

Monterey College of Law
FINAL EXAMINATION
REMEDIES
Professors Patterson & Martin
SPRING 2023

General Instructions:

Answer Three (3) Essay Questions.

Total Time Allotted: Three (3) Hours

Recommended Allocation of Time: Equal Time per Question

Question 1

Billie and Joel (BJ) enter into a signed written contract with CatsGalore (Cats), a cat breeder, to purchase a cute, rare Manx kitten named Felix for \$600. Felix had unique coloring and personality. A few days before BJ could pick up Felix from Cats, they were told by Slim, the owner of Cats, that he received another offer of \$1000 for Felix. Slim also told them that he intended to accept the other offer because he thought he undersold Felix to them as the “market price” was obviously \$1000.

BJ rush to your office and seek your advice as to what potential remedies are available to them to stop the sale to other party and enforce the sale of Felix to them or what damages they are entitled to if they sue Cats.

Remedies
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Question 2

Professor Jim Barton, a world renowned expert on Tort Law, just finished a rough draft of a Tort Law flow chart and outline that promises to be the best available.

Two law students, Cheatham and Howe, learn that Barton has the rough draft secreted in his office desk. While Barton is on vacation Cheatham and Howe sneak into his office and take the rough draft and sell copies online for \$100 each. They are surprised by the wonderful response and sell 1,000 copies of the outline/chart and net \$100,000.

They deposit \$50,000 into a bank account with 5% interest and take the other \$50,000 and invest it in a racehorse with another wealthy friend of theirs who also invests \$50,000 in the racehorse (50% each). The friend is unaware of the source of the Cheatham and Howe's funds. The racehorse wins the first race it is entered into for \$250,000 prize money (the horse was a long shot).

Barton returns from vacation and discovers the theft of the rough draft by Cheatham and Howe. He requests that you write a memo describing in detail all of his potential remedies and the reasoning supporting your advice.

Question 3

DONNA owns Tropical Fruit Co., a Mexican produce company that grows and ships fresh mangoes to the American states of Arizona and Texas. DONNA plans to expand her export market by sending mangoes to California and, in early-2023, she sends a shipment of 3,000 mangoes to Monterey, CA, where she owns a home. She plans to send similar shipments every month.

At the time DONNA sends mangoes to California, she advertises in California with the slogan: "Mexican mangoes are delicious -- better than the Hawaiian kind."

PETER owns Hawaiian Fruit Co., an American company based in California that imports fresh mangoes to California from Hawaii. PETER learns about DONNA's recent business in California and is not pleased with the competition.

PETER learns that some Mexican farmers use Malzoid, an insecticide that may cause cancer in humans. Malzoid is prohibited by Criminal Law in California but it is not certain that DONNA's mangoes are contaminated with Malzoid.

PETER sues DONNA in Unfair Competition, stating that DONNA's mangoes contain "Malzoid poison" and that California consumers must be protected. PETER also invents an argument that DONNA's company exploits underage Mexican workers but there is no such evidence.

PETER applies for an injunction that states DONNA cannot bring criminally-prohibited Mexican mangoes into California because of Malzoid, because of underage worker exploitation, and because DONNA's above-referenced advertisement is unfair.

Discuss: Is PETER entitled to an Injunction?

1. Discuss injunctive relief only. No points will be awarded for discussions of the substantive law of Unfair Competition.
2. It is not necessary to discuss the differences between a TRO and a Preliminary Injunction.
