



NUI MAYNOOTH
Ollscoil na hÉireann Má Nuad

OLLSCOIL NA hÉIREANN MÁ NUAD
THE NATIONAL UNIVERSITY OF IRELAND MAYNOOTH

SEMESTER 2
2012-2013

LW106
Contracts

Professor Thomas D. Russell

Time allowed: 2 hours

Answer *one* question

There is only one question

INSTRUCTIONS:

1. **LENGTH:** This is a two-hour examination. You must stop writing your answer when the invigilator says to stop.
2. **TURNING IN YOUR SCRIPT:** Turn in your script as instructed at the conclusion of the exam.
3. **LENGTH:** This examination consists of one question. There is no minimum or maximum word limit. There is also no reward for writing more words rather than fewer words. If two answers have identical content and one has fewer words, the shorter answer will earn a higher mark.
4. **FORMATTING:** You may format your answer however you wish. Be sure to maximize readability.
5. **HOW TO ANSWER:** This is a Contracts exam. Answer the question Professor Russell has posed not some other question of your own invention. In answering, use judgment and common sense. Be organized. Emphasize the issues that are most important. Do not spend too much time on easy or trivial issues at the expense of harder ones. If you do not know relevant facts or relevant legal doctrine, indicate what you do not know and why you need to know it. You must connect your knowledge of law with the facts before you. Avoid wasting time with lengthy and abstract summaries of general legal doctrine. Discuss all plausible lines of analysis. Do not ignore lines of analysis simply because you think that a court would resolve an ambiguous question one way rather than another.
6. **JURISDICTION:** The law of the Republic of Ireland applies to all the issues in this examination.
7. **CONCISION:** Quality, not quantity is desired. Think through your answer before you begin to write. You will earn a better grade by being thorough and concise. And, of course, well-organized answers will be the best answers that earn the highest grades.

8. CHEATING: If, in preparing for this examination you have violated the Examination Regulations or the Code of Discipline for Students, or if, during this examination, you violate the Examination Regulations or the Code of Discipline for Students, the best course of action is for you to report to the Chair of the Academic Discipline Board immediately after this examination ends.

9. SIGNATURE: On the front cover of your script, please write the following “No unpermitted aid given or received.” Sign your name following that sentence. **Do not write your name in any other place in the exam script.**

10. GOOD LUCK.

Contracts Exam

You are a training solicitor in a Dublin law firm that represents Acme Cooler, a supplier of equipment to the florist trade. This morning you were given the following memo from a vice-president at Acme.

13 May 2013

We have a problem with a fellow named Porter who bought two of our coolers. As near as we can tell, this is what happened. Porter lives in Cork and wanted to open a florist's shop. Sometime last summer he leased some property in Cork, and in October, he wrote to us about coolers, which are the walk-in refrigerators that florists use to store cut flowers.

On 12 March, a Tuesday, he met with Seamus Sells, one of our salesmen, looked at some brochures, and signed an order form. Seamus brought the order in on the 16th, and we got to it on the 19th. A copy of the order form is attached. (See attached Order Form)

We shipped the first cooler on 4 April and installed it on the 5th. We couldn't ship the other one until the 18th because one of the seals had split, and we needed to replace it. When our delivery/installation guy got to Porter's on 19 April, Porter got hysterical. He threw our guy off the premises, and on 30 April we got the attached letter: (See attached letter)

Can you give us some advice on this?

Donal

Your boss has asked for a memo outlining your thoughts as to (1) whether Acme is liable on any of the claims asserted in Myword's letter, and (2) whether, on the other hand, Acme might have any claim against Porter. He wants to discuss it tomorrow, so you won't have much time. Your boss wants you to assume that all facts asserted in the above memo and in the first paragraph of Myword's letter, are true and could be proven. Be direct and as thorough as time allows.

Attachment 1:

ORDER FORM

Acme Florist's Supply agrees to sell to Porter Cork Florist the following equipment:

Model XXP Coolers, with compressors and emergency power supplies	2 at €3500	€7000
Model XXP Cooler replacement doors, with Insul glass,	2 at €400	€800
one power supply conversion unit,	1 at €600	€600
		<hr/>
	Total:	€8400

Acme will deliver and install the equipment not more than 31 days from the making of this contract. Acme will assist the buyer in installing the equipment, and adjusting for temperature sensitivity.

Buyer agrees to pay €1400 down and the balance 10 days after all of the equipment is installed.

Acme will repair the coolers for 90 days at no expense to the buyer, and will replace defective parts for one year at no charge. There are NO OTHER WARRANTIES express or implied.

Seller: Seamus Sells 12 March 2013

Buyer: Paul Porter 12 March 2013

SHOP ACME FOR THE FINEST IN FLORIST'S SUPPLIES 086-FLOWERS

Attachment 2:

Acme Florist's Supplies
77 Upper Gardiner St.
Dublin

29 April 2013

Dear Sir or Madam:

On behalf of my client Paul Porter, I wish to advise you of a claim which Mr. Porter plans to assert against you for the breach of a contract to deliver two florist's coolers as per a written contract.

The cooler was to have been delivered and installed no later than 13 April. As your salesman knew, Mr. Porter needed the coolers by that time in order to store flowers for his Grand Opening on the 17th. One of the coolers was delivered, but the other was not delivered on time.

On the 16th Mr. Porter, in order to prevent the loss of 400 gardenias which had arrived that morning and needed to be kept cool, bought a Westinghouse refrigerator for the storage of the flowers. The settings on the refrigerator permitted too much temperature fluctuation, however, and since gardenias are very sensitive to temperature, the gardenias were all destroyed.

Mr. Porter therefore demands:

- A. That you immediately remove the cooler that you installed on the 5th of April;
- B. That you return the €1400 he paid you by check on the 12th of March;
- C. That you pay him €3300 for the following losses:
 - 1. €700 the cost of the Westinghouse refrigerator
 - 2. €1600 the retail price of 400 gardenias
 - 3. €5000 for loss of profits and injury to business reputation.

Yours truly,

Mark Myword
Solicitor

END OF EXAMINATION