

1. For years Vince Villain was a trusted employee of Bill Boss. He was responsible for the acquisition of confidential marketing data, the development of new territories, and long range planning. During 2000 Vince Villain engaged in two intentional acts of disloyalty to Bill Boss. First, he embezzled \$5000 from Bill Boss' office accounts. With \$1000 of this money he took out and paid the total premiums on a life insurance policy on himself with a face value of \$100,000 payable to his wife. He kept the remaining \$4000 in a shoe box in his garage. Second, with his inside knowledge of future growth plans, he purchased Blackacre with his own funds and put title in the name of his innocent wife, Imogene Innocent. Blackacre has since increased in value. The funds were not put into a bank account and were not co-mingled by Vince Villain. There are no disputes about the use of the money.

Imogene is not only innocent, but independently wealthy and self-sufficient. However, she did consent to the purchase of the life insurance policy as good financial planning.

In January 2001 Bill Boss discovered the \$5000 embezzlement and confronted Vince Villain. Vince Villain admitted his guilt and begged for mercy. Bill Boss agreed not to file criminal charges, provided Vince Villain quit his job and repaid the \$5000. Vince Villain quit his job, but died two weeks later before repaying the \$5000.

Upon investigation, Bill Boss discovered the extent of Vince's disloyalty. In November 2001 Bill Boss filed an action in a circuit court of Arkansas, seeking a constructive trust on the \$4000, on the life insurance proceeds of \$100,000, and on Blackacre.

Innocent wife, and defendant, Imogene, has argued that equity should not grant a constructive trust. She contends that a constructive trust is not appropriate under the governing law, would be unfair, and is an excessive remedy.

You represent Bill Boss. Make the best argument you can that the court should grant a constructive trust. Be imaginative, but do not alter the facts. (For example, Imogene Innocent was totally innocent of the embezzlement). Respond to the obvious arguments of Imogene Innocent.

2. A locomotive of The Cotton Belt Railroad derailed in North Little Rock, Arkansas. Potentially dangerous gas (ethylene

oxide) was released from a tank car. Pursuant to a directive from local government officials, nearby residents vacated their homes for at least a day. Nobody suffered any physical injuries or harm. No property was damaged.

A group of residents has sued the Railroad in Arkansas state court, seeking compensatory damages for their out of pocket expenses, inconvenience, temporary inability to work and resulting in lost income, the increased probability of the development of cancer, and mental and emotional distress. The claim is based on negligence. There are no relevant federal or state statutes.

Your law firm represents the Railroad. Your senior partner has asked you to prepare an introductory memo analyzing the issues presented. She tells you to ignore liability and procedural issues. "There is no doubt that we were negligent. I have a civil procedure expert working on the procedural problems. From you, I need a broadly based overview of the issues related to the prayer for damages. It needs to be well-organized and logically presented. I recognize that the facts are not all developed, but I need an awareness of the issues, particularly those that we might develop to assist our client." Write the memo.

3. Terry Teacher has taught first grade for five years in the public schools of Logan County, Arkansas. However, she was discharged by Superintendent Sam in August 2001. She has exhausted her administrative remedies and intends to file a lawsuit in December 2001.

Answer each of the following questions (worth 4 points each). One or two paragraphs should suffice for each answer. There are no applicable statutes (either state or federal) to discuss.

1. She wants her teaching job back. Where should she sue? Discuss.
2. During the past four months she has received wide notoriety in the small community. She appeared on the front page of the paper as a waitress at a local restaurant. The restaurant requires its waitresses to wear uniforms that would be typically described as revealing, skimpy and immodest. Should this notoriety affect her prayer for the return of her job?. Discuss.
3. In October 2001 after the administrative hearings were concluded, she wrote a letter to Superintendent Sam, saying in part, "Considering the way in which you have operated the schools, I have no interest in teaching for you again. However, I am going to pursue my legal remedies." What is the significance of the letter. Discuss.
4. Assume the court is unwilling to award her the teaching position. Can it award damages to her? How would those be calculated? Discuss.
5. During these months, she looked for another job and was offered a teaching position by a principal at a school in Texas (200 miles away). The position was to begin in January 2001. Accordingly she sold her home in Arkansas and moved to Texas in early December. But on her arrival she was told by the Texas Superintendent that under Texas law the principal has no authority to offer a teaching job. The superintendent said, "I'm sorry. My hands are tied. In addition, the principal has been fired, and the district has no teaching vacancies." Under basic principles of law, does she have a viable cause of action against the Texas school district? Discuss.