

1 JUS5260 assignment V21

JUS5260 English Law of Contract - Spring 2021

Answer both of the following questions. They are given equal weight in the determination of the final grade. Note that the first question has three parts.

1(a). Whizz Wheels (WW) is a German company that sells small electric scooters that are predominantly intended for use on footpaths and cycle paths. Lazy Customer (LC) is a UK-based company that plans to get into the business of hiring out electric scooters to people in Glasgow who want to get quickly from one spot in the city to another spot in the city without much physical effort. Given the large size of Glasgow, LC wants the scooters to have a minimum range of 70km on one battery charge. With such a range, LC believes that its scooters would rapidly dominate the scooter rental market in Glasgow, which is serviced by scooters with a considerably shorter range.

In August 2020, LC contacts WW to find out if WW can supply the scooters it wants for its planned Glasgow business venture. The communication between LC and WW takes place via a sales agent of WW. In the course of the communication, LC asks the sales agent whether the scooters that WW sells have a 70km minimum range. The sales agent responds: 'I believe that the scooters have that range. Although I have not personally tested their range, I am pretty sure they can easily do 70km with a full battery. After all, the scooters have the best batteries on the market'. As for price, the sales agent says that LC can get a 'bargain deal' in which it pays £200 per scooter if it purchases a minimum of 1,000 scooters.

There is no further communication between LC and the sales agent for two months. During that period, LC considers several scooter models marketed by other companies. LC also engages an investigative firm to look carefully into the accuracy of the sales agent's claim regarding the range of the WW scooter. The firm manages to find a 'best-value-for-money' scooter survey published by a consumer organisation in California. In the survey, the range of the WW scooter is specified as 75km. LC management is informed of this. After reviewing alternative scooter models, LC decides that the WW scooter deal is the best one for its purposes. In mid-October, LC resumes contact with the WW sales agent, and enters into an agreement for the purchase of 1,200 scooters at the price of £200 per scooter. The agreement also specifies that the scooters shall be delivered in four instalments of 300 scooters each, over a 12 months period. The agreement does not contain any specification of the range or battery life of the scooters.

The first instalment of 300 scooters is delivered in late November. Unfortunately, LC soon finds out that the scooters' range is considerably less than 70km when the air temperature is cold – which it usually is in Glasgow during the autumn and winter. And LC finds out that the Californian survey was undertaken in Los Angeles, where air temperatures are regularly a lot warmer than in Scotland.

LC plans to sue WW for damages for breach of contract. It also plans to bring the contract to an end before the remaining three instalments of scooters are delivered. Alternatively LC plans to sue WW for misrepresentation. Advise LC on the legal prospects of all three plans, and give reasons for your advice. You are not required to assess the measure of damages in any detail.

1(b). Consider the following variation to the above scenario. The agreement between LC and WW specifies as a 'condition' that the scooters shall be painted in the light green colour that is used for the entire range of LC products. Unfortunately, the first instalment of scooters are painted with a purple colour. However, the range of the scooters is indeed 70km, even in the relatively cold temperatures of Glasgow.

LC plans to sue for damages for breach of contract and to request that the measure of damages covers the cost of repainting the scooters in the light green colour that it specified in the terms of the agreement. LC argues that having the scooters painted in that colour is an integral part of building up its unique business profile. The cost of repainting each scooter is estimated to be £40 per scooter. Advise LC on the legal prospects of its plan to sue for damages according to the 'cost of cure' measure.

1(c). Consider yet another variation to the above scenario. Easy Rider (ER) is a company that is long established in the scooter rental business in Edinburgh, and it is considering extending its operations to Glasgow. ER hears of LC's difficulties and thinks it might be able to take advantage of these. ER's sales manager sends LC's sales manager an email in which she asks: 'I've heard you're having some problems with the new scooters. Would you be interested in divesting your scooter fleet and if so, what price?'. LC's sales manager replies: 'We would not accept less than £150 per scooter'. ER's sales manager replies: 'Fine, you've got a deal'. Shortly afterwards, LC receives an offer to buy its scooter fleet for £175 per scooter from another scooter rental company, and LC accepts that offer. ER is angry and threatens to sue LC for breach of contract. Advise LC whether ER is likely to win the legal action it is threatening.

2. Discuss the validity of the following claim: "English courts have placed overly narrow and arbitrary limits on the scope of application of the doctrine of promissory estoppel".

Word limit: 3000 words



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