

Final Examination Question

Consumer Law 732

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Spring 1997

This is a take-home, open-book examination. The student may use any resource in completing the response to the question except the assistance of another human being.

The response must be typed, double spaced, on 8 and 1/2 by 11 paper. Stapled in the upper left hand corner with one staple.

All responses are to be returned to Pfeiffer's mailbox on the second floor of the school by 6p.m. on May 15, the last day of finals. Do not turn the examinations in any earlier than May 15.

Do not put your name on the examinations. Put only your examination number.

I

In the Sunday, January 19, 1997 Sunday Dispatch the Tom's Ford dealership advertised a 1997 Ford Thunderbird for sale. The advertisement called the car a "one in a kind offer," a "current year model, mint condition." "No other dealership will give you any better satisfaction."

Sara Stone, a twenty-two year old, first-year, first grade school teacher at Fairwood Elementary School in the Columbus City School District saw the advertisement while eating breakfast with her parents, who were visiting their daughter. Sara's parents have lived their entire lives in Manhattan (New York, New York), have never owned a car and are also elementary school teachers. Sara had come to Columbus in September, 1996 to begin her teaching job. She knew little about the area, other than the school district actively recruited her for a job while she was a senior at New York University. NYU offers an education degree that emphasizes teaching and learning at the elementary level in the urban environment.

Like her parents, Sara had never owned a car before. Her lifetime on the island of Manhattan did not seem to require one. But Columbus, Ohio posed a different situation. She lived in an apartment in the north end of Columbus that was on a bus line, and her going to and from her job on the bus was taking too much time. She shared the apartment with a roommate who worked at a restaurant within walking distance of the apartment. Her roommate also did not own a car and never had. Sara decided that with her folks in town, it was time to buy a car, and the Tom's Ford ad sounded good to her. And since Tom's Ford was also within walking distance, after breakfast

would be a good time to look at the car.

When Sara and her parents arrived at Tom's Ford, a person identifying herself as Linda Jones greeted them. Linda was sitting in the showroom drinking coffee and talking with a couple of other people. She had worked for five years as an automobile salesperson, four years, eleven months at Mary's Chevrolet, and one month for Tom's. When Sara asked about the Thunderbird, Linda showed it to her. The car was not in the showroom, but in the back lot of the agency. Sara explained her situation to Linda, that she never owned a car, that she was not certain what to look for, that she knew nothing about cars and that she would appreciate any guidance Linda could offer her. Linda was very courteous, took much time with Sara and her parents, and said that the Thunderbird, which was shipped from the Ford manufacturing plant in Lorain, Ohio to Tom's Ford in March, 1996, had been sold to Mary Williams, a retired elementary school teacher, in April of 1996, who after buying it, decided in November of 1996 that it was too much car for her, so came back to Tom's and arranged a deal to switch into a Taurus. When the Thunderbird was turned back in to Tom's, it had 7,550 miles on it. Linda Jones indicated to Sara that Ms. Williams had always serviced the car at Tom's, had raved about it as a great car, but perhaps too much of a car for her. Linda then explained that the used car sales manager, Bill Mentor, had occasionally used the Thunderbird.

Sam and her parents walked around the outside of the Thunderbird and sat in its seats. They did not take it for a test drive, although Linda offered it to them. They did not "kick the tires," look under the hood or ask any questions, except one. Sara asked if the selling price of the car would be what the newspaper advertised. Linda indicated that for Sunday only the price was \$19,500.

Sara said she needed some time to think about it, and would come back later that day. Linda offered, "Sara, let me tell you something. If you walk away now, someone might come in here while you are gone and buy this mint-conditioned, one-owner, excellently maintained car which has only been serviced by Tom's and has been serviced and maintained pursuant to Ford Motor Car Company's recommendations." At that, Sara's mom asked if the car couldn't be held for about two hours so the family could go off and talk about it. Sure, says Linda, if you want to put a \$500 deposit down to hold it. So Mrs. Stone takes out her CitiCorp Mastercard, and uses it to put the deposit down.

Two hours later Sam and her parents returned to find that Linda had left for the day. They did find Bill Mentor, the used car sales manager, and explained to him that they had talked with Linda earlier about the Thunderbird, and that they had put a \$500 deposit down on the car and were ready "to sign the papers." So Bill Mentor and the Stones sat down at a table to do the paper work. Bank One has a working relationship with Tom's Ford wherein Tom's Ford uses Bank One to finance car purchases that individuals make at Tom's. So, reaching into the drawer for Bank One paper, as well as the sales contract, the paperwork is put together and signed. Sara financed the entire \$19,000 balance with Bank One. During the entire time the paperwork was being put together, Sara asked no questions of Bill Mentor, and Bill Mentor did not offer any comments about the Thunderbird's history.

With all the paperwork done, Bill Mentor handed the keys over to Sara and said, "Thanks for dealing with us. Hopefully you will not be disappointed with this Thunderbird. At Tom's we want complete customer satisfaction."

When Sara drove off the lot she noticed that the odometer read 14,500. When she got home she looked into the glove compartment and found the service booklet which had a last entry in August 1996 at 6,000 miles, an invoice for four tires from Tire America, an invoice from Tom's indicating a front-end alignment was done in August for Mary Williams, receipts from Jiffy-Lube, and a receipt for a DieHard battery from Sears.

On the 28th of January Sara takes the Thunderbird back to Tom's complaining of a wobble in the front end, and occasional static in her radio. She also complained that the oil pressure light was going on and off. Two days later Sara gets a call that her car is ready. She had been told originally it would be ready within one day. She pays the \$279 bill with her Bank One Visa card.

On February 4, Sara again takes the Thunderbird back and complains that the wobble is still in the front end, and that the oil pressure light is now constantly on. Tom's keeps the car three days while it is being worked on. The bill for this trip costs \$313, and again, Sara lays down her Visa card to pay it.

The early afternoon of February 11 Sara gets a call from New York that her mom has taken sick, and it looks serious. "Sara, please come home immediately," says her dad. So Sara makes arrangements at school for a substitute, throws some things into the Thunderbird, and heads out for New York City by way of I-70 and the Pennsylvania Turnpike. Around Wheeling, West Virginia, Sara notices the front end wobble has re-appeared, and that the oil light is going off and on again. So she finds a Ford agency in Wheeling about 4:45 p.m. The service department is just closing, but she does talk to the service manager and explains to him the problem. He is very courteous, asks about the history of the car, sees that the current mileage is now 17,400. He tells Sara he cannot get to the car that day, and maybe not even early the next. Sara appreciates his courtesies, takes down his name and the time he talked with her, and since he has told her he cannot get to the car, she puts the Thunderbird back on the road to New York City.

Early on the 12th of February, Sara has gotten to Newark, New Jersey where the wobble in the front end is so bad, she decides not to drive any further. She finds a Ford agency that is closed, but that has an early-bird service window. Sara fills out some paperwork, puts her keys in an envelope, drops it all in the slot and gets a cab to take her home to her sick mom.

Within two days, Sara's mom is on the path to recovery. The Thunderbird? Sara's calls to the Newark Ford agency indicate the wobble can be fixed as can the oil light problem. It seems, according to the service department at the Newark Ford agency, the front-end wobble was caused by a part that was the subject of a June 1996 Ford recall, and that either the original owner apparently never took the Thunderbird in for the recall, or for whatever reason, the part was not changed pursuant to the Ford recall. The oil light problem was caused because a light bulb in the dashboard was not seated properly in its socket. However, the Newark folks indicated to Sara that it appeared to them that the oil was not changed as often as recommended in the service

manual. The Newark service manager noted that the mileage on the Thunderbird was 18,250 when Sara dropped the car off at the Newark Ford agency.

Sara is now beside herself; she does not know what to do. She has to get back to Columbus and her job. Yet her vehicle is not road worthy. She calls Tom's and asks to speak with both Linda Jones and Bill Mentor to explain what she has been told by the Newark Ford agency about the Thunderbird. Bill is courteous to her, and also lets her know that Linda was let go by Tom's the end of January. Bill Mentor takes down her phone number in New York and tells her he will get back to her soon.

So now Sara calls you in Columbus at your law office. She met you at a Columbus Education Association meeting where you were discussing the pre-paid legal plan the CEA has with your law firm. You listen to this desperate voice calling from New York City trying to figure out what to do, asking you if she has any hope of being treated justly and fairly by this world. Sara also tells you her best friend in New York is a lawyer who has a fax number. Could you fax to her and her best friend your recommendations about what causes of action might be available to Sara and any other thoughts you have about how to proceed with this problem.

So now you sit down and begin to put together that written communication to Sara and her lawyer friend in New York City.

Across the hall from your law office is the law office that handles Tom's Ford matters. Art Thomas of that office has just gotten a call from Mr. Tom himself. Bill Mentor has just explained to Mr. Tom, matters surrounding the Sara Stone deal. What legal guidance do you believe Mr. Thomas will be going over with Mr. Tom during that telephone conversation?