RESTITUTION IN LAW AND EQUITY

Joe (the wrongdoer) misappropriates $5,000 from Anne in January. In each instance indicate the remedies available to Anne. Assume that conversion and other tort remedies are not available or are inappropriate. See 1992 Ark. L. Notes 1. See pages 831-856.

A) Joe spent $1,000 on a trip to Hot Springs and lost the remaining $4,000 at the track in February.

B) (1) Joe used the $5,000 to purchase Blackacre in March.

(2) Joe purchased Blackacre for $5,000, held it for 3 months and has now sold it for $12,000.

(3) Joe took the proceeds of $12,000 from the sale of Blackacre, and purchased Greenacre for $12,000 in June.

(4) Joe built a vacation cabin on Greenacre, and its improved fair market value is $18,000, including $3500 of materials purchased by Joe, $2000 worth of Joe's labor and $500 due to inflation. In addition to the remedy, please also consider the amount of the judgment and how the judgment should be drafted).

(5) Same as (4), but Joe has a fish fry at the cabin and earns $500.

(6) Joe transferred Greenacre, as improved, to Smith for $20,000 in August. Joe left the country with the $20,000. Smith now owns the land; Smith knows nothing about Anne or Joe's misappropriation.

(7) Same as (6), but Smith still owes $8000 to Joe and must pay that amount in six months. (Joe has left the country with the other $12,000).

C) Joe purchased stock that increased in value to $7,000.

D) Joe purchased stock that has dropped in value to $2,000.

E) Joe purchased Lot 64 in March for $5000. Joe is sued in April by a third party Patricia for $15,000 on an assault and battery claim. The court awards $15,000 in May. Anne sues Joe in June.

F) Joe purchased Lot 99 for $5000 on March 1. In April he borrowed money from Sam and gave him a mortgage on Lot 99. In May he defaults on the promissory note and declares bankruptcy.

G) Joe purchased a Corvette for $5000. In April he borrowed money from Tony and gave him a perfected security interest in the Corvette. In May he defaults on the promissory note and declares bankruptcy.

Bonus: Give five reasons why a constructive trust might generally be preferred over a legal remedy.

II. Joe wrongfully acquires $7,000 from Barbara.

H) Joe used the $7,000 to purchase materials and pay laborers to add a room addition to a log cabin on Whiteacre, which he has owned for five years.

I) Joe used the $7,000, with $7,000 of his own money, to purchase Redacre for $14,000.

J) (1) Together with $7,000 of his own money, he purchased stocks that have increased in value to $42,000.

(2) The stocks purchased have dropped to $8,000.

(3) The stocks have dropped to $4,000.

K) Joe used the $7,000 to pay off a note that he owed to the Second National Bank. The note was at 15% interest. (Loans are today being made at 10%).

09/T/25