

Summative assessment exercise - outline answer

Maxims in the following list which are not accurately expressed have a cross next to them.

The mistake is underlined in each case.

- Equity will not suffer a moral [should be “legal”] wrong without a remedy x
- Equity leads [should be “follows”] the law x
- Equity looks to substance and never to form [equity will not allow formality to be relied upon to commit a fraud, but equity *sometimes* insists upon proper formality e.g. a contract for the sale of land is specifically performable in equity only if the contract is legal according to statutory formality] x
- Equity will not enforce the Statute of Frauds [equity will not allow the Statute – which requires formalities to be complied with to prevent fraud – to be relied upon to commit a fraud] x
- Equity acts *in personam*
- Those who come to equity must come with clean hands
- Those who come to equity must do good [this is too vague, and it incorrectly suggests that equity requires morality] x
- Equity sees as done that which ought morally to be done [equity sees as done that which ought *legally* to be done] x
- Equity imputes an intention to fulfil an obligation
- Where the equities are equal it is a draw [where the equities are equal, the law prevails] x
- Where equity and law conflict, equity follows the law [where equity and law conflict, equity prevails] x
- Equality is equity
- Delay defeats equities
- Equity will mend a bad bargain [equity will *not* mend a bad bargain] x
- Equity will not assist a volunteer
- Equity will perfect an imperfect gift [equity will *not* perfect an imperfect gift] x