

REMEDIES

Fall 2007

Prof. Brill

INSTRUCTIONS

1. Questions #1-3 are each worth 10 points. Each is designed for 30 minutes. **RETURN THE QUESTIONS. YOU MAY KEEP THE ESSAY QUESTIONS.**
2. 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. The questions will be graded on the quality of analysis, thought and conclusions, not on the number of words.
3. The 70 multiple choice questions are worth 70 points. Answer them and **return the questions.**
4. 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.**
5. You may use the Arkansas Statutory Supplement to complete this examination. You may also use the back of the supplement or a comparable number of pages for other written materials.
6. Put everything (multiple choice questions, pencils, scantrons, qualification sheets, essay answers in the box at the front of the room at the time posted at the front of the room.

Remedies
Essay Question
Fall 2007

FACTUAL BACKGROUND:

A public university has a head football coach, Harry Dave Nail. Coach Nail has been at the University of Hogsville for 9 years. He has just completed the first year of a five year contract. In recent years the team has not been as successful as desired; some players have transferred; some players have had criminal problems; some fans have protested with airplane signs, messages on chat boards, and threatened litigation.

Answer each of the following questions. Each is designed for 30 minutes; each is worth 10 points. Each question stands alone.

Your role is that you are the law clerk to the Arkansas state judge, who is presiding over the following matters. She tells you: "Ignore issues of liability. I have someone else working on that. Likewise, ignore dollar amounts. Finally, there are no unusual contractual or statutory provisions that are relevant to these claims.

"Focus on basic principles that are relevant to the issues of remedies. Use any case law that might be helpful or relevant. Avoid speculation on additional facts. I recognize that this could be a huge task. Organization and clarity are very important. I would prefer that you cover all issues of remedies, even if you are unable to go deeply into some of them."

1) In July an unhappy fan Jack Dick Thomas sues the University of Hogsville for the manner in which it has dealt with Coach Nail. The trial court orders the plaintiff to stop all discovery while it determines whether the lawsuit has sufficient merit to continue. In August the trial judge dismissed the lawsuit with prejudice. In September the university lawyers discover that the fan and his lawyer had continued discovery in violation of the court order of July. The University lawyers go to court in September and ask to have the fan and his attorney held in contempt, and for appropriate remedies to be awarded. The judge asks you for guidance on the contempt matter. She tells you that there is no doubt that the court order of July was violated. She seeks your advice as to the proper procedure and possible remedy for contempt in this instance.

2) The up and down season ends with a record of 8-4, including a closing victory over the top ranked team in the nation. To the surprise of many, Coach Nail resigns, saying that fan unity and his family's well-being have led him to the conclusion that it would be in the best interests of the program for him to resign. Two days later he accepts a position as the head football coach at Ole South, a state university in an adjoining state which is in the same athletic conference. The University of Hogsville brings an action for breach of contract against Coach Nail, seeking

compensation in the form of general and special damages. The Arkansas state judge asks you for an evaluation of the primary issues that involve possible damages. She tells you there is no dispute that Coach Nail breached the contract.

3) At the end of the disappointing season the university fires him. The University offers to pay appropriate damages. Coach Nail brings a lawsuit for reinstatement to keep his job as head football coach. The Arkansas state judge tells you that there is no doubt that the University breached the contract. She asks you to evaluate the major issues that the judge should consider in deciding whether to reinstate Coach Nail.