

## Contracts Writing Assignment:

This is an individual assignment. Everyone will answer the same questions.

You must do your own work and use Turnitin. I will not accept any paper that has any cut and paste material. See Syllabus.

Like all papers you'll submit, formatting is: 1" margins all around, double spaced, Times New Roman 12-point font.

There is a 3-page minimum...which equates to an "average" score. As always, if you want a better score...do more than the minimum work required. I can tell when a student has done the work and when they have waited until the last minute to throw something together. Don't be in that latter group.

### **ASSIGNMENT:**

The Las Vegas Restaurant purchased a quantity of a special variety of apple that Sam's Apple Company grew in an orchard just outside of Las Vegas. The Las Vegas Restaurant uses the apples for a special dessert it is famous for.

The apple was of a type that kept well in cool storage. The Las Vegas Restaurant's purchase represented approximately 25 percent of Sam's Apple Company's total harvest each year.

Initially, the Las Vegas Restaurant and Sam's Apple Company entered into a formal, written purchase agreement for each year's crop, delivered on a quarterly basis. However, over time the agreement became less and less formal. Eventually it consisted at first of a telephone order for the "usual supply," and later to an arrangement whereby Sam's Apple Company would simply deliver the normal quantity to the Las Vegas Restaurant each quarter, and in due course would receive payment at the going market price for the crop. This latter arrangement carried on for a period of about ten years.

In the last year, the president of Sam's Apple Company, Sam, fell seriously ill and retired. He was replaced by Heather. Sam had been responsible for the original contracts with Las Vegas Restaurant and had made the later informal arrangements for the supply of apples. Sam informed Heather of the arrangement.

The General Manager of the Las Vegas Restaurant, Steve, had become good friends with Sam, but he too retired and never met Heather. The new General Manager of the Las Vegas Restaurant, David, was not aware of the informal arrangement between Sam and the Las Vegas Restaurant. Soon after taking over, David decided that for the current year he would purchase the Las Vegas Restaurant's apple requirements from another orchard.

Over the course of the summer, Heather heard a rumor that an orchard in California had acquired a contract to supply apples to the Las Vegas Restaurant, but she did nothing to investigate the matter further.

In the fall of that year, Heather delivered the usual supply of apples in large pallet boxes to the Las Vegas Restaurant and placed them on the receiving dock. No employees were on the dock at the time, but Heather did not find the fact unusual, as Sam had said that was typically the case when he made his deliveries in the past. Heather was not concerned about identification of the crop as each pallet box bore the company name and address as well as the variety and quantity.

David noticed the apples on the receiving dock some time later on the day of delivery. He decided to write a letter to Sam's Apple Company requesting the company to take back the apples, but it was Friday, so he waited until Monday of the next week. Heather received the letter on Wednesday, some six days after delivery of the apples to the Las Vegas Restaurant.

During the six-day period the apples had remained in the hot sun and had deteriorated from the exposure. Heather refused to take back the apples and the Las Vegas Restaurant refused to pay for them.

Consider all the elements of contract law. Also consider what you learned about "course of dealing" from your reading. Prepare a paper that addresses whether each element of contract law is satisfied in this case and what you believe should happen based on the course of dealing between Sam's Apple Company and the Las Vegas Restaurant. What is the probable outcome if Sam's Apple Company should sue the Las Vegas Restaurant for the value of the apples?