

Empire College School of Law  
Professor Tinney  
Remedies  
Final Spring 2010  
Tuesday, April 20, 2010

Student ID\_\_\_\_\_

Question Number One – 1 Hour

Larry sells to Moe a franchise store in Shaggy World, a national carpet chain for \$250,000 by written agreement, and Moe pays the price. He tells Moe that Shaggy World Stores average \$150,000 a year profit, and this is practically guaranteed. This is not entirely true, as the success of the stores varies widely. It will be the only Shaggy World carpet franchise in the State of Woe. It will include not only the real property but a complete inventory of carpets, and Moe will owe Larry 20% of the net profits. One month before the closing, Larry and Moe get into a huge argument. Larry feels that the store in Woe will be unprofitable and doesn't want to sell to Moe and says "I am not going to sell you the store. You won't make any money at it, and I don't like Eskimos anyway (Moe is an Eskimo)." He then agrees in writing to sell the store and its contents to Curly, who is unaware of Moe's interest, and with no representations, for \$275,000. This will not be a Shaggy World franchise, as Curly will simply open his own store. The escrow to Curly is scheduled to close in two weeks.

What are the rights and remedies of the parties?

Question Number Two – 1 Hour

When Horn marries Harpy they enter into a written prenuptial agreement where each had counsel, which provides that in case of dissolution Harpy waives alimony and any right to inherit Horn's estate, but she will receive Magic, a small art design company. Over the years Magic grows and prospers and becomes Horn's chief asset, producing all of his income, as his other businesses fold, but the marriage sours, and Harpy says publicly that she hopes to kill Horn by annoying him to death. They live separately. There is no divorce, because Harpy knows that the Magic business will not be profitable on its own without Horn's participation. Further, Horn doesn't want to give up the business. He provides Harpy with \$10,000 a month "to live away from me." He meets a girlfriend, Vamp, and lives with her. The two vacation in the country of Bribe, where Horn obtains a one day divorce from Harpy and marries Vamp. Then, feeling the marriage might not be valid, Horn legally adopts Vamp as his child, so that she can be eligible as a beneficiary of his life insurance policy he has taken from the City of No Hope, one of his clients. He executes a will leaving all of his property to his daughter, Vamp. Their relationship goes on for 2 years, and he provides \$10,000 a month to Vamp for Horn and Vamp to live on. Horn is 50 years old, a heavy smoker, drinks to excess, and is overweight, and he has had heart problems but ignores them. One day, while he is working in front of the Acme Building, a cartoon company, they are moving a piano for cartoon music and it drops on Horn's head, killing him. Acme had been twice warned by the No Hope building inspectors that this piano moving method is dangerous and they should stop it, but Acme ignored this because the method was cheap.

What are the rights and remedies of Vamp and Harpy?

Question Number Three – 1 Hour

Clint has a fleet of five Bullet Cars. He takes ordinary Buicks and rebuilds them as luxury, bulletproof cars to carry visiting dignitaries. It costs \$120,000 to equip each car and takes 60 days. Two years later he takes them to Earl's for a luxury paint job at \$2,500 each. He leaves his own two year old Buick there and asks Earl for a bid on it "as long as I'm having the others done." Earl, believing he has an agreement to paint all the cars for \$2,500 does so. While the cars are on the lot an arsonist breaks into Earl's shop and burns all 6 cars. Earl's fire insurance policy has lapsed. Clint has insured the Bullet Cars at \$150,000 property damage and pays a hefty premium, telling the independent insurance agent, Elmer, how valuable these cars are. Elmer mistakenly only writes "2008 Buick La Sabre" on the insurance documents and does not mention the special nature of the cars. Clint gets \$800 a day each time the cars are rented out, and he does a fairly brisk business.

Ajax Insurance Company, Clint's insurance company, offers to pay \$20,000 per car, the value of an ordinary two year old Buick La Sabre and offers to refund the excess premium, saying that this is the maximum liability for a two year old Buick. Ajax says that the value is too difficult to ascertain, because there are no others like it. Elmer admits his mistake in describing the cars on the policy binder, but he has no insurance himself and must close his business, as he is now sick and without funds.

Earl demands to be paid for painting all six cars. Clint refuses, saying that he never received the cars and he feels the destruction was Earl's fault, and he never agreed to the painting of his personal car.

What are the rights and remedies of the parties?