



LAWS 1072 CONTRACTS 2

Final Examination Session 2 2007

Instructions to Candidates

1. Write **YOUR NAME** and **YOUR STUDENT NUMBER** on the front of each exam book. Also write your **TEACHER'S NAME** on the front of one exam book.
2. **EXAM DURATION:** 2 hours plus 10 minutes reading time.
3. **EXAMINATION CONDITIONS:** This is an open book examination. Any materials at all may be taken into the examination room. This includes hand-written notes and materials which are underlined or highlighted.
4. **This examination consists of ONE question only. It carries 50% of the total assessment for this course.**
5. Assume that the law to be applied is that of NSW and the Commonwealth of Australia. However, you may mention any relevant persuasive authorities from other jurisdictions. Full citation of authority is not required.
6. You should allow time to plan your answer, using appropriate headings and sub-headings. If you wish you may write your plan in your answer book but it will not be marked. You must write your answers legibly and in ink.
7. This paper consists of three pages including this instruction page. Please check that you have all pages. You may retain this paper.

BACKGROUND FACTS

Plenty, an inveterate traveller, notices an advertisement in the travel pages of the *Sydney Morning Herald* of 15th September 2007 concerning a tour of Roman ruins in the North African desert. The tour commences by departing from Sydney on 10th October, thereafter sightseeing for four days in and around Cairo in Egypt, and then spending most of its' time in Tunisia and Libya where the ruins are located. It arrives back in Sydney on the evening of 31st October

Later on 15th September Plenty goes to the city office of Dazzle the travel agent who has organised the tour and had placed the advertisement. Dazzle explains that for an all-inclusive price of \$20,000 each tour member receives a return flight Sydney-Cairo, four days sightseeing in the vicinity of Cairo, and then a two week tour of the main Roman ruins. According to Dazzle all sightseeing is conducted by experienced English-speaking guides using modern air-conditioned buses, with overnight accommodation at what are described as "luxury hotels" in Cairo and the desert.

Plenty pays Dazzle \$20,000 a few days later, and receives his air ticket and tour itinerary. No formal contract is signed. On 10th October Plenty flies out of Sydney with 25 other tour members.

When they arrive in Cairo there are signs from the outset that the tour is likely to be a disaster. The Cairo hotel accommodation is filthy, and Plenty finds the next day that the guides speak very little English and have seldom ventured beyond the city limits of Cairo. The tour buses turn out to be ten years old and not air-conditioned. A reliable friend of Plenty, who is stationed at the Australian Embassy in Cairo, looks at the hotels on the desert itinerary and describes them as "squalid".

On 14th October worse news follows from Plenty's Embassy friend. Since 11th October, Libya's leader, Colonel Gadhafi, has been threatening to close the Egypt-Libya border on the ground that the Egyptian regime is pro-Western. If it is closed, it will be impossible to reach the first (or any other) ruin. Even if the border remains open, the tour would not be able to visit approximately one third of the major ruins on the itinerary as both Tunisia and Libya have made a well publicised declaration on 5th September 2007 that, from this date, foreigners would no longer be allowed on these historic sites.

While the other members of the tour are deciding what to do, Plenty takes the first flight out of Cairo for Sydney. On 18th October 2007 he marches into Dazzle's office, shrieks that his annual holiday has been ruined, and demands return of his full fare of \$20,000. He also demands compensation amounting to: (i) \$6,000 that he had expended on safari suits and pith helmets for the trip;(ii)\$7,000 spent on unusually expensive cameras purchased for desert filming; and (iii) a sum of \$20,000 that a major newspaper had promised him for his personal account of this tour to the Roman ruins.

Having received a telephone call from his Cairo representative a few hours earlier on 18th October, Dazzle had been expecting some visit from Plenty. The representative had mentioned that an angry Plenty had left the tour although the other members had stayed on and reached the first ruin late on 16th October. Although Dazzle had known on 15th September that his statements about the buses, hotels and guides were

exaggerated, he was genuinely surprised to learn on 18th October of the six week old ban on foreigners visiting major ruins on the tour itinerary.

In all these circumstances Dazzle refuses Plenty's demands of 18th October and, saying that Plenty should have remained on the tour, Dazzle ejects Plenty from his office.

On 31st October 2007 Plenty comes to you seeking legal advice. He relates the abovementioned facts and also informs you that the Egypt/Libya border was closed late on 30th October .

Explain to Plenty any legal rights he may have, and indicate also the full extent of any remedies available to him.

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