

**Question One – One Hour**

Bea Eyer (Bea) is the designer for a website dedicated to classic American made muscle cars and publishes an online magazine dedicated to the classic Shelby Pony Car manufactured by American Motors Corporation in the 1960's. Every year Bea has entered a car into the nation's premier auto show in Pebble Beach, California known as the Concours d'Elegance. Bea has never had one of her cars place in the top ten of the "Best in Show" competition and she is convinced that, should she take first place, her website and online magazine will be the next internet sensation and she will make a lot of money selling advertising. The Concours is scheduled for August 17, 2014 with applications to be submitted by June 1, 2014.

Harry Hoarder is recently deceased. His widow, Sally Hoarder (Sally) is anxious to sell off Harry's "treasures" which she considers to be junk. She places an ad on Fred's List, an online service for buyers and sellers. Her ad reads:

"For Sale: Low mileage older model AMC Shelby. Has been stored in a barn under a tarp for many years. One owner, bought new in 1967 for \$12,000.00. Yours for \$8,000.00 or best offer, call 1-707-No Clues."

Bea reads the ad and immediately goes to see Sally. She is surprised when the tarp is rolled back to see a 1967 Shelby Pony GT in mint condition. (A similar car recently sold at auction for \$ 1 million.) Bea knows this is the car that can take the first prize in Pebble Beach. Realizing that Sally indeed is clueless as to the value, Bea offers her full price on the offer, "seeing as how she is a recent widow and everything."

On May 1, Bea and Sally enter into a valid written contract in which Bea agreed to buy and Sally agreed to sell, the Shelby Pony for \$8,000.00 for delivery on May 10, since the car would not start with its original battery still in place.

Bea, knowing this is the year, sends in her application to the Concours along with the \$10,000.00 entry fee for the competition at the Concours.

Unfortunately for Bea, Sally, while surfing the internet for Native American Ponies for sale on the Hatahley Reservation, discovers the true worth of the Shelby Pony car. She immediately contacts a broker who arranges a sale. On May 5, Sally writes to Bea and tells her that she just accepted \$500,000.00 in cash from a Saudi Prince and will shipping the car to Saudi Arabia via "Reliable Car and Camel Transport" as soon as possible. Sally adds that she is now receiving the true value of the car and that Bea should be happy for her "seeing how she is a recent widow and everything."

Can Bea sue Sally before May 15? Under what theories and what remedies? Discuss.

What provisional remedies might be available to Bea to prevent Sally from delivering the car to Reliable pending the litigation between Bea and Sally? What are Bea's chances of success? Would the court grant relief? Discuss.

Can Bea get title and the Shelby GT by specific performance or replevin? Is there a difference? Discuss.

Assume Bea has decided to seek contract remedies for breach of contract. Can Bea recover damages for nondelivery of the Selby GT, the loss of expected revenue from the website and online magazine, and the loss of the \$10,000.00 entry fee? Discuss.

**Question Two – One Hour**

Guy Fullofhimself (Guy) is a TV chef on the GastroIntestinal Network (GIN). Based on his over the top personality and innovative use of hair gel, many book publishers asked that he write a cookbook and star in a TV show on GIN, and produce a movie based on the book. Guy delivers big time! His cookbook, "Guy Bites the Big One" shoots to the top of the best seller lists, his show is a ratings sensation based on the recipes that make innovative use of truffle oil, and the movie sets box office records. Profits on the book sales were \$1 million dollars.

Unfortunately, Guy did not write a single recipe in the book. He had gone to his Uncle Johnny Garlic and represented that he wanted all the old family recipes (with all the secret ingredients) so he could preserve the family traditions. He did not tell Uncle Johnny about his book, TV show or movie deal. Every recipe in the book was provided by Uncle Johnny.

Guy had also been in negotiations with Joe Obama, a writer, for the script of the movie "Yankee Doodle Dandy's Macaroni and Cheese." Writer Obama produced a script and he and Guy were close to finalizing the deal when negotiations broke down. Guy, undeterred, hired a new writer and moved forward with the movie. During filming, Guy felt the script lacked certain panache so he added a few pages of script lifted directly from Obama's script. No one else was aware that the script came from Obama. The lead role of Yankee Doodle Dandy was played by George Looney, an actor who was coming off a string of very successful movies, each one a box office hit. Guy made \$20 million in royalties from the studio, although he had to devote one year of fulltime work to the movie which took him out of the GIN studios. He had to spend \$250,000.00 of his money in costs for the movie. GIN believes it lost revenue of at least \$1 million dollars because Guy was not available to star in his show for the year he was involved with the movie making.

Uncle Johnny seeks to disgorge the profits from the book "Guy Bites the Big One". What remedy would best assist Johnny? Assuming Johnny learned about the contents of the book prior to distribution are there any provisional remedies that he could use? (Disregard any First Amendment Issues) Discuss.

Assume there was no written contract between GIN and Guy and GIN wants to recover its lost profits. Is there a remedy? Discuss.

Joe Obama seeks restitution from Guy (in addition to any actual damages allowed under the Copyright Act) How much, if any, of the \$20 million in royalties should Obama receive? Discuss.