

CIVIL PROCEDURE AND CONFLICT RESOLUTION

Fall 2009 Final Examination
Professor Coyne

Tyranny begins where law ends.

William Pitt

Number: _____

Please answer the short answer questions on page two first.

Please review this question, reflect on it and consider solutions to the problem. Please address the issues and propose a solution to this problem.

Use only your Identification Number on this examination and blue book. Please answer this problem in no more than six handwritten pages. I will evaluate your answer on your knowledge of the law, ability to recognize issues and your analysis of these issues.

Caroline James and Kathy Demetria were best of friends. A few years ago they began making investment decisions together. Caroline lives in Boston, Massachusetts and until a few months ago, Kathy lived in Salem, New Hampshire. Recently, as her fortunes waned, Kathy moved to Caroline's apartment while she looked for her own place. "I'm so glad to be out of cow country forever, and feel at home here with you in Boston, who knows how long I'll stay," she told Caroline. She continued to have most of her mail delivered to her parent's house in Salem, New Hampshire.

Caroline and Kathy both worked at the law firm of Dewey, Cheatem, & Howe in downtown Boston. On the recommendation of one of the partners Dan Dewey, they started using a financial consultant, Adam Absconds Inc., who was a client of the firm and who has offices in Manhattan, Boston and Concord, New Hampshire to advise on their investments. Absconds is well known in the area as he lives on the ocean in Rye, New Hampshire

After viewing the firm's website www.AbscondsFastMoney.com, they each invested a substantial amount of money with Absconds in a private real estate investment trust run by TrojanWarrior, Inc. Absconds, who said it was a "guaranteed" 17% return per year, pushed it

very heavily. He presented them with very impressive written material provided by TrojanWarrior. Absconds indicated that he had invested in a different TrojanWarrior real estate trust a year ago, and was doing “fabulous, just fabulous.” TrojanWarrior, Inc. is a Connecticut corporation, with offices in Princeton, New Jersey and in Dallas, Texas. Their Chief Investment Officer works in the Bahamas and manages some overseas investment accounts from there. What real estate trust investments that were actually made, were made exclusively in Texas real estate ventures, and were managed and supervised by the Dallas office. While approval to start a new real estate venture comes from Princeton, all the actual work, financing and control is set in Dallas or the Bahamas.

Within a few months of investing, the economy hit the skids and something appeared terribly amiss with their investments. Caroline and Kathy learned that TrojanWarrior, Inc. was in real trouble with the Texas regulators over phony real estate investments, including those invested in by them. The Texas regulators had summarily issued a cease and desist order against Trojan Warrior preventing them from doing business in Texas because of fraudulent business practices. The Federal Securities Exchange Commission also did the same for violating the SEC Consumer Disclosure Act.

Kathy and Caroline quickly discovered that they were not alone and that many investors had lost their life savings. Absconds took his money and fled to an island in the Bahamas living fat and happy. The women lost hundreds of thousands of dollars. The Massachusetts Attorney General has recently filed suit and obtained an injunction preventing further violations of the Massachusetts Consumer Protection Statute or G.L. 93A.

TrojanWarrior’s overseas investments are doing fine. Kathy in particular was devastated by the loss of her life savings, and suffered a heart attack. Caroline and Kathy now consult you regarding this matter. What is your advice to them? How would you proceed and why?

Fact Pattern for Short Answer Questions

I Pilot, Inc., a corporation headquartered and incorporated under California law, manufactures I Pilot organizers at its plant in Portland, New Mindiana. It calls itself the first manufacturer of I Pilot organizers in the world in its advertisements in *US*, a national magazine. I Pilot Inc. sells the I Pilots through its retail stores in LA, California and Albany, New York and

Specific and General Jurisdiction

Standards of Proof
