

Title of Program: "Understanding a Tortious Interference Claim"
Presenting Inn: George Mason American Inn of Court Inn Number: #200

SKIT / VIGNETTE FACT PATTERNS

1. ECONOMIC PRESSURE

Case inspiration. *Lewis-Gale Medical Center, LLC v. Alldredge*, 282 Va. 141 (Va. 2011)

Facts: Sharley Cheen is the star of Two-Men-in-a-Tub hit show. Cheen is doing phenomenally well, making \$20M an episode, winning awards, and generally appearing to have his life together. Cheen then goes on an anti-Semitic rant about Ernestine Burt, the show's creator, and starts talking about Tiger Blood, #winning, and Adonis DNA, as well as consorting with lots of unsavory characters, generating a lot of negative publicity associated with the show. Coors Brewing Company, run by the "heiress," Cornelia Coors" (who owns an estate in Great Falls on the Potomac, where she lives part of the year), threatens to withdraw all of its advertising dollars unless Cheen is fired. Ernestine Burt gives Cheen 90 days notice under their contract that he is being terminated from the show. Cheen's lawyer sends a letter to Cornelia Coors threatening suit for tortious interference with his studio contract unless she retracts her threat to the studio to pull Coors advertising. The skit is a meeting with Cornelia and her attorney to go over the threatened litigation and defenses to the anticipated case.

2. CAN YOU SUE THE COMPANY THAT FIRED YOU AND THE OFFICERS/DIRECTORS FOR TORTIOUS INTERFERENCE?

Case inspiration. *Hiers v. Cave Hill Corp.*, 2000 WL 145359, *4 (Va. Cir. Ct. Jan. 6, 2000)

Facts: Casanova and Cuckold have been friends for years. They are members of the same country club and frequently socialize together with their wives. In 2010, Cuckold began his widget business: Widgets R US ("WRU"). For the first year, he struggled with sales. Recognizing that Casanova had a particular way with words and was very persuasive, Cuckold decided to offer Casanova a deal to come and work for WRU in its sales department to help increase WRU's sales volume. In 2011, Cuckold presented Casanova with an employment agreement ("Agreement") the term of which was five years (or through 2016). Per the Agreement, Casanova earned a 10% commission on each widget he sold. In order to be able to track which widget Casanova sold, Casanova was required to complete a widget sale origination form, which Cuckold then approved prior to processing the commission payment.

In early 2012, Casanova began to have an affair with Cuckold's wife, Penelope. Casanova and Penelope were so consumed with one another, they began to get careless. One afternoon in April, Cuckold decided to play nine holes at the club. As he was heading into the locker room, he saw Casanova canoodling with Penelope in the corner of the club. Instead of approaching them, he decided to take revenge by diverting commissions away from Casanova and to Paris instead, his own paramour in the Sales Department. Between April and December of 2012, Cuckold rejected every

one out of every three widget sale origination forms Casanova submitted to him. Cuckold paid each of these rejected commissions directly to Paris, even though she did not do anything to earn them.

Noticing that his commission payments were seriously diminishing and also noticing Paris recent purchase of a Maserati, Casanova became suspicious. One night, after business hours, Casanova pulled the widget sale origination form file and discovered what Cuckold had been doing. He copied the file, and immediately consulted with Cautious Counsel.

The skit entails the interaction with Casanova and Cautious Counsel getting to the bottom of these facts and discussing the risks of bringing a tortious interference claim and discussing possible demurrer arguments and their relative success.

3. TORTIOUS INTERFERENCE BY SENDING CEASE AND DESIST LETTERS

Case inspiration: *Universal City Studios v. Nintendo Co.*, 797 F.2d 70 (2d Cir. 1986).

Facts: Universal Studios comes out with King Kong. Nintendo comes out with Donkey Kong. Universal Studios sends cease and desist letters to six of Nintendo's Donkey Kong manufacturers (because they believe Nintendo violated the King Kong trademark). *Universal City Studios v. Nintendo Co.*, 797 F.2d 70 (2d Cir. 1986). After receiving the letters, some of Nintendo's suppliers entered into licenses with Universal or stopped making Donkey Kong. Nintendo sues Universal Studios for tortious interference. For purposes of this skit, contracts at issue are terminable at will. Posture: Demurrer hearing in Fairfax County Circuit Court.