

Dickinson
CONTRACTS I
Fall 1991

Question 1

On June 1st John called the Evershiny Siding Company and requested a Quote for residing his home at 123 Southview. The next day Evershiny's estimator came out and measured John's house. Computing the cost at \$5,000, she mailed a letter to John detailing the estimate and setting the completion date as July 15th. Evershiny enclosed a completed purchase order with the letter, which John was instructed to sign and return if he wanted the job done.

When John received Evershiny's letter, he thought the price was acceptable but felt that July 15th was entirely too long to complete the job. So he crossed out "July 15th" on the purchase order and wrote in "July 1st." He then signed the purchase order and mailed it back to Evershiny as instructed.

When the purchase order arrived at Evershiny, it was opened by Zelda, the office manager, who (without noticing the alteration in date) scheduled John's job for the week of June 25th. She then placed the purchase order in a basket with others awaiting acknowledgement. Later in the day, Zelda saw that John had altered the date on the purchase order, and took it to Herman, Evershiny's President, who told her it was "O.K." When she returned to her desk, however, Zelda was distracted by a phone call so that she mislaid the purchase order and, thus, never sent John an acknowledgement of his order.

Not having heard from Evershiny by June 15th, John contracted with Dayton Improvement Company to install vinyl siding. While most types of replacement siding requires the

removal of the present siding, vinyl siding must be placed on top of the present siding and cannot be installed in any other way. Because of this fact, the stated contract price was only \$4,000 and installation was to begin on July 5th.

On June 25th, however, Evershiny's foreman and a crew of five, showed up at John's house and started stripping off the old siding. John, who had spent the day at the library, was shocked that night to discover two sides of his home stripped of siding and a sign in his front yard that said, "Another happy customer of Evershiny Siding Company!"

John first called Herman, who told him that as far as Evershiny was concerned they had a contract to replace the siding for \$5,000, and that the crew would return the next morning unless he was willing to pay Evershiny \$2,000 to cancel the contract. John then called Dayton Improvement and was also told that they had a contract to install vinyl siding for \$4,000, John's head was spinning. He called Herman back and reluctantly agreed to pay the \$2,000.

On July 5th, Dayton Improvement arrived to install the vinyl siding but first had to replace the old siding that had been removed by Evershiny. Under a clause of their contract, Dayton Improvement had blanket authority to perform necessary repairs before installing the vinyl siding, and to add the cost of such repairs to the contract price. Thus, when Dayton Improvement sent its final bill, it added \$1,200 for the cost of restoring the old siding.

When John received Dayton Improvement's bill for \$5,200, ha balked at paying it because the amount was more that the original contract price. Dayton Improvement promptly filed suit against John seeking \$5,200.

When he received a demand from Evershiny for \$2,000, he refused to pay on the grounds that Evershiny was the cause

of his whole problem. Evershiny promptly filed a three count Complaint against John, the first seeking \$2,000 for breach of the agreement to cancel their siding contract; the second seeking \$5,000 for breach of the siding contract; and, the third seeking \$1,500 as the reasonable value of the services performed in removing the old siding from two sides of his house.

With respect to each action, who will win and why? Explain each answer fully.

Question 2

Sam is a corn farmer. On May 1, 1991, he signed a "Commodity Agreement" with Acme Elevator under which Sam agreed to sell, and Acme agreed to buy, all of the corn grown by Sam during the 1991 growing season, at \$3.00 per bushel. At the time Sam owned one farm that had produced between 5,000 and 6,000 bushels of corn annually.

A. Is this agreement enforceable? Why or why not?

B. If the 1991 crop produced 6,200 bushels in 1991, how much corn would Acme be required to purchase? Why?

C. If Sam bought another farm on June 15th which produced an additional 1,500 bushels of corn during the 1991 growing season, would the "Commodity Agreement" cover the additional corn? Why or why not?

D. If the "Commodity Agreement" had a clause permitting Acme to terminate the arrangement anytime before August 15th, would the agreement be enforceable? Why or why not?

Question 3

Molly graduated from The Ohio State University at

Vandalia in 1989, where she majored in History and earned a 3.25 cumulative grade point average. Since the job market for historians was somewhat depressed, Molly decided to go to law school. She took the LSAT and scored 32.

Molly obtained a Bulletin from the Spiro T. Agnew College of Law in Baltimore, which said:

"IV. Admission

"The College of Law admits students on the basis of their undergraduate performance and academic promise. In the past, students with a good undergraduate record (3.00 and above) and a minimum LSAT score of 30 have been admitted and successfully completed law school

" Students applying for admission should complete an Application and submit it, along with a check for \$35, to the Office of Admission, not later than April 15th. The student must also arrange to have a report of their LSAT scores sent directly to the school.

"On May 15th, the school will send Offers of Admission to those students who have been selected for entry. Students will have 60 days following acceptance within which to pay their first semester's tuition and fees (\$6,000)."

Molly completed the application and sent it to the Office of Admission with her check for \$35, well before the April 15th deadline. In response to the question about why she wanted to study law, Molly wrote (somewhat facetiously), "In order to become filthy rich." She also arranged to have her LSAT score sent to the school in plenty of time.

Confident that she easily exceeded the requirements for admission, Molly resigned her summer job on April 30th (which would have paid her an extra \$2,000 had she continued working), and signed a year's lease on an apartment near the law school to begin on July 1st (for \$600 per month including utilities).

On May 5th, Molly was horrified to receive a letter of denial from the law school. She has been so sure of her acceptance that she did not even apply to any other schools. Molly's mortification turned to anger a few days later when she learned that several of her friends with lower grade point averages and the same or lower LSAT scores had been admitted to the Spiro T. Agnew College of Law. When she confronted the Assistant Dean for Admission with these facts, he told her that the Admission Committee knew her credentials were superior to other students that were admitted, but felt that their essays on why they want to be lawyers was better than hers. (The others apparently wrote about their desire to selflessly serve the public.) The Assistant Dean confided in her that he didn't think what happened was "right" but that he couldn't do anything about it because all of the seats in that year's entering class had been filled with other applicants.

Molly consults your senior partner about a possible law suit to redress the wrong she has suffered. After hours of fruitless searching through federal and state statutes, the senior partner has reluctantly concluded that the law school's action is not illegal discrimination. She believes that the law of contracts may provide an answer for Molly's problem, however.

Can the law of contracts assist Molly? If so, how? Explain fully.