

Dickinson
Contracts I
Fall 1994

Question 1 (60 minutes)

In March of 1994, Fred decided to buy trees and shrubs in bulk for his landscaping business. Thus he sent Joanna's nursery the following:

"March 15, 1994

"I am trying to buy the following stock for orders I now have from customer:

"20 4' Blue Spruce @ \$100/ea.\$2,000

"10 8' Dutch Elms @ \$200/ea. 2,000

"10 12' Norway Maples @ \$300/ea. 3,000

"Do you have them in stock? Are you able to ship at once? If so, I am willing to buy at the price indicated subject to my inspection for quality, health, and shape. Please wire answer at once so that I don't make alternative arrangements with someone else."

When Joanna read Fred's letter, she realized that the prices he quoted were quite high. She checked her inventory and discovered that she already had the Blue Spruces and Dutch Elms in stock, but that she had only 5 Norway Maples. She called Mercury Trucking Company and arranged for a tractor-trailer to pick up the nursery stock that she had that afternoon. She also ordered 5 additional Norway Maples from her supplier.

Two days later, on Sunday, March 20, 1994, the truck arrived at Fred's business. Since no one was there, the driver unloaded the trees and shrubs in the yard behind the building and left for Memphis to be with his family for Easter.

When Fred arrived on Monday morning he found a Bill of Lading tacked to the front door of his business. The Bill of Lading was for all 40 trees with a handwritten note that said, "Owe 5 maples." Because the weather was so nice, Fred did not examine or count the trees and shrubs, but merely took what he needed and left for the Smith's house (his next customer). Since the weather held during the last 10 days of March, Fred did the same thing each morning, and never did get around to examining the balance of the nursery stock. He did come across 4 Blue Spruces, 2 Dutch Elms, and 1 Norway Maple that he did not like the looks of, however, so he set them aside.

Then on April 1st, tragedy struck. Fred was resting in a hole in the Jones' backyard that he had just dug for a Norway Maple, when a car backfired, distracting Jill, the backhoe operator for a utility crew installing natural gas service next door. Jill ran into the meter, causing the gas line to break at its weakest point, the hole in which Fred was sitting, -- smoking a cigarette.

Poor Fred was never found, but Fiona, his wife was appointed administrator of his estate. Fiona's first act was to contract with Neal's Landscaping Company to finish the jobs that Fred had agreed to do but had not finished before his death. Neal did not want any of Joanna's nursery stock, however, because he grew his own trees and shrubs. Therefore, Fiona wrote Joanna as follows:

"April 15th

"Since the death of my dear husband, Fred, we are no longer in the landscaping business and have no use for the stock which you sent last month. Accordingly, I am hereby cancelling the contract, and rejecting the balance of the trees and shrubs you had delivered. I will, of course, pay for what he used, 8 Blue Spruces, 3 Dutch Elms, and 3 Norway Maples. Enclosed is a check for \$2,300 in full payment. The rest of the stock, including that he had rejected, should be picked up as soon as possible since I am closing the business and vacating the premises."

Unfortunately, Joanna's office clerk got Fiona's letter mixed up with some ads for inspirational coffee mugs, and Joanna did not discover and read the letter until after the 4th of July. In the meantime, all of the remaining stock she had sent to Fred died for lack of water. Joanna is threatening to sue for the full amount of the nursery stock, including the 5 Norway Maples that she just received. Fiona denies any and all liability beyond paying for what Fred had actually planted.

If Joanna sues, who will win and why? What remedy, if any?

Question 2 (60 minutes)

Seller is a small citrus wholesaler who buys Florida oranges, grapefruit and limes, and resells them to northern grocery chains. Seller received a visit from Buyer on January 29th, offering to buy 3,000 dozen oranges from him for \$1 per dozen or \$3,000 in all. Seller had the fruit on hand, but thought the price a bit low, and so asked for a week to think about it. Buyer said, "O.K. the offer is firm. I'll keep it open for one week no matter what, but only for one week."

On February 2nd, Seller sent the following telegram to Buyer:

"Re your offer to buy oranges, I would be willing to give you an option to purchase a quarter of the spring lime crop at the market rates if you will raise the price of the oranges a bit, to, say, \$5,000. Please advise."

The same day, Buyer sent a return wire of one word, "No."

When Seller received this response, he decided that, since he had no better offer, he would accept Buyer's offer while he still could. Thus, on February 4th, he mailed a letter to Buyer accepting her offer.

That night, the TV news reported that the ice storm of the century was moving toward Florida. Seller realized that the fruit in his warehouse would be worth many times what he paid for it. Accordingly, he flew to New Jersey the next day and met with Buyer, telling her that he would not sell his citrus to her at the price she had offered.

Buyer, too, had heard the news of the winter storm and knew its likely effect on the price of fresh Florida citrus. She therefore offered Seller \$14,000 for the same 3,000 dozen oranges. Seller accepted with the proviso that the price be paid by check immediately. Buyer agreed and wrote a check on the spot.

Seller returned to Florida and shipped the oranges by air freight the next day. He then deposited Buyer's check, but it was returned a week later bearing the notation, "Payment on this check has been stopped by maker. Do NOT re-deposit." It seems that just after giving the check for \$14,000 to Seller, Buyer received Seller's letter, dated

February 4th, accepting Buyer's offer of \$3,000. She immediately stopped payment on her check and was waiting when Seller called.

After a heated debate, Buyer and Seller were unable to resolve the matter. Seller is now out his oranges, which he could have resold for \$17,500, and has not received any payment at all from Buyer. For that reason, Seller commenced an action seeking \$17,500 from Buyer on June 5th.

Who will win and why? What remedy, if any?

Question 3 (15 minutes)

An November 25th, Sam met Reeba at the Walmart. Sam was a "good ole' boy," with a pickup truck, a pair of cowboy boots, and no visible means of support. Reeba owned a Christmas tree farm just outside town.

That morning she had noticed a large pile of pine cones and shats (needles) on the road leading into her woodlot. Since Reeba liked to have the place spiffied up before customers came to cut Christmas trees, she said to Sam, "There's a big pile of old pine shats and cones laying alongside the road going into my tree farm. Haul it away for me, and I'll pay you \$75."

Sam had been wondering where the next payment on his pickup would come from, and so he drove right over to Reeba's place and began loading the shats and cones. He had not loaded more than a couple of shovels, when Reeba drove up, followed by Tom, her foreman, and a crew of men. She said that Tom had just told her about hauling shats and cones out of the woods to use as mulch around a Christmas display at the front gate, so Sam didn't need to bother with them. As Sam watched, the crew quickly loaded the pile into Tom's pickup and drove off. Sam finally stammered, "That'll

be \$75 please, Miss Reeba." To which Reeba replied, "Oh, Sam, don't be so silly," and drove off.

After brooding about the matter for a couple of days, Sam has decided to sue Reeba for \$75 in small claims court. Who will win and why? What remedy, if any?

Question 4 (15 minutes)

Scrooge was a man of means. He had no family, except for a nephew, who constantly badgered Scrooge for loans. Scrooge always declined, however, because he knew that his nephew was a spendthrift who never saved a penny.

One day, Scrooge was walking past his nephew's flat when, through the window, he observed a large portrait of his nephew's dear departed mother, Scrooge's own saintly sister, hanging on the wall. Scrooge stopped and offered to buy the portrait, but his nephew refused to sell.

Sometime later, the nephew wrote and again asked his uncle, Scrooge, for a loan of 1,000 pounds. This time Scrooge responded:

"In return for your promise to give me the portrait of your dear departed mother that hangs in your front room, I promise to loan you the sum of 1,000 pounds, without interest, as long as I am satisfied that you will repay me.

"Your
loving
Uncle,

"Scrooge"

The nephew was overjoyed and immediately responded accepting his uncle's offer. Good to his word, Scrooge sent

a 1,000 pound check by return messenger, with a note saying that he would call that very evening for the portrait.

That night, as the nephew waited for his uncle's visit, he realized that the portrait was the only thing he had that reminded him of his mother who had given her all that he might come into this world. He broke down in tears when he realized what he had done.

When Scrooge finally arrived, the younger man refused to surrender the portrait. Scrooge left in a rage and, the next day, filed an action against his nephew for breach of contract, and seeking possession of the portrait.

Who will win? Why? What remedy, if any?