

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

