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Three hours --- six questions or groups of questions. Watch your time, and do not spend too much on the early questions --- you may leave spaces anywhere to return to if you have more time. Give as many reasons as possible for all answers. If you are going to cover more than one point, make a check list before you begin to write. "General rule" will be interpreted to mean a settled rule to which there are exceptions. Do not use "majority" or other term to indicate that there is a conflict of authority unless there is. If there is a conflict, so state and make clear the various views, and the nature of the conflict, and, if not otherwise clear, the reasoning back of each view. If there is a conflict of authority, be sure to carry the problem through to a conclusion under each view, bearing in mind that a view taken under a conflict may lead into another conflict. If in doubt as to meaning of question or facts to be assumed, state your doubt and answer both ways, bearing in mind that facts may be stated so as to leave different possibilities as to other facts for you to consider. I shall return to the examination room at 10 and 11 to answer questions --- feel free to ask questions, as if there are "bugs" in the exam I would like to get them cleared up. You may assume that there are separate courts of law and equity, and, unless indicated otherwise, that problem comes up in suit in court of equity.

1.

- (a) The wall of Y's building extends three inches over on X's land. What investigation will you make, and what will the court do?
- (b) Y in bad faith, and Z under good faith mistake, each cut timber on X's land one time. What will the court do?
- (c) Why is it that the remedy at law is not considered adequate in the case of unique personal property, and would you consider: five-and-ten-cent store fixtures and stock of goods unique?

2.

- (a) S as seller and B as purchaser sign contract for the sale of land. S does not own the land, but shortly acquires it. B refuses to complete the purchase. What will the court do?
- (b) Instead of waiting to be sued on written instrument X wishes to have it cancelled. What investigation will you make, and what will the court do in the light of the facts you discover?
- (c) X sues to enjoin Y from cutting timber on land X claims to own. In the suit an order is entered, after hearing, denying temporary injunction, this order, under the practice in the state, constituting a judgment. No further proceedings are taken in the suit. X later files a new suit to enjoin Y from slandering X's title, and to recover title to the land. Y offers in evidence the judgment in the first suit (you may assume that if otherwise admissible no objection can be made upon the basis of Y's pleadings). What will the court do?

3.

X and Y sign contract whereby Y is to conduct, under detailed specifications, a publicity campaign to assist X in his efforts to become United States Senator. The contract contains a general arbitration clause and also a special provision for arbitration as to the rental value of office equipment which Y is to use at X's headquarters. The contract contains a provision for liquidated damages in case for any reason arbitration is not had. Differences arise, and X refuses to arbitrate anything, although requested by Y to do so. X files bill for specific performance. What will the court do, and will it make any difference if it was contemplated that the campaign would be conducted, without Y's personal participation, by a large organization which Y has set up, under the direction of a manager employed by Y?

4.

- (a) X's attorney believes that under a new statute, as applied to the facts of his case, X will be entitled to preliminary injunction against Y in connection with a land dispute. X therefore files bill for preliminary injunction and to recover the land, which is in the possession of Y, but which X claims to own, from Y. No dispute develops as to the facts, but the court holds that the statute does not entitle X to injunctive relief. What will the court do, apart from refusing temporary injunction?
- (b) X and Y are having a boundary dispute, the land being in the possession of X. Y is making statements that before X took possession of the land about a year earlier, Y had, at a still earlier period, obtained title to the land through adverse possession. X's attorney is not sure whether Y is acting in good faith or bad faith, but expects upon cross examination to be able to establish which is the case. Can X obtain relief in equity, assuming that he can establish the facts of his case?
- (c) Several years after the final disposition of the last appeal in a case at law lost by X, one of the jurors confesses that he was bribed. What will you advise X?

5.

- (a) The manufacturers of a cigarette publish in their advertisements, without his consent, photographs of a movie star smoking their cigarette. Will he be able to get relief in equity?
- (b) X, owner of deed of trust on land owned by Y, complains that Y has cut a considerable amount of timber, and has it ready to ship, and that Y, over X's

EQUITY (continued)

protests, is threatening to cut more timber. What investigation will you make, and will equity grant relief, and if so what form of relief?

(c) Star Insurance Company (may be referred to as Star), which issued life insurance policy upon the life of D (now deceased) interpleads X and Y. X is claiming the face amount of the policy as the named beneficiary. Y is claiming the surrender value upon the ground of estoppel against Star. X claims Y is making his claim in bad faith. What will the court do?

6.

(a) S as seller and B as purchaser enter into oral agreement for the sale of land by S to B, and B makes a \$1000 cash down payment. B files a bill to get back the \$1000. S is at all times able, ready and willing to perform. What will the court do?

(b) Y, who has proved his patriotism and his devotion to the principles upon which our republic was founded by large contributions to the campaign fund of the Governor of his state, is engaged in bitter litigation with X over a funeral home, the title to which is in dispute between X and Y, which Y is anxious to remove because he feels that it would be an obstacle to his successful development of a residential subdivision on a large tract of land which he owns nearby. In a suit brought by X against Y a preliminary injunction is issued enjoining Y from removing the funeral home. Y nevertheless removes it before trial on the merits, and is fined \$1000, to be paid to X, and ordered to spend ten days in jail for contempt of court.

X wins the case in the trial court on the merits, but execution of the contempt provisions is suspended pending appeal, and on appeal to the Supreme Court of the state the case is reversed and rendered in favor of Y, the judgment of the Supreme Court containing no provision in regard to the contempt of court order (and petition for writ of certiorari being denied by the United States Supreme Court). The Governor would like to pardon such a noble citizen from his contempt of court conviction if it is still in force. As Attorney General of the state what will you advise the Governor?

(c) Star Insurance Company (may be referred to as Star) issues fidelity bond to X covering thefts and other defalcations by his employees. \$1000 disappears from X's safe under circumstances indicating that it was taken by employee who disappeared about that time with another man's wife. The \$1000 is paid by Star to X. Six months later Star obtains evidence that the \$1000 was taken by a clever burglar. X refuses to return the money. What will you advise Star?