

# Fall 1994 Remedies Final

Mr. Brill

1. Questions 1, 2 and 3 are worth 20 points. 40 points

Answer two.

Question 4 is worth 10 points. 10 points

The 50 multiple choice questions are worth 50 points. Answer them and `return` the questions. 50 points  
100 points

2. This examination is designed for 4 hours. The questions will be graded on the quality of analysis, thought and conclusions, not on the number of words. You have 4.5 hours to complete the exam. The additional time is to permit better organization, more careful thinking and neater handwriting.

3. Read the questions carefully. Particularly note whether you are to be a judge, advocate, adviser or dispassionate scholar.

4. In answering the essay questions:

a) You may answer the questions in any order you wish.

b) Begin the answer to each question on a new page of the blue book.

c) Write on each line, but only on one side of the page. (The other page may be used for corrections and belated additions to your answer.)

d) on the front of the blue book, put the number of each question answered within.

5. You may use the Arkansas Statutory Supplement to complete this examination. You may also use the back of the supplement for a comparable number of pages for other written materials.

6. Your grade on the essay questions is based upon the context of your answers and the manner in which you communicate your knowledge. Grades may be lowered for essays that so violate fundamental rules of grammar and style that the reader's ability to comprehend the content is impaired.

7. Put everything (multiple choice questions, pencils, scantrons, qualification sheets, blue books) in the box at the front of Room 113 by 1:00 p.m.

8. The multiple choice questions are to be answered on the scantron. FAILURE TO RETURN THE MULTIPLE CHOICE QUESTIONS WILL RESULT IN FAILURE IN THE COURSE.

Bill and Ann Hill have known Ray Baker for many years. Mr. Baker is now 80 years old and in declining health. The Hills offer to move into the home of Mr. Baker, to furnish all food and meals for him, to do laundry, to maintain the house, and to provide some other household services. They promise to provide the services as long as he lives. In `return`, Mr. Baker would sign a warranty deed to his real property (which has a fair market value of \$50,000), conveying title to them, but reserving a life estate for himself. After discussing this arrangement with his son (who lives in New York), Mr. Baker agrees. A written contract is signed on March 1, and the Hills move in.

A) Assume the following: The Hills perform the services required, but as of October 1 Mr. Baker has not signed a warranty deed. Is an Arkansas court likely to grant specific performance if the Hills seek enforcement of the contract? Discuss. (6 points).

B) Assume the following: Mr. Baker signs the deed, but as of October 1 the Hills have developed a pattern of only cooking occasionally, failing to do the laundry, and generally not maintaining the house. Is an Arkansas court likely to grant specific performance if Mr. Baker seeks enforcement of the contract? Discuss. (7 points).

C) Assume the following: The Hills perform the services required, but Mr. Baker does not sign a warranty deed. He dies on October 1. Is an Arkansas court likely to grant specific performance if the Hills seek enforcement of the contract? Discuss. (7 points).

November 1991 -Buyer and Seller enter into a contract for a wooded tract in the purchase of Greenacre, -

southwest Arkansas, "Containing 80 acres more or less." Buyer pays \$10,000 at the closing, and agrees to make three annual payments of \$10,000. A competent real estate appraiser valued the land at \$40,000. Upon payment of the three installments, seller will transfer title by a warranty deed.

February 1992 Pursuant to the contract, buyer takes possession.

March 1992 -Buyer clears half of the land in preparation for farming.

May 1992 -Buyer hires a surveyor who reports that Greenacre contains only 62 acres.

June 1992 In response to buyer's letter reporting the surveyor's information, the seller responds that he had no idea how many acres were involved, but he was only selling a tract of land that had been in his family for generations.

July 1992 Buyer constructs a two room cottage on the property.

August 1992 -Buyer demands that seller consent to an abatement of approximately 25% in the purchase price to reflect the shortage in acreage. Seller does not respond.

November 1992 -Buyer makes the \$10,000 annual payment.

March 1993 -Buyer writes: "I'm trying to be patient; I'll give you 6 months to agree to reduce the price. otherwise, I have no choice but to sue for damages. Seller does not respond.

September 1993 Buyer's yield from his agricultural efforts is significantly less than he expected.

November 1993 Buyer makes the \$10,000 payment.

January 1994 -On grounds of mutual mistake, buyer demands rescission of the contract and that all payments be restored to the buyer.

March 1994 Buyer files a pro se law suit for rescission, which he dismisses without prejudice five days later before the seller responds.

June 1994 An appraiser evaluates the land at \$65,000 with the improvements.

October 1994 In drilling a well on the land, buyer hits oil. The oil find is expected to yield several million dollars at current rates.

November 1994 -The Buyer sends the final installment of \$10,000, but seller rejects it, responding that he is accepting the buyer's January 1994 demand for rescission.

December 1994 - Buyer comes to you for legal assistance. His primary goal is to obtain title to and continued possession of the land. But he wants to be treated fairly. Write him a letter discussing options, evaluating difficulties and suggesting a course of action. Be specific.

3. Adam, a sixteen year old high school drop-out with an ability to make excellent pizza, entered into a one year contract with Paulls Pizza Place to be a pizza cook for \$100 a week. After a few weeks on the job, Carol induced Adam to quit his job with Paul and to work at Carolls Charming Pizza Parlor at a rate of \$125 a week. Adam agreed and signed a one year contract with Carol.

At Carolls, Adam was required to stand in the front of the store while he cooked so that he could be observed by passersby on the street looking through the front store window. Carol believed that people like to watch the cooks twirling the dough and sprinkling on the toppings and thought it was good for business. Carolls even featured Adam and another pizza cook on a TV advertisement shown during the local news.

Adam's high school friends teased Adam about the public nature of his job at Carolls and they frequently passed by the window at Carolls and made fun of Adam in the window. Adam decided to quit at Carolls and sought his old job back at Paulls. Paul agreed. Carol has now sued to enjoin Adam from quitting his job at Carolls Charming Pizza Parlor. Adam maintains that his contract with Carol is voidable since Adam is a

minor.

Indicate whether you agree or disagree with each of the following statements, and state briefly why you agree and disagree.

A) Carol should be barred from any equitable relief in this case because she has "unclean hands". (6 points).

B) Adam should not be able to escape his contractual obligation here on the ground that he was a minor because he has "unclean hands". (6 points).

C) Aside from other possible defenses in this case, a court sitting in equity should not entertain this suit because the prerequisites for "equity jurisdiction" have not been met. (8 points).

4. You are an Arkansas Chancellor. You have decided the following case, and you have written the first 2 sections of the decision. Your assignment is to write the third section.

opinion

1) The Facts: Plaintiffs who are residents in this Fayetteville neighborhood, have sued Defendant, alleging that his massive display of Christmas lights during the month of December is a nuisance.

Stretching over several lots, including over 1,600,000 lights, complete with reindeer and sleighs, Mickey Mouse driving a steam engine, a musical calliope and a rotating illuminated carousel suspended in the air, and camels and wise men, the spectacle attracted thousands. Many were delighted and thrilled. But the plaintiffs complained of trash on their property, parking on their lawns, vandalism in the neighborhood, traffic hazards, limited access to their own homes, and unreasonable noise and lighting.

2) The Law: Although the owner of land is free to use the land as he wishes, unless restrained by governmental restrictions, the owner can only use it in a fashion that does not interfere with another's use and enjoyment of his own land. Conduct that constitutes an unreasonable interference with another's peaceful, quiet and undisturbed use and enjoyment of his own land is a nuisance. Equity will enjoin a private nuisance in fact when the resulting injury to the adjacent property is certain, substantial, and non-speculative.

Without a doubt the Christmas lights of the defendant constitute both a public and a private nuisance.

3) The Remedy:

Note: Your assignment (10 points) is to write the portion of the opinion mandating the remedy. You should do that in light of the rules, principles and examples of equitable remedies that we have discussed. Your answer will be graded, in part, on your thoughtfulness, balance, and judicial wisdom.