

2. Ashley County, Arkansas brings a law suit against Pharma, a national wide pharmaceutical company. Pharma is a major manufacturer and distributor of over the counter cold and allergy medication containing ephedrine.

Unfortunately, in violation of the criminal law, individuals purchase these cold medicines and produce methamphetamine (a highly addictive, synthetic drug). To fight the societal effects of the "meth" epidemic, Ashley County has had to spend, over the past decade, enormous amounts of public funds in law enforcement and public health.

The law suit alleges that Pharma had knowledge that its cold medicines were being converted to "Meth"; that reasonable steps to prevent the misuse of the drugs were available, and that Pharma did nothing to prevent the misuse. The result was that Ashley County was required to spend public funds and that Pharma was unjustly enriched by its receipts of huge profits from the sale of cold medicines

The lawsuit, brought on the equity side, alleges the theory of unjust enrichment . It seeks a court order requiring Pharma to disgorge all the profits earned in Ashley County during the past 10 years from the sale of the cold medicine.

Pharma has filed a Rule 12(b)(6) motion to dismiss. Accordingly, for the purpose of this motion, all the facts are presumed correct. Is unjust enrichment appropriate in this instance? Discuss briefly and concisely.

Note: this question is based on Ashley County v. Pfizer, 532 F. 3d 659 (2009), discussed in class on April 9.

4. Susan Boyle is 47, unemployed, and resides in the Scottish town of Blackburn, in West Lothian. She lives in the small house where she was born. She walks to her Catholic church, and spends evenings in the Happy Valley pub. She likes to sing; ten years ago she sang "Cry Me a River" in her village and the people enjoyed it. In Blackburn she is called the "Singing Spinster."

In March 2009 she was contacted by the organizers of the local Highland Games. They are planning this annual event, which attracts thousands from all over Scotland. The funds generated are given to local charities. It is the primary fund raising event of the year. The organizers ask Susan to sing at the event on Friday, May 8, 2009. She agrees, and tells them she is working on a new performance of a song from a London blockbuster stage hit. She signs a standard contract, which calls for her to perform several times on May 8; she will be paid 250 pounds, a royal sum to Susan.

On April 8, the promotion started. Placards have covered the region:

HIGHLAND GAMES

May 8, 2009

Read Robert Burns

Boys and Girls: remember Eric Liddell and run like "Chariots of Fire"
The Black and Tans, in their tartans and kilts will pipe "Scotland The Brave"
Braveheart and Rob Roy will appear from the Glens

Menu: Haggis, Bannocks, Scones

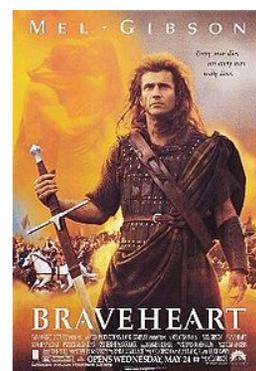
SPECIAL GUESTS: from the colonies:

Marching Pipe Band

Lyon College

Batesville, Arkansas

SUSAN BOYLE: with a stunning new
Performance



April 11 Susan Boyle took a bus and train to London; she went to the theater, with "Britain's Got Talent". She told the judges she wanted to sing a song from "Les Mis." The elitist judges smirked at her appearance and demeanor; the cynical audience was all against her. And then she opened her mouth:

*I dreamed a dream in time gone by,
When hope was high and life, worth living.
I dreamed that love would never die,
I dreamed that God would be forgiving.
Then I was young and unafraid,
And dreams were made and used and wasted.
There was no ransom to be paid,
No song unsung, no wine, untasted.*

The judges were stunned; the crowd went wild. Across the world people heard and saw Susan Boyle. Mail came to her from around the globe, simply addressed "Susan Boyle, Scotland." Her performance was shown in a classroom at the University of Arkansas on Monday, April 20.

On Saturday, April 25 Susan was back in her thatch cottage, having a spot of tea, with water drawn from her well, when the phone rang:

QEII: Is this Susan Boyle?
Susan: Yes, but I am busy right now.
QEII: Susan, this is the Queen, in London.
Susan: Mum, I am sorry. And I apologize for not showing proper respect.
QEII: Susan, there is no reason to be concerned. I am calling because I want you to sing for me
Susan: Your majesty that has been a lifelong dream of mine.
QEII: When I was a little girl, my parents sent me and Margaret to live in Scotland during the Blitz of World War II. With the bombs falling nightly, it was not safe for us to be there. And therefore, my most special holiday has always been V-E Day. The War in Europe ended; the troops came home; the people of England and Scotland celebrated. This year the V-E celebration will stretch from Buckingham Palace, down the Mall, to Trafalgar Square. Pomp and circumstance will mingle with Churchill, Nelson and Victoria as we celebrate. I would like you to stand on the Palace balcony (where president and Mrs. Obama recently stood) and sing to the crowds. Incidentally in 1945, Winston Churchill, my father King George VI, and my mother Elizabeth stood there. Isn't it amazing? She was also a short, shy girl from Scotland.
Susan: Your majesty, I am honored. I accept.
QEII: Your voice can truly inspire and transform a nation in difficult times
Susan: I will be there for V-E Day.

The headlines of Sunday, April 26 proclaim: "Susan Boyle to sing from the Palace on V - E Day. May 8 celebrations to be the grandest ever."

The Highland organizers open the paper, and they are stunned. Since April 12 tickets to the Games have been selling like never before. Everyone wants to hear Susan Boyle sing. It is likely to be the event of the decade. In dismay, the organizers call Susan; she had forgotten the date of V-E day; she did not know of the problem until the organizers called her (she doesn't read the Sunday paper and doesn't have a computer); she apologized; there is no way to be in both locations on the same day; she must be loyal to her Queen; she offered to sing on another occasion at the Games or another event.

Yesterday, April 27, the organizers sue Susan. They ask for an appropriate judicial order compelling her to carry out the terms of the written contract, and sing at the Highland Games on May 8, or other appropriate relief.

Tuesday, April 28: you are the law clerk to the judge hearing this case. Both parties have counsel; the parties have stipulated to jurisdiction and other procedural matters; they have stipulated as to the certain terms of the contract; they have stipulated as to the notice given for the hearing; they have stipulated to the facts. The Queen is not a party to the lawsuit.

The judge is deciding this case on common law principles. The judge says: "We don't have a great deal of time. I don't need a treatise or history lesson. I do not need a conclusion or recommendation. I need the primary legal principles that are applicable. Be concise, but also be comprehensive."