Graywolf-Union Call 7/28/21

Graywolf - The subject of tonight's training call is 20 maxims of equity and how the prosecutor violates our civil rights and what allows that to take place.

Graywolf - there's the Constitution and you have got the Law, Equity Maritime and everybody believes that we are under the law; we have solid evidence that says otherwise.

Graywolf - The reason that were not under the law is because we have abandoned post; we have abandoned the de jure seats of government where we provide ourselves with governance that we are guaranteed as long as we have that capacity unfortunately we let our guard down to the point that where now we are ruled over by a foreign jurisdiction totally completely 100%.

So, law being the first and paramount jurisdiction which was conferred in the "American Admiralty Its Jurisdiction and Practice" stating that the Common Law Court and the Common Law has concurrent jurisdiction in all cases meaning In Law, Admiralty, Equity, Maritime or even under Special Maritime law.

The Common Law is Supreme overall or Maritime or even Special Maritime law wouldn't have current jurisdiction in these cases.

So everybody thinks we are operating under the law and the prosecutor is down there and he is our friend because he is prosecuting these "criminals" never defining what "criminals" they are prosecuting.

So, you have the right any entity comes against you under *Hagans v. Lavine*, 415 U.S. 528 (1974) (a pretty old case) right to the limitations they can expose is that you have the right to challenge the jurisdiction of the court; basically anytime you want, and in the civil rules support that.

You can challenge jurisdiction at any time.

Now, what they should've said is that you can challenge the jurisdiction of the prosecutor or to invoke the jurisdiction of the court; because there's only one jurisdiction that the court has and that is venue jurisdiction.

venue jurisdiction - means the "place" *venue* is the place. So if you're in the county, that County court has jurisdiction.

The two jurisdictions that have to be proven on the record are subject matter jurisdiction and in personam jurisdiction and that which the prosecutor is required

to do; but only if the defense requires (challenges) that they fulfill their obligation to establish jurisdiction.

What we're going show you is the go-between maxims so that when you find that you aren't in the Law Jurisdiction, which we thought we were, that Equity is supposedly "the law of fairness" which happens between those two (Law jurisdiction and Equity) jurisdictions if there is a contract.

You will find in most cases, and that's part of the challenge of jurisdiction, is there must be, if you are put in a court other than a Court of Law, being a court of Common Law or the Law of the Land, there is a dispute there and they have to prove that you have a contract to dispute, so, that's part of the elements that you can go in to challenge the jurisdiction of the prosecution.

The state prosecutor, some guy is prosecuting on behalf of the bank or another guy that's prosecuting on behalf of the real estate investment trust or another guy that is prosecuting on behalf of medical claims or whatever it is. He is still the prosecutor.

So everybody thinks prosecutors can't violate the rights and civil rights of people, so they don't guard against that; and were going to go in at another time and challenge the prosecutors position to invoke the jurisdiction of the court when they, the prosecutor and the court, assume subject matter and in personam jurisdiction.

So what we're going to do is go over several of the elements of what the courts say in regard to; can the prosecutor violate your civil rights in initiating a prosecution in presenting a case?

Now if you ask the common man out here in a group of 10,000 people how many believe can the prosecutor violate your civil rights in initiating a prosecution in presenting a case? Probably only a few hands would raise; in fact the Supreme Court case called *Imbler v Pachtman* at 424 US 409 (1976) ruled that "the prosecutor may violate your civil rights initiating prosecution in presenting the case."

So isn't that a kick in the butt.

So, a lot of the things that we think are real; are NOT real.
So when we fail to defend against those things by informing ourselves we fall into the trap that in many cases could cause our demise.

If we had a little bit of knowledge that we were supposed to have obtained in the schools we would not run into those things.

So remember, in *Imbler v Pachtman* 424 US 409 (1976) Supreme Court said "prosecutors could violate your civil rights."

Keep in mind when we get going through these we are going to go back and then we are going to go over the 20 elements of Equity.

So this second thing were going to look at is that immunity extends with litigation.

Now I thought litigation was that there is no immunity so, even though somebody's bringing an action say, like that prosecutor, even though he violates your civil rights because he is engaged in litigation or potential litigation, they say that the prosecutor is immune from any activities related to that which then; not only are they saying that the prosecutor can violate your civil rights in the *Imbler v Pachtman* case but the Second Circuit Federal Court of Appeals in the case of *Davis v Gruisemeyer* 996 Fed 2nd 617 (1993) says "that it is perfectly okay for the prosecutor to do that and that he is even immune to do it."

Well that's another kick in the other cheek isn't it?

So let's go on to the 3rd thing that says that it is okay that the prosecutor did those two prior things and the prosecutor may knowingly, "may knowingly", use false testimony and suppress evidence.

So, if the prosecutor may knowingly use false testimony and suppress evidence and that by the way is also in the decision of *Imbler v Pachtman* in that Imbler case it says it's okay for the prosecutor to knowingly use false testimony and suppress evidence.

So, this raises the question then; how many people are sitting in jail that never committed a crime at all; and they would just put in jail for the purpose of allowing the bank that we believe are courts to create bonds to put these people in jail so they can get paid maybe $6,000.00 a day for housing them.

So these are little idiosyncrasies in our society that few if anybody know about. So, what have we learned so far?

Well we have learned that that it is perfectly legal for a prosecutor to: (1) violate your rights and civil rights and (2) he can do that with immunity and (3) he can use false testimony and suppress evidence and (4) he is immune when he does.

The fifth thing is that the prosecutor is allowed to do is that he may file charges without doing any type of investigation.

How do you do that? He just pulls it out of the thin air.

So, what else have we learned?

The prosecutor doesn't have to do any investigation he doesn't even have to rely on any investigation from the plea; he just decides out of thin air what he's going to charge somebody with; and he is immune from doing that; and he can use false testimony and suppress any kind of evidence that might tie into that; and it's perfectly legal for him to do all of the above to violate your civil rights.

Just dandy!

So that little tidbit of information for the prosecutor to file charges without any type of investigation came from our beloved 8th Federal Court of appeals in the case of *Myers v Moore* 810 F.2nd 1337 (1986) case.

Why do we look at the dates?

Because anything prior to 1938 they don't want to listen to because that's what they did away with the whole structure of the Constitutional Republic.

So the next thing we find out about the prosecutor is that not only all of the above; the prosecutor may also file charges outside of his jurisdiction.

Okay.

So he has to have collaboration with another court to do that. So how does that work for us?

It is great for them; it works great for what we think is our government but is NOT. It is a court that appears on the backside of a bank because (the court) is issuing bonds every time the prosecutor comes in.

The next thing we find out about prosecutors is that 1, prosecutors may knowingly offer perjured testimony to put you in jail; and by the way 2. he can do that outside of his jurisdiction or charges that were done outside his jurisdiction and 3. he can file all those charges without an investigation and 4. he can knowingly use false testimony and suppress evidence along with 5. providing perjured testimony that the court that support his case; and 6. he is immune even if he violates your civil rights. That one is from the 9th federal circuit court of appeals in *Jones v Shankland* 800 F.2d pg 1310 (1987)

Okay, so the prosecutor 1. can suppress evidence 2. and may also provide perjured testimony according to the 9th Circuit Federal Court of Appeals; 3. the

prosecutor can also suppress "exculpatory evidence"; evidence that they know is existent; evidence that shows that you're innocent; it's perfectly legal for the prosecutor to suppress that exculpatory evidence. Okay. Along with all the other things that he can do and it's perfectly fine for him to do that. That and can be found out of the 5th Circuit Federal Court of Appeals in *Henzel v Gerstine* 608 F.2nd 654 (1979).

All of these are recent cases.

Okay, the next thing we find out about prosecutors is the prosecutors are immune from lawsuits for conspiring with judges to predetermine the outcome of a judicial proceeding.

Imagine that!

Pre-determined convictions! I wonder how much they bet on the outcome of those decisions. I wonder what the value of the bonds is that they create; okay, and that little gem comes from our 9th circuit federal Court of Appeals, again, in Ashelman v Pope 793 E.2nd pg. 1072 (1986).

The next one is a goodie.

The prosecutor may knowingly file charges against innocent persons for a crime that never occurred; and remember now; the prosecutor, he is our buddy, prosecuting criminals he is prosecuting people that have done crimes and harm and maimed and battered people; NOT. That gem comes out of the10th Federal Circuit Court of Appeals in the case of *Norton v. Liddell,* 620 F.2d 1375 (1980) (unpublished case); in another case in the 4th Circuit Court in the case of *Tinder v Johnson* 33 Fed 3rd page 368 to 372 (1994), states "our survey of the legal landscape as it existed in March 1989 indicates that in general members of the public have no constitutional rights to be protected by the state from harm inflicted by a third-party."

We divert to http://november.org
Government Agents Immune from Prosecution:

1. Prosecutor may violate civil rights in initiating prosecution and presenting cause. U.S. Supreme Court, *Imbler v. Pachtman*, 424 U.S.409 (1976)

2. Immunity extends to all activities closely associated with litigation or potential litigation. Second Circuit Federal Court of Appeals: *Davis v. Grusemeyer*, 996 F.2d617 (1993)

3. Prosecutor may knowingly use false testimony and suppress evidence. U.S. Supreme Court, *Imbler v. Pachtman*, U.S.: 409 (1976)

4. Prosecutor may file charges without any investigation. Eighth Circuit Federal Court of Appeals; *Myers v. Morris*: 810 F.2d,1437 (1986)

5. Prosecutor may file charges outside of his jurisdiction; Eighth Circuit Federal Court of Appeals: *Myers v. Morris*, 810 F.2d 1437 (1986)

6. Prosecutor may knowingly offer perjured testimony. Ninth Circuit Federal Court of Appeals, *Jones v. Shankland*, 800 F.2d 1310 (1987)

7. Prosecutor may suppress exculpatory evidence. Fifth Circuit Federal court of Appeals, *Hanzel v. Gertatica*, 608 F.2d 654 (1979)

8. Prosecutors are immune from lawsuit for conspiring with judges to determine the outcome of judicial proceedings. Ninth Circuit Federal Court of Appeals, *Ashelman v. Pope*, 793 F.2d 1072 (1986)

9. Prosecutor may knowingly file charges against innocent persons for a crime that never occurred. Tenth Circuit Federal Court of Appeals, *Norton v. Liddell*, 620 F.2d 1375 (1980).

The nine cases cited are only the beginning. Last year there were thousands of cases from across the country that were decided or ignored in favor of government and/or its agents. The cases cited were published and have created what is known in the legal realm as precedent. The unfairness of the situation has been exacerbated by unpublished decisions.

Read more: http://www.november.org/razorwire/rzold/17/17024.html

https://notfooledbygovernment.com/Lost_Liberty.html

A Fact Sheet on America's lost liberty.
By Steven D. Miller. https://notfooledbygovernment.com/lessons-for-a-free-america/injustice/

==========

…well, isn't that nice to know. So now; what have we learned here?

So far in our short little dissertation here we have found that (1) prosecutors can violate your civil rights. (2) Prosecutors are immune to all activities associated with litigation or potential litigation; (3) we've found that prosecutors knowingly use false testimony and suppress evidence; (4) we have found that prosecutors

may file charges without doing any kind of investigation; (5) the prosecutor may file charges outside of his jurisdiction; (6) we have found that prosecutors may knowingly offer perjured testimony; (7) we know that prosecutors can suppress exculpatory evidence; (8) we know that prosecutors are immune from lawsuits for conspiring with judges to determine the outcome of judicial proceedings; (9) we have also learned that prosecutor may knowingly file charges against innocent persons for crimes that never occurred; and (10) we also found out that we do not have constitutional rights to be protected by the parties that we pay to protect us.

Isn't that amazing!

Also in another 1989 case in *Katcum v Alameda County* 811 Fed 2nd 1243 Mr. judge Pozen are aptly explains that in the Bowers case in *Bowers v Devito* 686 Fed 2nd 615 (1982) of which this judge upheld the *Katcum v Alameda County* case; (11) "the Constitution is a charter of negative liberties that tells the state to let we the people of United States alone does not require an agency of the Federal Government or their states to provide service even so elementary as the service that maintains law and order for those not party to the contract, thus because there is no contractual duty to provide such protection for the public at large. Federal Government or their states failed to do so is not actionable." In other words you cannot sue the state or the federal government under *42 U.S. Code § 1983*. *Civil action for deprivation of rights*.

So it is amazing the things that we don't know; part of what we're doing, if you notice, that statement; it says that "United States does not require their Federal Government or the state to provide services even so elementary as the service of maintaining law and order and for those not a party to the Constitution."

So part of what we do in our PUBLIC NOTICE, DECLARATIONS, AND LAWFUL PROTEST. In our filing we make sure we become party to those contracts. The Constitution. The Bill of Rights. To become a party, which you can add your signature to, just because it was signed about 240 years ago doesn't mean that you cannot add your signature to the contract. You have to add your signature to the contract to become a party to the contract. So part of what we do with our PUBLIC NOTICE, DECLARATIONS, AND LAWFUL PROTEST is we classify it as "nunc pro tunc" which means "now for then."

So when you add your signature to the contract it now encumbers you, the people.

We are paying to provide the services that you agreed by contract to pay it.

So that's part of the process of what goes on with the PUBLIC NOTICE, DECLARATIONS, AND LAWFUL PROTEST is that it changes your legal, political and moral character and status and standing on the record of the law of the land.

So now you know that they do what they want to do and they are immune when they do it.

Now you know what is really going on in the courts.

This would indicate that they are not prosecuting anybody of anything.

They're just going down there and making bonds by the bank.

So what happens if we find ourselves caught up in this mess?

These are things that could effectively be used to challenge the jurisdiction of the prosecution; to invoke the jurisdiction in personam and invoke the jurisdiction of subject matter in an action that the prosecutor may just think up a name on the sports page something and decide "well I'm going to pick on that dude to see how much money we can get out of him."

So, those are some little tidbits that should hopefully engage your brain and open your eyes a little bit about what were up against as what we think most people call themselves citizens which means "subject to."

Now part of the law of the country; primarily being the "supreme law of the land" and of the "common law of the land" the second line in the law structuring in our country is the law is the "law of equity." And can we use the law of equity? Yes, and we want to stay in the Law of equity as much as possible unless there is some kind of a dispute in the way, it's supposed to be worked they call Equity law the law of "fairness"

And that is only as fair as the judge is; so knowing what we just learned about prosecutors also applies to judges; do we ever want to be put in a position where we allow these pirates to make a determination? And the answer is not only no but "hell no." You want to stay out of these courts as much as possible because once they get their claws into you; you have a better chance in Las Vegas of losing money. LOL

So let's go into the 20 elements of the" maxims of equity."

==========

First, some excerpts of an article By Don Harkins, publisher and editor, The Idaho Observer. Found at http://www.november.org/razorwire/rzold/17/17024.html

The cases cited were published and have created what is known in the legal realm as precedent. The unfairness of the situation has been exacerbated by unpublished decisions.

The justice-undermining implications of unpublished decisions were featured in an article by Washington, D.C. attorney John G. Kester that was published in a December, 1995 edition of The Wall Street Journal. "One law clerk observed that many government agencies, whenever they win an unpublished case, routinely ask to have it published and the court usually complies, but if they lose, down the memory hole it goes," Kester wrote.

In other words, if a citizen happens to win a case against a government agency, a government employee or an elected official, the decision is likely to be "unpublished." An unpublished decision may be a win for the citizen in the specific case but cannot be cited as precedent in later court proceedings - even if applicable. Kester wrote: "It is a momentous innovation to say that if you find a precedent, you still can't cite it or that it will be ignored."

The U.S. legal system, which has evolved from English common law, has been writing and publishing court decisions since the very beginning. Legal precedent is the cornerstone of American jurisprudence.

Over the course of time, perpetual litigants, like the federal government, have managed to stack the legal libraries of this country with published decisions which support the positions of government officials, while rulings contrary to government interests go unpublished and, therefore, become unavailable.

The result is a legal system that has been handicapped so heavily in favor of government interests that people who are foolish enough to challenge the authority of the government have no chance to win in court.

Our republican form of government that was designed to be of, by and for the people cannot survive if the judicial branch continues to allow government agencies, through the activities of its agents, to stack the law libraries with legal precedents which provide themselves absolute immunity.

==========

List of Maxims

As seen on Wikipedia: https://en.wikipedia.org/wiki/Maxims_of_equity

1) **Equity regards as done what ought to be done**

Sometimes phrased as "equity regards as done what should have been done", this maxim means that when individuals are required, by their agreements or by law, to perform some act of legal significance, equity will regard that act as having been done as it ought to have been done, even before it has actually happened. This makes possible the legal phenomenon of equitable conversion.

The consequences of this maxim, and of equitable conversion, are significant in their bearing on the risk of loss in transactions. When parties enter a contract for a sale of real property, the buyer is deemed to have obtained an equitable right that becomes a legal right only after the deal is completed.

Due to his equitable interest in the outcome of the transaction, the buyer who suffers a breach may be entitled to the equitable remedy of specific performance (although not always, see below). If he is successful in seeking a remedy at law, he is entitled to the value of the property at the time of breach regardless of whether it has appreciated or depreciated.

The fact that the buyer may be forced to suffer depreciation in the value of the property means that he bears the risk of loss if, for example, the improvements on the property he bought burn down while he is still in escrow.

Problems may sometimes arise because, through some lapse or omission, insurance coverage is not in force at the time a claim is made. If the policyholder has clearly been at fault in this connection, because, for example, he has not paid premiums when he should have, then it will normally be quite reasonable for an insurer to decline to meet the claim. However, it gets more difficult if the policyholder is no more at fault than the insurer. The fair solution in the circumstances may be arrived at by applying the principle that equity regards that has done that ought to be done. In other words, what would the position have been if what should have been done had been done?

Thus, we know in one case, premiums on a life insurance policy were overdue. The insurer's letter to the policyholder warning him of this fact was never received by the policyholder, who died shortly after the policy consequently lapsed. It was clear that if the notice had been received by the policyholder, he or his wife would have taken steps to ensure the policy continued in force, because the policyholder was terminally ill at the time and the coverage provided by the policy was something his wife was plainly going to require in the foreseeable future. Since the policyholder would have been fully entitled to pay the outstanding premium at that stage, regardless of his physical condition, the insurer (with some persuasion from the Bureau) agreed that the matter should be dealt with as if the policyholder had done so. In other words, his widow was entitled to the sum assured less the outstanding premium. In other similar cases, however, it has not been possible to follow the same principle because there has not been sufficiently clear evidence that the policy would have been renewed.

Another illustration of the application of this equitable principle was in connection with motor vehicle insurance. A policyholder was provided with coverage on the basis that she was entitled to a "no claims" discount from her previous insurer. Confirmation to this effect from the previous insurer was required. When that was not forthcoming, her coverage was cancelled by the brokers who had issued the initial coverage note. This was done without reference to the insurer concerned whose normal practice in such circumstances would have been to maintain coverage and to require payment of the full premium until proof of the no claims discount was forthcoming. Such proof was eventually obtained by the policyholder, but only after she had been involved in an accident after the cancellation by the brokers of

the policy. Here again, the fair outcome was to look at what would have happened if the insurer's normal practice had been followed. In such circumstances, the policyholder would plainly have still had a policy at the time of the accident. The insurer itself had not acted incorrectly at any stage. However, in the circumstances, it was equitable for it to meet the claim.

2) Equity will not suffer a wrong to be without a remedy

When seeking an equitable relief, the one that has been wronged has the stronger hand. The stronger hand is the one that has the capacity to ask for a legal remedy (judicial relief). In equity, this form of remedy is usually one of specific performance or an injunction (injunctive relief). These are superior remedies to those administered at common law such as damages. The Latin legal maxim is *ubi jus ibi remedium* ("where there is a right there must be a remedy").[5]

The maxim is necessarily subordinate to positive principles and cannot be applied either to subvert established rules of law or to give the courts a jurisdiction hitherto unknown, and it is only in a general not in a literal sense that the maxim has force.

Case law dealing with the principle of this maxim at law include *Ashby v White*[6] and *Bivens v. Six Unknown Named Agents*.[7] The application of this principle at law was key in the decision of *Marbury v. Madison*,[8] wherein it was necessary to establish that Marbury had a right to his commission in the first place in order for Chief Justice Marshall to make his more wide-ranging decision.

3) Equity is a sort of equality

Aequitas est quasi aequalitas[9] Where two persons have an equal right, the property will be divided equally.

This maxim flows from the fundamental notion of equality or impartiality due to the conception of Equity and is the source of many equitable doctrines. The maxim is of very wide application. The rule of ordinary law may give one party an advantage over the other. But the court of equity, where it can, puts the litigating parties on a footing of equality. Equity proceeds in the principle that a right or liability should as far as possible be equalized among all interested. In other words, two parties have equal right in any property, so it is distributed equally as per the concerned law.

4) One who seeks equity must do equity

To receive equitable relief, the petitioning party must be willing to complete all of its own obligations as well. The applicant to a court of equity is just as much subject to the power of that court as the defendant. This maxim may also overlap with the clean hands maxim (see below).[*citation needed*]

5) Equity aids the vigilant not the indolent

Vigilantibus non dormientibus aequitas subvenit.

A person who has been wronged must act relatively swiftly to preserve their rights. Otherwise, they are guilty of laches, an untoward delay in litigation with the presumed intent of denying claims. This differs

from a statute of limitations, in that a delay is particularized to individual situations, rather than a general prescribed legal amount of time. In addition, even where a limitation period has not yet run, laches may still occur. The equitable rule of laches and acquiescence was first introduced in *Chief Young Dede v. African Association Ltd*[10]

Alternatives:

- Delay defeats equity
- Equity aids the vigilant, not those who sleep on their rights

6) Equity imputes an intent to fulfill an obligation

Generally speaking, near performance of a general obligation will be treated as sufficient unless the law requires perfect performance, such as in the exercise of an option. Text writers give an example of a debtor leaving a legacy to his creditor equal to or greater than his obligation. Equity regards such a gift as performance of the obligation so the creditor cannot claim both the legacy and payment of the debt.

Where a claimant is under an obligation to do one thing but does another, his action may be treated as close enough approximation of the required act. A claimant who has undertaken an obligation, will, through his later conduct be interpreted as fulfilment of that obligation.

7) Equity acts *in personam* (i.e. on persons rather than on objects)

In England, there was a distinction drawn between the jurisdiction of the law courts and that of the chancery court. Courts of law had jurisdiction over property as well as persons and their coercive power arose out of their ability to adjust ownership rights. Courts of equity had power over persons. Their coercive power arose from the ability, on authority of the crown, to hold a violator in contempt, and take away his freedom (or money) until he purged himself of his contumacious behavior. This distinction helped preserve a separation of powers between the two courts.

Nevertheless, courts of equity also developed a doctrine that an applicant must assert a "property interest". This was a limitation on their own power to issue relief. This does not mean that the courts of equity had taken jurisdiction over property. Rather, it means that they came to require that the applicant assert a right of some significant substance as opposed to a claim for relief based on an injury to mere emotional or dignitary interests.

8) Equity abhors a forfeiture

Today, a mortgagor refers to his interest in the property as his "equity". The origin of the concept, however, was actually a mirror-image of the current practice.

At common law, a mortgage was a conveyance of the property, with a condition subsequent, that if the grantor paid the secured indebtedness to the grantee on or before a date certain (the "law" day) then the condition subsequent would be void, otherwise to remain in full force and effect. As was inevitable, debtors would be unable to pay on the law day, and if they tendered the debt after the time had passed, the creditor owed no duty to give the land back. So then the debtor would run to the court of equity,

plead that there was an unconscionable forfeiture about to occur, and beg the court to grant an equitable decree requiring the lender to surrender the property upon payment of the secured debt with interest to date. And the equity courts granted these petitions quite regularly and often without regard for the amount of time that had lapsed since the law day had passed. The lender could interpose a defense of laches, saying that so much time had gone by (and so much improvement and betterment had taken place) that it would be inequitable to require undoing the finality of the mortgage conveyance. Other defenses, including equitable estoppel, were used to bar redemption as well.

This unsettling system had a negative impact on the willingness of lenders to accept real estate as collateral security for loans. Since a lender could not re-sell the property until it had been in uncontested possession for years, or unless it could show changed circumstances, the value of real estate collateral was significantly impaired. Impaired, that is, until lawyers concocted the bill of foreclosure, whereby a mortgagee could request a decree that unless the mortgagor paid the debt by a date certain (and after the law date set in the mortgage), the mortgagor would thereafter be barred and foreclosed of all right, title and equity of redemption in and to the mortgaged premises.

To complete the circle, one needs to understand that when a mortgagor fails to pay an installment when due, and the mortgagee accelerates the mortgage, requiring immediate repayment of the entire mortgage indebtedness, the mortgagor does not have a right to pay the past-due installment(s) and have the mortgage reinstated. In *Graf v. Hope Building Corp.*,[11] the New York Court of Appeals observed that in such a case, there was no forfeiture, only the operation of a clause fair on its face, to which the mortgagor had freely assented. In the latter 20th Century, New York's lower courts eroded the *Graf* doctrine to such a degree that it appears that it is no longer the law, and that a court of conscience has the power to mandate that a default be excused if it is equitable to do so. Of course, now that the pendulum is swinging in the opposite direction, we can expect courts to explain where the limits on the newly expanded equity of redemption lie...and it is probably not a coincidence that the cases that have eroded *Graf v. Hope Building Corp.* have been accompanied by the rise of arbitration as a means for enforcing mortgages.[12]

9) Equity does not require an idle gesture

Also: Equity will not compel a court to do a vain and useless thing. It would be an idle gesture for the court to grant reformation of a contract and then to deny to the prevailing party an opportunity to perform it as modified.

10)He who comes into equity must come with clean hands

It is often stated that one who comes into equity must come with clean hands (or alternatively, equity will not permit a party to profit by his own wrong). In other words, if you ask for help about the actions of someone else but have acted wrongly, then you do not have clean hands and you may not receive the help you seek.[13] For example, if you desire your tenant to vacate, you must have not violated the tenant's rights.

However, the requirement of clean hands does not mean that a "bad person" cannot obtain the aid of equity. "Equity does not demand that its suitors shall have led blameless lives."[14] The defense of

unclean hands only applies if there is a nexus between the applicant's wrongful act and the rights he wishes to enforce.

In *D & C Builders Ltd v Rees*,[15] a small building firm did some work on the house of a couple named Rees. The bill came to £732, of which the Rees had already paid £250. When the builders asked for the balance of £482, the Rees announced that the work was defective, and they were only prepared to pay £300.[16] As the builders were in serious financial difficulties (as the Rees knew), they reluctantly accepted the £300 "in completion of the account". The decision to accept the money would not normally be binding in contract law, and afterwards the builders sued the Rees for the outstanding amount. The Rees claimed that the court should apply the doctrine of promissory estoppel,[17] which can make promises binding even when unsupported by consideration. However, Lord Denning refused to apply the doctrine, on the grounds that the Rees had taken unfair advantage of the builders' financial difficulties, and therefore had not come "with clean hands".

11)Equity delights to do justice and not by halves

When a court of equity is presented with a good claim to equitable relief, and it is clear that the plaintiff *also* sustained monetary damages, the court of equity has jurisdiction to render legal relief, e.g., monetary damages. Hence equity does not stop at granting equitable relief, but goes on to render a full and complete collection of remedies.

12) Equity will take jurisdiction to avoid a multiplicity of suits

Thus, "where a court of equity has all the parties before it, it will adjudicate upon all of the rights of the parties connected with the subject matter of the action, so as to avoid a multiplicity of suits."[18] This is the basis for the procedures of interpleader, class action, and the more rarely used Bill of Peace.

13) Equity follows the law

This maxim, also expressed as *Aequitas sequitur legem*, means more fully that "equity will not allow a remedy that is contrary to law."

The Court of Chancery never claimed to override the courts of common law. Story states "where a rule, either of the common or the statute law is direct, and governs the case with all its circumstances, or the particular point, a court of equity is as much bound by it as a court of law, and can as little justify a departure from it."[19] According to Edmund Henry Turner Snell, "It is only when there is some important circumstance disregarded by the common law rules that equity interferes."[20] Cardozo wrote in his dissent in *Graf v. Hope Building Corporation*, 254 N.Y 1 at 9 (1930), "Equity works as a supplement for law and does not supersede the prevailing law."

Maitland says, "We ought not to think of common law and equity as of two rival systems."[21] "Equity had come not to destroy the law, but to fulfil it. Every jot and every title of law was to be obeyed, but when all this had been done yet something might be needful, something that equity would require."[22]The goal of law and equity was the same but due to historical reasons they chose a different path. Equity respected every word of law and every right at law but where the law was defective, in those cases, equity provides equitable right and remedies.

In modern-day England and Wales, this maxim no longer applies; as per section 49(1) of the Senior Courts Act 1981, the law follows equity instead:

> Subject to the provisions of this or any other Act, every court exercising jurisdiction in England or Wales in any civil cause or matter shall continue to administer law and equity on the basis that, wherever there is any conflict or variance between the rules of equity and the rules of the common law with reference to the same matter, the rules of equity shall prevail.[23]

14) Equity will not assist a volunteer

A volunteer is defined in equity as one who has not offered consideration for a benefit they have received or expect to receive.[24] For example, if a person A expects from past conversations and friendship to receive property under any will of person B, but person B dies before writing this into their will, person A, having not made any contribution to person B, will not be able to seek equity's aid.[25]

This maxim is very important in restitution. Restitution developed as a series of writs called special assumpsit, which were later additions in the courts of law, and were more flexible tools of recovery, based on equity. Restitution could provide means of recovery when people bestowed benefits on one another (such as giving money or providing services) according to contracts that would have been legally unenforceable.

However, pursuant to the equitable maxim, restitution does not allow a volunteer or "officious intermeddler" to recover.

Those successfully pleading benefit from an estoppel (promise relied on to their detriment) will not be considered volunteers for the purpose of this maxim.

15) Equity will not complete an imperfect gift

If a donor has failed to fulfil all the required legal formalities to effect a transfer, meaning the gift is an imperfect gift, equity will not act to provide assistance to the donee. This maxim is a subset of equity will not assist a volunteer.

However, there are certain relaxations to the maxim, including the rule of Re Rose of where the donor has “done all in his power to divest himself of and to transfer” the property,[26] and the more recent but controversial use of unconscionability as a method of dispensing a formality requirement.[27]

Note the exception in *Strong v Bird* (1874) LR 18 Eq 315. If the donor appoints the intended donee as executor of his/her will, and the donor subsequently dies, equity will perfect the imperfect gift.

16) Where equities are equal, the law will prevail

Equity will provide no specific remedies where the parties' causes are to be seen to be equal, or where neither has been wronged.

The significance of this maxim is that applicants to the chancellors often did so because of the formal pleading of the law courts, and the lack of flexibility they offered to litigants. Law courts and legislature, as lawmakers, through the limits of the substantive law they had created, thus inculcated a certain status quo that affected private conduct, and private ordering of disputes. Equity could alter that status quo, ignoring the clearly imposed limits of legal relief, or legal defences. But courts applying equity are reluctant to do so. This maxim reflects this. If the law firmly denied a cause of action or suggested equities between the parties were as a matter of policy equal, equity would provide no relief; if the law did provide relief, then the applicant would be obligated to bring a legal, rather than equitable action. This maxim overlaps with the previously mentioned "equity follows the law."

17) Between equal equities the first in order of time shall prevail

This maxim operates where there are two or more competing equitable interests; when two equities are equal the original interest (i.e., the first in time) will succeed.

18) Equity will not allow a statute to be used as a cloak for fraud

Equity prevents a party from relying upon a presence or absence of a statutory formality if to do so would be unconscionable and unfair. This can occur in secret trusts, constructive trusts etc.

19) Equity will not allow a trust to fail for want of a trustee

If there is no trustee, whoever has legal title to the trust. property will be considered the trustee.

20) Equity regards the beneficiary as the true owner

Due to limits in old Common Law, no remedy was had for beneficiaries if, for example, a trustee ran off with the trust property. To remedy this and protect intended recipients of trust property, Equity regarded the beneficiary as the true (eventual) owners of the trust property.

Read more and see footnotes here https://en.wikipedia.org/wiki/Maxims_of_equity