NUISANCES

Scan pages 77-82, 344-360, 501-505, looking for principles and ideas. Be prepared to discuss the following examples. Read Ark. Code Ann. § 2-4-102 et seq. § 28-3, 28-4. See 1994 Ark. L. Notes 1.

1) Damages

a) For two months a cement factory emitted excessive dust, causing damages to the home of a nearby family. What can the family recover? Be imaginative.

b) An auto shredding plant operates twenty-four hours a day with resulting noise, vibration and air pollution that damages nearby homes and property and seriously affects the ability of residents to live and work comfortably.

2) Injunctive relief

a) The odor, flies and noise from a brooder house for 40,000 broilers disturb other residents of rural Washington County.

b) A rendering plant near Siloam Springs puts out such offensive odors that people within several miles are unable to sleep at night or to eat their meals without nausea.

c) The dust and noise from the Benton Speedbowl (a dirt motorcycle track) disturb nearby residents.

d) The Episcopal Church operates a soup kitchen for the homeless and vagrants. The neighbors complain and seek an injunction.

e) Same as (d), but the property in question is the River City nightclub on North College Ave. in Fayetteville adjacent to the Historic District.

f) Neighbors sue a Little Rock resident who puts up 1.6 million Christmas lights, gives out 30,000 candy canes and distributes 20,000 photographs of the decorated house to the thousands of visitors who drive by in December.

g) In a pleasant Fayetteville subdivision, Sam Spite constructs, on the border of his property, a fence 50 feet long and 10 feet high. The fence deprives his neighbor of sunlight and a view of the mountains. See #7, page 359.

3) Restitution

a) Same facts as #1(a), but the plaintiff wishes to waive the tort and sue in assumpsit.

b) Same facts as #2(e), but the neighbors seek a restitutionary recovery from the nightclub.