

SECTION 1

1. Is it ethical for a lawyer to not attempt to give any notice on a TRO in order to obtain a tactical advantage in presenting the matter to the judge?
2. Under what circumstances would seeking an injunction help to force a speedier resolution of a case?
3. Are there any circumstances that you think would be appropriate to 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 desire for an early settlement that may be beneficial to them in terms of limiting expenses and obtaining satisfactory relief?
5. What does a court sitting in equity do to achieve a fair resolution of case?
6. Was Weinberger decided in accordance with longstanding legal principles, politics or prejudice?

SECTION 2

1. What must an individual prove in order to establish an ADA claim?
2. What are the time limits for filing an ADA claim? Where must any claims be filed?
3. Are there some claims and rights that public policy should prohibit an employee from waiving as a condition of employment?
4. What will you do to ensure that you stay abreast of developments in the law?
5. How many employees must a company have in order to be subject to an ADA claim? Does it make a difference if those employees are full or part-time?

SECTION 3

1. How does the law define “traditional notions of fair play and substantial justice?”
2. What could Rudzewicz and McShara have done to avoid the exercise of personal jurisdiction in Florida?
3. How does a disparity in bargaining power affect one’s constitutional and contractual rights that the parties entered agreed to?
4. What conduct by a business that is practiced against another business would constitute violation of G.L.c.93A?
5. Is it appropriate or ethical for Athanas’ attorneys’ to defend this suit knowing that their client reneged on the agreement simply because he didn’t feel sufficiently compensated?
6. How would you handle the expectations, demands, and attitude of a client like Athanas?
7. How is the covenant of good faith and fair dealing interpreted in Massachusetts?

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 it appropriate to seek an Ex Parte order?
3. What are the requirements of Rule 11?
4. What technology will you use to make you a better lawyer?
5. What is a class action?
6. What are the standards for a class action?
7. What are your technological strengths?
8. What are your technological weaknesses?
9. What additional technological skills will you acquire or master in the next year?
10. What do you think the essential skills or qualities are that a lawyer should possess for which no allowance can be made?

SECTION 5

1. Describe the factors the court looks at in determining if an injunction should issue?
2. When must the court hold an evidentiary hearing before issuing a preliminary injunction?
3. What is a Receiver?
4. What does a Magistrate do in Federal Court?
5. What do you wish you understood better about Civil Procedure?
6. When must findings of fact and conclusions of law be made? How are they made?

SECTION 6

1. What are the grounds for filing a Motion to Dismiss?
2. Under what circumstances is it appropriate to file a Motion to Dismiss?
3. Under what circumstances may a matter be removed from state court to federal court?
4. What standard does the appellate court use in reviewing a lower court's decision on injunctive relief?
5. What factors are considered in determining the size of an injunction bond?
6. What are the four essential elements of a common law fraud action?
7. What were Aoude's most significant mistakes?

SECTION 7

1. What is the standard for Summary Judgment?
2. What is the standard of review on appeal concerning the granting of Summary Judgment?
3. What are the factors the court considers in determining if an employee's tortious conduct was performed within the scope of his employment?
4. You are injured in an amusement park after getting into a scuffle with the operator of a ride after making fun of him because of his mullet. Your leg is broken in the fight. Is the amusement park company liable?
5. Describe the conduct that would be actionable under G.L. 176D.
6. Under what circumstances is it appropriate for an insurance company to settle a claim over its insured's objections?
7. What must be established in order to be successful on a 93A claim, and what are the prerequisites to bringing such a claim?

SECTION 8

1. On virtually all of your online purchases there are terms that you accept without reading by clicking “I Accept.” Are you bound by all the terms of that agreement you chose not to read? Are there any clauses within that type of contract that you believe cannot be enforced?
2. Go to Instagram or Twitter and find the user agreement for that app. What provisions are there for choice of forum, choice of law, limitations of liability and ownership of content you post or that others post concerning you?
3. On the registration form you sign each semester at MSLAW 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. Should the reason for the dispute you have with the Massachusetts School of Law affect the enforceability of these clauses?
4. How would you research the background of the judge you are appearing before and how would the results from that research affect your strategy?
5. How does a required arbitration clause in a contract affect your right to obtain injunctive relief on an emergency basis?

SECTION 9

1. Is what Warner Wolf's lawyers did great lawyering or unethical?
2. Shouldn't an individual have the right to speak out under the 1st Amendment and still retain their job or can an employer terminate an employee simply because the employer doesn't like what the employee has to say?
3. What rights should a woman who carries another's fertilized egg to term have to future contact with that child? 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? Are there any Massachusetts or New Hampshire statutes that govern such rights?
5. As a matter of principle or morality, should the selling of an individual's biological material including eggs or sperm be prohibited?
6. What provisions would you put in a surrogacy agreement that you would expect a court to enforce?

SECTION 10

1. Under what circumstances does the law permit wealthy parents to recover damages when a vasectomy, which was supposed to ensure that husband would father no more children, turns 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. What are the statutory prohibitions in Massachusetts or New Hampshire that seek to preserve the status quo and marital assets during the pendency of divorce proceedings?

SECTION 11

1. How do you calculate 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 instructions to the jury? When are they used? Provide three examples of proposed instructions to the jury.
4. How would you prove damages for pain and suffering?
5. What relevant evidence would you offer in an effort to prove the value of your damaged or destroyed real estate?

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 criminal activity?
4. What other classic equitable remedies are there?
5. List and define the classic equitable defenses to an action seeking equitable relief.

SECTION 13

1. How does the law define a public nuisance?
2. Now does the law define a private nuisance?
3. Under what circumstances can a single activity give rise to private and public nuisance actions?
4. What is a de minimis encroachment?
5. Why was *Myers v. Arnold* rightly decided?
6. Define what constitutes a compulsory and a permissive counterclaim?

SECTION 14

1. What are the legal requirements of a resulting trust and a constructive trust?
2. What are common examples of actions that give rise to a resulting trust?
To a constructive trust?
3. Please explain fraudulent concealment, estoppel and laches.
4. Under what circumstances may civil courts become involved in resolving “church matters?”
5. To what extent does the 1st Amendment protect nonmainstream religious entities from legal liability?
6. Are there any disputes that a civil court should entertain if the Defendant is an established religious entity? Why?

SECTION 15

1. What post judgment remedies are commonly used?
2. What steps can one take to attempt to collect a judgment? Describe the various measures that should be employed in order to recover monies due on an outstanding judgment.
3. What must be proven in order to succeed on a RICO action?
4. What is the standard used in order to approve the grant of an attachment?
5. When is it appropriate to seek an attachment?
6. What is an Offer of Judgment? What are the ramifications to an Offer of Judgment?