

Koans of Equity

James Grimmelmann

A novice said to a master, "Excuse me, but I must wash myself before going to court, as I do not wish to seek equity with unclean hands."

The master replied, "Then why do you shake hands with opposing counsel?"

In that moment the novice was enlightened.

It is said that a young associate once presented a memorandum to a partner. The partner flipped through it and looked up angrily.

"I asked for ten pages, but this is only six. Where are the rest?" asked the partner.

"Equity regards as done that which ought to be done," said the associate.

(But another version of this story holds that the associate remained silent, left the room, and returned with four blank sheets of paper.)

There was a monastery in which the monks gathered every morning to haul the day's water up from the river. An aged master came to visit the monastery. On the first morning of his visit, he followed the monks to the river and watched as they filled their buckets. That evening, he asked the abbot for a bucket.

The next morning, the master took the bucket with him and walked to the river with the monks. When he had filled the bucket, however, one of the monks stopped him and insisted on taking the bucket from him. "Our honored guest must not carry his own water. Equity does not require an idle gesture."

"Equality is equity," objected the master, but the monk would not relent. When they reached the monastery at the top of the hill and the monk set down the bucket, the master tipped it over and spilled the water on the ground.

"Now there is room for your equity in the bucket," he said.

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A student came to a dean asking to study equity.

“First you must study law,” said the dean, and sent the student away.

Three years later, the student returned. “I studied law as you insisted,” he said. “It was a worthless endeavor. The law is unjust, formalistic, nonsensical, and hopelessly confused. I have never been so frustrated in my life as in the last three years.”

“Now you are ready to study equity,” said the dean.

Two novices were walking down a long and dusty road when they came to a fork. They decided to rest there for a while beneath a shady tree and wait for the heat of midday to pass. One of them promptly fell asleep. The other remained awake, meditating on the majesty of the law. After a while, another traveler came towards them.

“I am on my way to the capital,” said the traveler, “where I am a judge. I see from your clothes that you, too, seek equity. I have some honey, enough to make a good snack for one person. Would you like it?” The novice nodded and sprang to her feet.

“But equity does not aid a volunteer,” said the judge.

“Then let me wake my companion and you may give it to her,” said the novice.

“But equity will not aid those who slumber on their rights,” said the judge. “No, I think I will eat the honey myself.” And she walked away along the left fork, eating the honey.

A few minutes later, the other novice awoke. Seeing the judge walking away, she asked, “Who was that?”

“A judge, on her way to the capital.”

“But that is the longer road, through the mountains. Should we not chase after her and direct her to take the other fork?”

The first novice shrugged. “Equity will not concern itself with abstract wrongs.”

“Why are your parables about equity so hard to understand?” a novice asked a teacher.

“You have heard it said that equity is the Chancellor’s foot?” she replied.

“Yes.”

“Then if the Chancellor is to speak equity, where must his foot be?”

The novice was silent.