

# MEMO

**To:** EQUITY CLASS  
**From:** PENNY A. DAVIS  
**Subject:** ASSIGNMENT  
**Date:** August 3, 2017

Hi,

I look forward to seeing you in class. In order to save you some money, you may use either the 7<sup>th</sup> or 8<sup>th</sup> edition of the textbook. Note: the pages for both editions of the text book are listed by the assigned cases.

Please read the following cases for the first day of class:

- Clinton v. Nagy, N.D. Ohio, 1974 . . . . . p. 17[18]
- Adams v. Baker, Kan., 1996 . . . . . p. 21[22]
- Force v. Pierce City R-VI School District U.S. Dist. Ct. Missouri, 1983.....p. 27[28]
- Marquette v.Marquette. Okl. 1984 p. 34 [36]
- In re Vuitton Et Fils S.A.2nd Cir. 1979 p. 38[40]
- Morgan Stanley DW, Inc v. Frisby. U.S. Ga. 2001 p. 45[52]
- Save Our Sonoran,Inc. v. Flowers, 9<sup>th</sup> Cir. 2004 p. 57[59]
- Winter v. Natural Resources Defense Council, Inc. U.S. 129 S. Ct. 365, (U.S.2008) [75-77] [Part III only]

**Please note:** It is unlikely that we will get to all of these cases, but it will be helpful to you to have read them all for background.

We will be using **TWEN** for assignments. I will be using PowerPoints in class and will be providing you with a Student Version of the PowerPoints for you to use in preparation for each class.

Below is an outline of what we will be talking about in class. I thought it might be helpful to you as you prepare for class. When we meet, we will divide the class into law firms and divide the future reading assignments between the law firms. For the first day, we will not divide the assignments by law firms.

Hope you have a great semester!

Penny

## INJUNCTION

Court of Chancery

Alabama and most states merged courts of law and equity

### **Equitable Maximums** General Rules to Guide the Court

1. He who seeks equity must do equity
2. He who comes into equity must come with clean hands
3. Equity aids the vigilant and not those who slumber on their rights
4. Equity regards that as done which ought to be done
5. Equity looks to the intent, rather than to the form
6. Equity acts in personam
7. Equity abhors a forfeiture
8. Equity will not suffer a wrong without a remedy

### **Alabama Jurisdiction**

§ 12-11-31 – Equity Jurisdiction of Circuit Courts

§ 12-3-8, 11 – Court of Appeals

§ 12-2-2, 7 – Supreme Court

### **Types of Procedure.**

1. An injunction is an in personam order, **directing the defendant to act or to refrain from acting in a specific way.**

2. It may be **enforced** by contempt power

**Forms**

1. Mandatory
2. Prohibitory

**Classification**

1. Permanent
2. Preliminary
3. Temporary Restraining Order

Fed. Rules of CP – Rule 65

**Fed. Rules of CP - Rule 65P. 16**

## Ala. Rule 65

### CASES

#### I. GENERAL

##### Temporary Restraining Orders

1. Clinton v. Nagy, N.D. Ohio, 1974 . . . . . p. 17[18]
2. Double C Productions, Inc. v. Expositions Enterprise, Inc,  
404 So. 2d 52 (Ala. 1981).  
(Ala. Requisites for TRO)

##### Preliminary Injunction

1. Adams v. Baker, Kanoo, 1996 . . . . . p. 21[22]

##### Permanent Injunctions

1. Force v. Pierce City R-VI School District, U.S. Dist. Ct. Missouri,  
1983.....p. 27[28]

#### II. Procedures and Standards for Issuing Temporary Restraining Orders

##### Temporary Restraining Orders: Cases

1. Marquette v. Marquette, Okl. 1984  
Alabama: Section 30-5-6
2. In re Vuitton Et Fils S.A. 2<sup>nd</sup> cir. 1979
3. Morgan Stanley DW, Inc v. Frisby, U.S. Ga. 2001

### III. Procedures and Standards for Issuing Preliminary Injunctions

1. Save Our Sonoran, Inc. v. Flowers, 9<sup>th</sup> Cir. 2004
2. Winter v. Natural Resources Defense Council, Inc. 129 S. Ct. 365, (U.S.2008) [PART III ONLY]