

QUESTION 1
(One hour)

Oregon Industries purchased 10 carloads of plywood from Centralia, to be delivered at their processing plant. As in all purchases by Oregon, the purchase order provided that “assignment of this invoice is absolutely void.” Oregon had previously purchased 10 carloads of wooden shingles which had not yet been delivered and 5 carloads of flooring made of Columbian hardwood. Because Centralia had to purchase the hardwood directly from Columbia, Oregon paid half of the \$10,000 invoice in advance.

Centralia, however, was on the verge of insolvency and orally assigned the plywood invoice to Bank, who immediately contacted Oregon, advising it of the assignment. The assignment was confirmed by phone by a Centralia rep. A week later, Lender notified Oregon that it had received an assignment of the shingles and flooring invoices.

Thereafter, Oregon read in the paper that Columbia had declared war on the United States, resulting in an immediate freeze on all trade between the countries. When they called Centralia to get their money back, they instead agreed to use a local product similar in appearance but which costs half the price.

Centralia delivered the plywood in a timely fashion. However, it delivered the shingles two weeks late, half of which were defective. Oregon was forced to replace the shingles at a cost of \$5,000. Moreover, Centralia never delivered the flooring and subsequently sold all assets not previously assigned to Takeover, which did not assume any of Centralia’s liabilities in the sale. Takeover, after reviewing Centralia’s files, contacts Oregon and demands payment of the plywood invoice. Bank also demands payment of the plywood invoice. Lender wants payment of the flooring and shingles invoices.

Discuss the rights and obligations of all the parties. You need not discuss the law of competing assignments.

QUESTION 2
(One hour)

Peter Piper is a private pilot planning to purchase a plane for his pickled pepper business. On February 1, he sends a fax to Cirrus Design – the manufacturer the hottest new airplane on the market – indicating his interest in ordering an SR-22 model at standard price and on standard terms.

On February 5, Cirrus faxes Peter its Sales Confirmation form, which refers to the sale of one model SR-22 to Peter at standard price, delivery date within 30 days. The back of the form contains many small print provisions, including a disclaimer of any delay damages regarding shipment.

Peter reads over the entire form carefully, and calls Cirrus. He tells them that he will purchase the plane only if delivery can be made by March 1, because he has told his friend Ralph that he will fly him from Santa Rosa to Los Angeles for an extremely important business meeting. The Cirrus rep says “no problem – I’ll make sure to tell the home office to put that in the final paperwork”.

On February 26, Cirrus sends a lengthy formal written contract to Peter for signature, which includes all the terms from its Sales Acknowledgment form, plus many additional provisions. It lists the price at \$330,000 (with a notation that this became the new standard price on February 3), which is \$30,000 more than Peter thought. The delivery date is not mentioned. Peter is not sure what to do – so he just holds on to the contract form without signing it.

On February 28, because of threatened terrorist activity, the Federal Aviation Administration shuts down all aviation activity in Minnesota (where Cirrus has its factory) for 72 hours.

On March 1, when Cirrus announces it is unable to fly the plane from its factory for delivery to Peter in Santa Rosa, Ralph’s attorney faxes Cirrus a letter advising that the failure to deliver the plane on time has caused a Ralph to miss his business meeting, which has resulting in at least \$100,000 in lost profits. Peter indicates that, based on this non-delivery, he considers Cirrus to be in breach of its contract with him for the SR-22, and therefore he is refusing to accept delivery of the airplane.

On March 3, when the 72 hour Minnesota flight ban is lifted, Cirrus sells the SR-22 to the next customer on its list at the full \$330,000 price.

Please discuss the rights and remedies, if any, of the parties.