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Subject: ATTORNEY-CLIENT PRIVILEGE

Date: Mon, 15 Mar 2010 00:54:56 +0000

Attachments: RESTATEMENT_OF_TORTS.doc

IN GENERAL - Pinter v. Dahl, 486 US 622 (1988): The equitable defense of *in pari delicto*, which literally means "in equal fault," is rooted in the common-law notion that a plaintiff's recovery may be barred by his own wrongful conduct. See *Bateman Eichler*, 472 U.S., at 306, and nn. 12 and 13, 105 S.Ct., at 2626, and nn. 12 and 13. Traditionally, the defense was limited to situations where the plaintiff bore "at least substantially equal responsibility for his injury," *id.*, at 307, 105 S.Ct., at 2627, and where the parties' culpability arose out of the same illegal act. 1 J. Story, *Equity Jurisprudence* 399-400 (14th ed. 1918). Contemporary courts have expanded the ****2071** defense's application to situations more closely analogous to those encompassed by the "unclean hands" doctrine, where the plaintiff has participated "in some of the same sort of wrongdoing" as the defendant. See Perma Life Mufflers, Inc. v. International Parts Corp., 392 U.S. 134, 138, 88 S.Ct. 1981, 1984, 20 L.Ed.2d 982 (1968). In *Perma Life*, however, the Court concluded that this broadened construction is not appropriate in litigation arising under federal regulatory statutes. *Ibid.* Nevertheless, in separate opinions, five Justices recognized that a narrow, more traditional formulation should be available in private **actions** under the antitrust **laws**. See *id.*, at 145, 88 S.Ct., at 1987 (WHITE, J., concurring); *id.*, at 147-148, 88 S.Ct., at 1988-1989 (Fortas, J., concurring in result); *id.*, at 148-149, 151, 88 S.Ct. at 1989, 1990 (MARSHALL, J., concurring in result); *id.*, at 154-155, 88 S.Ct., at 1992 (Harlan, J., joined by Stewart, J., concurring in part and dissenting in part).

Does doctrine apply (a) in damage not equity action (b) to someone 16 or 17

RESTATEMENT ON TORTS SAYS MINOR CANNOT CONSENT TO CRIME - BUT ITS FAR LESS CLEAR THAT EVERY MINOR, REGARDLESS OF AGE, CANNOT CONSENT TO EVEN AN INTENTIONAL TORT, SEE ATTACHED

We have not yet researched Fla law - has Bob? If not we can do tomorrow, tuesday

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