

EQUITY AND TRUSTS

GUIDEBOOK

Tips for Essay / Discussion / Problem Questions

The following information assists in answering the questions at the end of each chapter. It is not intended to be a complete answer.

Chapter 1 The Nature and History of Equity

Essay / Discussion Questions (p.11)

- 1 This question involves understanding the history and nature of equity. The expression 'unconscionable behaviour' is a recurring theme. This question seeks to identify the limits of equity so as to ascertain what the essential qualities of equitable relief are.

It is important to put the quote into context, so there is a need to explain the case *Australian Competition and Consumer Commission v CG Berbatis Holdings Pty Ltd [No. 2]* (2000) 96 FCR 491.

This question should also be revisited towards the end of the semester. It is important to consider how your understanding of equity has expanded with study. Almost all the topics in later chapters can be discussed in answering this question.

- 2 Equitable maxims are not rules. They represent historical events and indicate how the equity may develop.
- 3 This question concerns the fusion of equity and common law. See the following articles:

A Burrows, 'We Do This at Common Law but That in Equity' 22(1) *Oxford Journal of Legal Studies* (2002) 1-16.

M Kirby, 'Equity's Australian Isolationism', 2008 WA Lee Lecture in Equity, Queensland University of Technology, Brisbane 19 November 2008, <www.michaelkirby.com.au/speeches>

P Keene, 'The 2009 WA Lee Lecture in Equity: The Conscience of Equity' (2010) *Australian Law Journal* 92.