. to become a leader in the field of study review materials. Unfortunately, its dating service has not been nearly as successful and there are many dissatisfied students who claim it is a scam. Two students have even been raped by their dates who were not law students but exconvicts who enrolled in the program while in prison. The students were badly beaten and suffered significant damages including medical expenses and lost wages. FIRSTYEARSUCCESS.COM's insurer has denied their claim for damages saying that the policy precludes claims for criminal activity.

Recently, Peter Peters, one of the founders of FIRSTYEARSUCCESS, Inc., left and started a competing company at 10 Franklin Pierce Place in Salem New Hampshire. Peters took customer lists, software and other proprietary material from

FIRSTYEARSUCCESS when he quit. He has also been encouraging a number of employees to leave FIRSTYEARSUCCESS, Inc. and join him at LawschoolU.com.Inc. Two of these employees, Sally Stone and Natasha Dean, recently left and joined LawschoolU.com.Inc.

Malguti, Stone and Dean, a real star of the study preparation business, reside in Salem New Hampshire. Peters encouraged Stone to break her contract and agreement with FIRSTYEARSUCCESS by giving her a salary of \$75,000 per year, allowing her to continue to work from home and submit her study examination questions, material and software programs through the Internet, as she had done with FIRSTYEARSUCCESS. Stone and Dean deny having any written agreement with FIRSTYEARSUCCESS.

FIRSTYEARSUCCESS, Inc.'s revenues have recently started to decline significantly because of the loss of the employees and the poor performance of its dating business. FIRSTYEARSUCCESS, Inc. consults with you and asks you to help. They want you to drive LawschoolU.com.Inc out of business at whatever cost.

Please discuss how you would proceed and why. Discuss what you expect is likely to happen and explain the procedural steps you would expect on this matter.

PART 2

Define the following terms and then, if applicable, apply the terms to the fact pattern on the first page.

93A and 176D actions

WangTest

Evidentiary Hearing

Expectancy and Reliance Damages

Bond

To begin, I would decide which meritorious claims to bring in accordance with Federal Rule of Civil Procedure 11. According to this rule, I have to make a good faith investigation into the actions and by signing the pleadings I have ensured that 1) they are based on good law, 2) based on reversing good law, and 3) not brought to waste the court's time or be frivolous.

First, I would determine whether to bring causes of action against Maraguti, Stone and Dean for violating the contractual non-compete agreements. In order for those to be enforceable, they must be reasonable in 1) scope of business, 2) Area (geograph) and 3) Duration that they limit to former employees. Although they are reasonable on the part of First Year Success to limit an ex-employee's ability to act within a year in the same business, it may be overbroad and unenforceable to compel these clauses to be enforced. I therefore, would not bring causes of action against Dean and Stone for violation of non-compete or non-disclosure of proprietary information.

However, I would bring a cause of action against Peters, who as one of the founders of First Year Success has started a new competing company called Law School U. To begin, I would draft a complaint in accordance with Fed. R. Civ. Pro. 8 and state clear and concise statements of fact that warrant relief for my client. In order to avoid dismissal, I would add all indispensable parties pursuant to ^{Fed} Rule 19 so that the action does not get dismissed. Next, I would, in accordance with Fed. R. Civ. Pro. 4, serve a copy of the complaint along with the summons on all defendants through a sheriff or

a notice pleading system. I would be careful and make sure that I plead all damages both equitable and monetary so that, if the case were to proceed, I would not be precluded to do so by either res judicata (claim preclusion) or collateral estoppel (issue preclusion).

I would bring an injunction against Peters and Landchoolju. Fed. Civ. Pro. (65) com because this necessitates an equitable remedy. In order to get an injunction I must prove that: 1) my client has no adequate remedy at law, 2) likelihood of success on the merits, 3) immediate, irreparable harm, 4) public policy issues are at stake and the balance of the harms lean towards granting an injunction. Firstyear success has no adequate remedy at law because money damages will not make them whole as the amount of damages by starting this competitive company cannot be reasonably calculated, but revenues have recently declined. Likely that my client will prevail as to enjoining the company since, with more discovery, it is likely that Landchoolju took off running as a result of Firstyear's proprietary information.

There is immediate irreparable harm because Firstyear is losing revenues from its study services daily. Additionally, public policy is against stealing of proprietary information and using it for deceptive gain. Similarly, Firstyear bears a severely greater burden for loss of proprietary information and employees since they are an already established business.

In getting an injunction, I would first move for a temporary restraining order ex parte. This is the earliest stage to get an injunction and I do not have to give notice

During ex parte injunction, I would also move for an ex parte impound of the proprietary information because exigent circumstances exist that place the future of First year on the line.

give formal notice; however, I do have to make a sufficient attempt. In moving for an injunction, I would have to support the motion with a verified complaint or affidavits. Since TRO only last for 10 days or until an evidentiary hearing, I would move for a preliminary injunction. Courts are willing to preserve the status quo - or leave parties in the last contested position they were in prior to suit - through a preliminary injunction. During the preliminary injunction stage, opposing counsel and I will have to present evidence at an evidentiary hearing. This is where evidence is presented under oath when either the credibility of witnesses is in dispute, or there are evidentiary issues in ~~sharp~~ ^{sharp} dispute. Here, the dispute would be over the proprietary information. This injunction will probably be upheld, but afterwards I may move for a permanent injunction to enjoin Landscholl forever, or until circumstances change, from using First year's proprietary information and ^{ex} employees from them. In moving for an injunction, I could either request a prohibitory or mandatory injunction. Here, it would be a prohibitory injunction to prohibit Landscholl from using my clients information. The parties would have to request the evidentiary hearing ~~during~~ for preliminary injunction because they are not presumed or indispensable.

When I move for an injunction, counsel for Landscholl may request that I give a security bond. The bond is to protect Landscholl in the situation that the injunction is improvidently given and needed for compensation. The

2/1 Fed R. Civ Pro 65 states that a bond is necessary, some jurisdictions have found that the court has such broad latitude and discretion that they can determine a bond is unnecessary.

For this case, I would bring it to Massachusetts State Court. I would do so because MA has subject matter jurisdiction over the controversy in this proprietary case. Most likely, the claims in this case will bypass \$75,000 because this company, FirstYear, has had a drastic crash in its revenues.

Additionally, there is complete diversity as the Plaintiff, FirstYear, ^{MA} has complete diversity as a MA corporation, with Peter and Lauren Hill, which live and are based in NH.

2/1 In joining these defendants, I would check with a long arm statute to personally serve them. Personal jurisdiction has established over defendants because they all have sufficient minimum contacts with FirstYear by working in MA. Venue is established because it is a ~~convenient~~ convenient place to bring suit. If the statute governing the case gave concurrent jurisdiction to both state and federal courts the defendant could, through removal jurisdiction, remove the case to federal court since diversity exists and none of them are from MA. Conf

2/1 The students who ~~wrongly~~ say that the website for dating is a scam could bring a class action suit ~~for~~ against my client under 93A, the Consumer Protection statute for unfair and deceptive practices. To bring a class action, they all must have been injured by the common law or fact and be too numerous for joinder. To be certified as a class they must

Adequacy of representation by named plaintiff. once certified, all settlements have to be accepted by the court because some people may not have adequate representation.

True individuals and the two that got raped may all sue. However, I would bring in the insurance company to cover our liability under Title D Unfair Claims Settlement Practices Act. It created a duty of insurance company to defend employees under insured ~~external~~ insurance policy. In order to do this, the acts must be done under & fulfill the Wang Test: 1) employee's actions of scope of employment 2) in time and space of employment, and 3) to advance motive of employee. Since this criminal activity is that of ~~outside~~ individuals, I would file a ~~criminal~~ ^{civil} claim against the rapists and bring them into indemnity ~~myself~~ ^{myself} ~~of~~ ^{of} company of liability.

As to the arbitration agreements, although they were part of an admission contract, they are enforceable if reasonable and no signs of coercion, or duress or fraud. Since the students could have rejected the contract, I would try to enforce the agreement. Although they have to travel, we are on the internet and readily available all over the web in US.

I would also file for 93(A) damages against Lanschool LI for First year because Lanschool LI acted with racially.

Keep answers
at exam

**REMEDIES MIDTERM EXAM
PROFESSOR COYNE
SPRING 2007**

He who seeks equity must do so with equity.

Use your social security number on the blue book. Write legibly and coherently.

Your knowledge and ability to analyze the issues should be clear from the manner you express those thoughts on this test.

Write no more than six (6) handwritten pages using only one side of each paper or four (4) typed double spaced pages. I will not read anything that exceeds the page limitation.

PART 1

BAREXAMBOOTCAMP, Inc., a Connecticut corporation located on Washington Avenue in Hartford, Connecticut, produces bar review materials for law students and runs a website called BAREXAMBOOTCAMP.COM. All of BAREXAMBOOTCAMP's employees have signed non-compete/non-disclosure agreements precluding them from using any of the proprietary information belonging to the company and from working for any company in the same business in the United States for one year after they leave BAREXAMBOOTCAMP, Inc.

For an initial fee of \$1000.00 and for \$10.00 per month, law graduates/students can sign up online with BAREXAMBOOTCAMP.COM to study for the bar examination over the internet and place a description of themselves on the website. The description provides their educational background and qualifications for employment in the hopes that they will find employment. The contract that students/graduates execute online requires all disputes be resolved by binding arbitration in Washington D.C..

In a short period, its proprietary and copyrighted bar review materials and software has allowed BAREXAMBOOTCAMP, Inc. to become a leader in the field of bar review materials. Unfortunately, its law placement service has not been nearly as successful and there are many dissatisfied graduates who claim it's a scam.

Recently, Peter Malaguti, one of the founders of BAREXAMBOOTCAMP, Inc., left and started a competing company at 10 Franklin Pierce Place in Salem New Hampshire. Malaguti took customer lists, software and other proprietary material from BAREXAMBOOTCAMP when he quit. He has also been encouraging a number of employees to leave BAREXAMBOOTCAMP, Inc. and join him at BOOTCAMPU.com.Inc. Two of these employees, Sally Ramirez and Natashja Lucien, recently left and joined BOOTCAMPU.com.Inc.

Malguti, Ramirez and Lucien, a real star of the bar preparation business, reside in Lawrence, Massachusetts. Malaguti encouraged Lucien to break her contract and agreement with BAREXAMBOOTCAMP by giving her a salary of \$750,000 per year, allowing her to continue to work from home and submit her bar examination questions, material and software programs through the Internet, as she had done with BAREXAMBOOTCAMP. Ramirez and Lucien deny having any contract with BAREXAMBOOTCAMP.

BAREXAMBOOTCAMP, Inc.'s revenues have recently started to decline significantly because of the loss of the employees and the poor performance of its placement business. BAREXAMBOOTCAMP, Inc. consults with you and asks you to help. They want you to drive BOOTCAMP out of business at whatever cost.

Please discuss how you would proceed and why. Discuss what you expect is likely to happen and explain the procedural steps you would expect on this matter.

PART 2

Define the following terms and then, if applicable, apply the terms to the fact pattern on the first page.

93A and 176D actions

WangTest

Evidentiary Hearing

Expectancy and Reliance Damages

Bond

SAMPLE ANSWER REMEDIES

The first issue to be examined is whether there is a cause of action which can be pursued in compliance with the requirements of Federal Rule of Procedure II. I would examine the noncompete and nondisclosure agreements to ensure they can be enforced. I would also carefully examine the facts of the case concerning the employees' actions to determine if we can proceed with a complaint based on existing law or the good faith belief that we would overturn existing law. The case on nondisclosure seems to be very strong assuming we can prove the theft of proprietary company property. The noncompete contracts are somewhat more problematic as they must be reasonable in terms of duration and geographic limitations. The one year time frame is not completely unreasonable however the prohibition on working in the United States will result in a significant preclusion of the employees' ability to earn a living. Courts are reluctant to enforce an agreement that is not reasonable limited and this one will be difficult to enforce particularly since it is unclear that any of their skills or products would be protected as intellectual property. I would not recommend action against Lucien and Ramirez as their agreements appear too broad to be enforceable.

I would however pursue a cause of action against Mr. Malaguti. I would draft a complaint, clearly stating the facts, and requesting the proper relief of expectancy damages based on the revenues that the company would have earned but for the actions of Mr. Malaguti in breaching his contract to not use proprietary information owned by BAREXAMBOOTCAMP.COM and injunctive relief. The amount of damages would have to be exclusive of the losses suffered as a result of the placement service as it was already in financial difficulty making causation harder to prove. I would seek a

temporary restraining order to prevent BOOTCAMP from operating and requesting the seizure of software, customer lists and other proprietary materials. The temporary restraining order is needed ex parte to prevent the defendants from destroying any evidence. The evidence gathered could then be used in the evidentiary hearing that will be required to get a preliminary injunction, since it is likely that the facts are in sharp dispute. Temporary restraining orders is only good for ten days and at that point I will have a hearing on the preliminary injunction.

To obtain the injunction, we will need to show that there is (1) no adequate remedy at law, (2) we are likely to succeed on the merits, (3) the balance of harm favors granting our request, (4) my client will suffer immediate, irreparable harm if the injunction is not granted, (5) any public policy issues from granting the injunction. On the first factor, money alone will not make my client whole. He has lost his intellectual advantage in the market as well as the loss of value to his business. Without relief, his business will likely suffer irreparable damage and perhaps go out of business. Those damages will be difficult if not impossible to quantify and therefore justify equitable relief.

Factor number two is not based on the fact that the defendants knowingly violated the contract, the nondisclosure agreement and took company material. This can be seen in the speed by which they are able to establish the competin business and will be shown by the evidence seized. As to the balance of the harms, my client has lost revenues, expenses caused by the employees leaving and loss of the goodwill of his business. The defendants on the other hand have not are just beginning to do business and it is likely they have done so with intellectual property belonging to my client. Public policy issues

also weigh in my client's favor. The economy cannot function smoothly and efficiently if contracts are not honored, therefore public policy weighs on the side of enforcing the contract.

Finally, my client has already suffered significant harm to his business, his employees and property. This harm can not be undone.

While the defendants will insist they will be harmed if the injunction is issued, we will be required to post a bond to indemnify them from damages, should the court later determine the injunction should not have been granted. However, if the injunction is granted after the evidentiary hearing, it is unlikely that the injunction will be later found to be granted in error.

The disgruntled customers of the placement service will probably have to arbitrate if they were aware of the arbitration clause before purchasing the service arguably even though this was an adhesion contract. There was no bargaining and the parties were in on unequal position but if the buyer was notified he nonetheless had a choice, either to enter the contract as clearly there are many choices for placement services.

I would file my action in Connecticut State Court, as it has subject matter jurisdiction and provides the home court advantage. I would use the state long arm statutes and comply with FRCP 4 to issue a summons to defendants in other states. Being sure to name all necessary parties to avoid dismissal under rule 19. Since Federal courts have concurrent jurisdiction and because all plaintiffs and defendants are from different states, there is complete diversity. If the amount in controversy exceeds \$75000, then a defendant could remove any action file din state court to Federal Court, as long as none of the defendants are from the state which the Federal court sits. Venue

would be a reasonable venue as it is close to the plaintiff location, near where the cause of action occurred and arguable not pose a hardship on most defendants.

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REMEDIES MIDTERM EXAM
PROFESSOR COYNE
SPRING 2006

Lost Maxims of Equity
(For good reason)

Equity delights in a good practical joke.
He who seeks equity must do so with full pockets.
Equity is not for the squeamish. Equity, schmequity.
Equity, like all of us, prefers the rich and good-looking.

Uncovered by Eugene Volokh

Use your social security number on the blue book. Write legibly and coherently.

Your knowledge and ability to analyze the issues should be clear from the manner you express those thoughts on this test.

Write no more than six (6) handwritten pages using only one side of each paper or four (4) typed double spaced pages. I will not read anything that exceeds the page limitation.

PART 1

PASSBAR, Inc., a Rhode Island corporation located on Atwell Avenue in Providence, Rhode Island, produces bar review materials for law students and runs a website called PASSBAR.COM. All of PASSBAR's employees have signed non-compete/non-disclosure agreements precluding them from using any of the proprietary information belonging to the company and from working for any company in the same business in New England for one year after they leave PASSBAR, Inc.

For an initial fee of \$500 and for \$200.00 per month, law graduates/students can sign up online with PASSBAR.COM to study for the bar examination over the internet and place a description of themselves on the website. The description provides their educational background and qualifications for employment in the hopes that they will find employment. The contract that students/graduates execute online requires all disputes be resolved by binding arbitration in Key West, Florida.

In a short period, its proprietary and copyrighted bar review materials has allowed PASSBAR, Inc. to become a leader in the field of bar review materials. Unfortunately, its

law placement service has not been nearly as successful and there are many graduates who feel cheated out of the money they paid for that service.

Recently, Joe Jujitsu, one of the founders of PASSBAR, Inc., left and started a competing company at 1 Wollaston Boulevard in Quincy, Massachusetts. Jujitsu has been encouraging a number of key employees to leave PASSBAR, Inc. and join him at PASStheBAR.com.Inc. Two of these employees, Anthony Ramirez and Douglas Dean, recently left and joined PASStheBAR.com.Inc.

Dean resides in Andover, MA. Ramirez, is a real star of the bar preparation business. Jujitsu encouraged Ramirez to break his contract and agreement with PASSBAR by giving him a salary of \$750,000 per year, allowing him to continue to work from New London, Connecticut and submit his bar examination questions, material and software programs through the Internet, as he had done with PASSBAR. Ramirez denies having any contract with PASSBAR.

PASSBAR, Inc.'s revenues have recently started to decline significantly because of the loss of the employees and the poor performance of its placement business. PASSBAR, Inc. consults with you and asks you to help.

Please discuss how you would proceed and why. Discuss what you expect is likely to happen and explain the procedural steps you would expect on this matter.

PART 2

Define the following terms and then, if applicable, apply the terms to the fact pattern on the first page.

Common Law Fraud Action _____

WangTest _____

Evidentiary Hearing _____

Expectancy and Reliance Damages _____

Receiver _____

Myfiles/Remedies.medtermSpring2006

**REMEDIES MIDTERM EXAM
PROFESSOR COYNE
SPRING 2005**

Lost Maxims of Equity

(For good reason)

Equity delights in a good practical joke.

He who seeks equity must do so with full pockets.

Equity is not for the squeamish. Equity, schmequity.

Equity, like all of us, prefers the rich and good-looking.

Uncovered by Eugene Volokh

Use your social security number on the blue book. Write legibly and coherently.

You will be graded on your knowledge, ability to analyze the issues and your treatment of the issues.

No more than six (6) pages handwritten, one side only or three (3) typed double spaced pages. I will not read anything that exceeds the page limitation.

PART 1

A and C Media, Inc., a Massachusetts corporation located on Essex Street, Lawrence, Massachusetts, produces software for attorneys and runs a website called AttorneyandCounselor.com. All of its employees have signed non-compete/non-disclosure agreements which preclude them from using any of the proprietary information belonging to the company and from working for any company in the same business in New England for one year after they leave A and C Media, Inc. For two hundred dollars (\$200.00) per month, AttorneyandCounselor.com allows attorneys to place a description of their law firm on the website, describing the educational background, clients, specialties, qualifications and rates of the members of the firm. In a short period of time, its proprietary and federally copyrighted software has allowed A and C Media, Inc. to become a leader in its field with revenues of over a million dollars per year.

Recently, Joe Cropani, one of the founders of A and C Media, Inc., left and started a competing company at 60 State Street in Boston, Massachusetts. Cropani has been encouraging a number of key employees to leave A and C Media, Inc. and join him at

GreatLawyers.com.Inc. Two of these employees, Beverly Anthony and Charlie Douglas, recently left and joined Greatlawyers.com.Inc. Douglas resides in Andover, MA.

Beverly Anthony, is a real star of the web design business who rarely leaves her home in Greenwich, Connecticut.. Cropani encouraged Anthony to break her contract and agreement with A and C Media by giving her a salary of \$550,000 per year, allowing her to continue to work from Greenwich, Connecticut and submit her completed work through the Internet, as she had done with A and C Media. Anthony denies having any contract with A and C Media.

A and C Media, Inc.'s revenues have recently started to decline significantly. A and C Media, Inc. consults with you and asks you to file suit to stop this damage to its business.

Federal law forbids the use of copyrighted software belonging to another for competitive advantage.

Please discuss how you would proceed and why. Please also explain the procedural steps involved in this matter.

PART 2

Define the following terms and then, if applicable, apply the terms to the fact pattern on the first page.

Findings of Fact and Conclusions of Law_____

Wang Test _____

Evidentiary Hearing _____

Expectancy and Reliance Damages _____

Injunctive Relief _____

**REMEDIES MIDTERM EXAM
PROFESSOR COYNE
SPRING 2004**

*I know what is legal, not what is right.
And I'll stick to what is legal . . . I'm not God.*

Sir Thomas More

Use your social security number on the blue book. Write legibly and coherently.

You will be graded on your knowledge, ability to analyze the issues and your treatment of the issues.

No more than five (5) pages handwritten, one side only, three (3) typed double spaced pages. I will not read anything that exceeds the page limitation.

PART 1

Pete Peters of Kittery, Maine was the chief academic officer for PassBar.Com.Inc., a Delaware corporation with offices in Orlando, Florida and Providence, Rhode Island. PassBar.Com's proprietary software allows for students to prepare to pass the bar examination by taking classes over the internet. All of its employees sign Confidentiality/Nondisclosure /Noncompete Agreements, preventing them from disclosing proprietary company information to anyone and prohibiting them from working for any competing online company for one year after departing the company. PassBar.Com has an insurance policy with New Bahama's Insurance headquartered in Nassau, Bahamas, providing for protection against the theft of company property.

Last month Peters, along with eight other employees, left PassBar.Com to create Passthe Bar.Com and formed a New York corporation with offices in New York City. Two week ago, PassBar.Com discovered that its new testing software, course, customer lists, designs and other proprietary information was missing. The company also discovered that Peters had recently registered the domain name Passthebar.com and is now attempting to lure students and other employees to the new company.

The company is irate with Peters and the others and demands that you "drive them out of business anyway you can as they are killing us." The company feels that it has already been significantly damaged, as it has lost a few customers to this new company.

Please write an essay describing what steps you would take to remedy this problem, and how you would expect the Court to deal with the procedural issues necessary to resolve this matter.

PART 2

Define the following terms and then apply the terms, if applicable, to the fact pattern on the first page.

Choice of Forum Clause

Rascality

176D

Injunctive Relief

Findings of Fact and Conclusions of Law

Myfiles/Remedies.medtermSpring2004

**REMEDIES MIDTERM EXAM
PROFESSOR COYNE
SPRING 2003**

*Convention is like a shell to the chick, a protection
till he is strong enough to break it through.*

Learned Hand

Use your social security number on the blue book. Write legibly and coherently.

You will be graded on your knowledge, ability to analyze the issues and your treatment of the issues.

No more than five (5) pages handwritten, one side only, three (3) typed double spaced pages. I will not read anything that exceeds the page limitation.

Peter Devlin of Salem, New Hampshire was the chief software designer for EsportsInfo.com, Inc., a Florida corporation with offices in Orlando, Florida and Andover, Massachusetts. EsportsInfo.com's proprietary software allows for the high quality transmission of live sporting events over the internet. EsportsInfo.com is an online sports website which requires its employees to sign Confidentiality/Nondisclosure /Noncompete Agreements, preventing their employees from disclosing proprietary company information to anyone and prohibiting these employees from working for any competing online company for one year after departing the company. EsportsInfo.com has an insurance policy with New York Insurance, a corporation, providing for protection against the theft of company property.

Last month Devlin informed EsportsInfo.com, Inc. that he would no longer be working at EsportsInfo.com and along with eight other employees would be leaving to create Esports.net, a division of P.D., Inc., a Maine corporation with offices in Portland, Maine. Two weekends ago, EsportsInfo.com discovered that its new marketing plan, software designs and other proprietary information was missing. The company also discovered that Devlin had recently registered the domain name Esports.net and is marketing a product similar to EsportsInfo.com's advanced design for transmission of sporting events over the internet that Devlin helped design.

The company is livid with Devlin and the others and demands that you "drive Devlin into the ground and bury those clowns," before they can ruin its business. The company feels

that it has already been significantly damaged, as it has lost a few customers to P.D., Inc., d/b/a Esports.net and wants you to help rectify the situation.

Please describe what steps you would take to remedy this problem, and how you would expect the Court to deal with this situation.

Myfiles/Remedies.medtermSpring2003

**REMEDIES MID-TERM
PROFESSOR COYNE
SPRING 2002**

*The only thing necessary for the triumph
of evil is for good men to do nothing.*

Edmund Burke

No more than five (6) pages handwritten, one side only, five (5) typed double spaced pages. I will not read anything that exceeds the page limitation.

QUESTION ONE

A and C Media, Inc., a Massachusetts corporation located in Lawrence, Massachusetts, produces software for attorneys and runs a website called AttorneyandCounselor.com. For two hundred dollars (\$200.00) per month, AttorneyandCounselor.com allows attorneys to place a description of their law firm on the website, describing the educational background, clients, specialties, qualifications and rates of the members of the firm. In a short period of time, A and C Media, Inc. has become a leader in its field with revenues of over 13 million dollars per year. Recently, Joe Cropani, one of the founders of A and C Media, Inc., left and started a competing company in Boston, Massachusetts. Cropani has been encouraging a number of key employees to leave A and C Media, Inc. and join him at GreatLawyers.com.Inc. Two of these employees, Beverly Anthony and Charlie Douglas, recently joined Cropani's new company and A and C Media, Inc.'s revenues have recently started to decline significantly.

One of the employees, Beverly Anthony, is a real star of the web design business who rarely leaves her home in Stanford, California. Cropani encouraged Anthony to break her contract with A and C Media by giving her a salary of \$250,000 per year and by allowing her to continue to work from Stanford, California and submit her completed work through the Internet, as she had done with A and C Media. Douglas had recently been let go by A and C Media.

When Cropani announced the opening of GreatLawyers.com.Inc., all of his new employees, including Ms. Anthony and Mr. Douglas were pictured on the front page of *The Boston Globe* at their world headquarters in Boston.

A and C Media, Inc. has now entered suit against GreatLawyers.com.Inc., Cropani, Anthony and Douglas in Essex Superior Court seeking, among other things, injunctive relief. You have been asked to defend this matter. What steps would you take to protect your client's rights.

**REMEDIES MIDTERM EXAM
PROFESSOR COYNE
SPRING 2001**

Unjust laws exist: shall we be content to obey them

Henry David Thoreau (1849)

Use your social security number on the blue book. Write legibly and coherently.

You will be graded on your knowledge, ability to analyze the issues and your treatment of the issues.

No more than five (5) pages handwritten, one side only, three (3) typed double spaced pages. I will not read anything that exceeds the page limitation.

Stephen Shuttoff of Salem, New Hampshire is a hotshot website designer for CyberU.com, a California corporation with offices in Santa Monica, California and Andover, Massachusetts. CyberU.com is an online educational website which requires its employees to sign Confidentiality/Nondisclosure /Noncompete Agreements, preventing its employees from disclosing proprietary company information to anyone and prohibiting employees from working for any competing educational institution for one year after departing CyberU. CyberU's employees are also bonded and insured by BigInsurance of America, a Connecticut corporation, which provides for protection against the theft of company property.

Last Friday Shuttoff informed CyberU that he would no longer be working at CyberU and along with three other employees would be leaving to join College 247.com, Inc. which calls itself the Internet's leading educational portal. Over the weekend, CyberU discovered that its new marketing plan, website design and other proprietary information was missing. The company also discovered that Shuttoff had recently registered the domain name CyberU.net. College 247.com was now using the name CyberU.net to redirect mistaken CyberU.com visitors to its site.

The company is livid with Shuttoff and the others and demands that you "cripple" Shuttoff before he can ruin its business. The company feels that it has already been significantly damaged and wants you to help rectify the situation.

Please describe what steps you would take to remedy this problem, and how you would expect the Court to deal with this situation.