

SAMPLE PROBLEM QUESTION & ANSWER

The purpose of making this paper available is to illustrate what a problem question/ answer looks like. The question/ answer hereunder is on a contractual dispute between John and Karen on the exclusion of liabilities clauses (a topic that you should have been taught in business law course), and the question asked you to advise John. The legal principles mentioned here are NOT RELEVANT to your study in company law.

Problem question means that you had been given a set of facts and instructions (e.g. to advise someone, comment on someone's rights/ liabilities, whether the parties can establish a claim against another etc...). You have to follow the instructions, refer to relevant authorities (cases and publications) and apply the principles in the given set of facts and offer a practical advice to the parties. And you should not research on a hypothetical issue or discussion on purely academic questions.

Coursework question

John had acquired six washing machines over the past 3 years from Goodharts for his laundry business. On each occasion he has signed a yellow form which Kean, a salesman John knew slightly, had put before him. John never read the terms on the form, though he had a vague idea that they protected Goodharts pretty well. He was equally vague about the many placards and notices displayed about the shop: "They're mostly adverts", he told a friend. Indeed, most were, but one was different. This, in 10 centimetre lettering, announced that "all leases and sales are subject to clause 10 of Goodharts' contract (the yellow form)". In much smaller letters, clause 10 was written out on the wall. Clause 10 stated that Goodharts "would not be liable for any defect, however caused".

In February, John decided to upgrade the equipment in his laundry and went to Goodharts. He decided to buy fifty new washing machines of a heavy duty variety used by commercial launderers, the total payments being in excess of \$400,000. Kean couldn't find a yellow form, but eventually found one green form. After a cursory check that it was a Goodhart sales form he said: "This seems OK" and John signed it after Kean filled in the details.

The green form was an out of date one which contained no exclusion clause. It did, however, contain a clause stating that "this document does not contain or embody all the terms of the contract" and that "other terms of the contract may be found in notices displayed in the shop".

Within the first month two things happened: Firstly, a washable suit owned by a customer was ruined due to a manufacturing fault in the agitator of one of the machines and John has to reimburse the customer for the value of the suit; and, secondly, John was injured when another machine became "live" as a result of Goodharts' installation electrician connecting the live wire to the earth terminal and vice-versa.

Advise John of his contractual rights to compensation.

Example Problem Question Answer Company Law

Albert Gibson, Robert McLean

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