

Graduate Contracts Examination

This is the examination for the course Graduate Contracts required of all candidates for the MIP, MCT or LLM degrees. This examination consists of three Parts (Part I, Part II, Part III). Each part describes a particular factual situation that is followed by questions arising from that situation that you must answer. Please write your answers in ink, on the right hand pages of the examination books provided. You are to respond to this examination by determining the appropriate legal solution to the questions presented in each part.

Unless the dean's office has established a different time, you will have three hours during which to consider, determine and record your answers to the questions propounded;

You are not to have any materials with you during the examination except writing implements, the scratch paper supplied, and a single purpose first language (not English) to English dictionary.

Be sure to write your examination number on the cover of each examination book you submit and to designate each of your responses by the Part and question number.

The task presented by this examination is to resolve the questions asked in the examination using the common law of contracts to determine the most appropriate solution compelled by that body of law. Remember to keep your thinking and your responses focused on the questions asked in the examination.

PART I

The Creditor's Assistance Department ("the CAD") is a government agency that is in charge of seizing, and selling property of debtors in order to generate to cash for paying the debtor's creditors. For several weeks, the CAD has been advertising to sell a piece of real estate owned by debtor. Bargain Hunter offered to buy this piece of real estate for \$100,000.00. CAD rejected this offer by sending a letter to Hunter that said: "CAD's counter offer is \$180,000. All offers are subject to approval by CAD's delegated authority. CAD has the right to accept or reject any and all offers." Hunter then replied in writing that he agreed to buy at \$180,000. CAD sold the property to someone else.

- 1) Does the law require that CAD pay Hunter damages for its failure to sell the property to him? If so, why? If not, why not?

SEE: 42 F.3d 704 (1994)

PART II

Tom has had three bicycles stolen from him in the last year. These thefts were enabled by the fact that Tom never locks or garages his bikes. He rides into the front yard of his

house, drops the bike on the grass and runs into the house. Now Without transportation for the third time, Tom negotiates with his parents for a new bike promising that he would take care of a new one. Tom's father told him that if father found the new bike in the front yard or anywhere without a lock on it, father, would take the bike and lock it in the cellar for the entire summer. Tom told Father that he would always lock it, if given a chance to prove himself by being given a new bike. Tom's parents were persuaded and they bought Tom the new bike before school was out for the summer. Tom faithfully garaged and locked his new bike for several weeks but then one day, father came home to find the new bike lying unlocked in the front yard. Father decided to take the bike to the cellar after he changed out of his business clothes. While he was changing his clothes the bike was stolen.

2) Tom blames the theft of his fourth bike on his father's failure to bring the bike in immediately. Does Tom have a legal claim against his father for the value of the stolen bike? If so, why? If not, why not?

SEE: 239 A2d 725 (1998).

PART III

Farmer Super owns a fancy breed cow called Jane. He has been trying to breed this cow for five seasons but no pregnancy has been achieved. Super's disappointment has been economic. A viable calf from the cow would sell for a lot of money, enough to pay the cost of the investment in Jane. More importantly, Jane could be sold for a high price if she proves not to be sterile. If Jane cannot produce a calf Farmer Super will be able to sell Jane only for beef, at one- third the price he could get if he could sell her as a breeding cow.

For the last three years Super's next-door neighbor, Jokester, has been teasing Super about his bad investment in Jane, who is now eating more in pounds of food than she is gaining in pounds of beef. Super has heard so much from Jokester about Jane's sterility that he has decided to challenge Jokester to buy Jane. Super tells Jokester how Jane, who is an angus red color, would look lovely standing in Jokester's emerald green pasture. Jokester could not resist the challenge, saying " you'd never sell that sterile old cow for what she's cost you in food, but if you'll sell her at the market price for beef, I'll buy her." Super replied: "OK, I accept your offer-- she's yours."

1) As Farmer Super had predicted Jane looks beautiful standing in Jokester's emerald green white fenced pasture. Much to everyone's surprise after being taken to Jokester's pasture Jane began to grow larger because she was pregnant. Tired of being laughed at and teased by Jokester, Super has brought a lawsuit to rescind the sale of Jane to Jokester.

How should the court rule on Super's action assuming all of the above can be successfully proven? Be sure to explain the reason (s) for the court's decision.