

QUESTION 4 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK II

In 2011, Dean Director decided to make a "post-apocalyptic romance" movie that would be set against both abandoned industrial sites and pristine shorelines. Knowing that both could be found in Michigan, Dean contacted Phil Filmbuff, whose Michigan-based business identified potential locations and performed other pre-production tasks for movie projects contemplating shooting in Michigan.

In late September 2011, Dean flew to Michigan, and Phil showed him several promising locations. As they drove around, Dean told Phil that he was on the verge of lining up financial backing from several private investors, and that this backing was essential to making the movie. Dean said that those investors should be locked in very soon because he had just signed box-office draw Laura Lovely to play the female lead. Ms. Lovely had recently completed rehab for prescription drug abuse and, according to Dean, thought his film would be the ideal vehicle to get her career back on track.

Shortly before Dean caught his departing flight, he told Phil that he wanted to retain Phil's company, Utopia Preparations (UP), to continue scouting filming locations and to perform other pre-production tasks. After Dean and Phil discussed possible terms, Dean wrote out an agreement on a legal pad and presented it to Phil. Both men then signed the paper, which purported to be an agreement between UP and Dreamers at Work (DAW), Dean's production company. After identifying the parties and "the Project," the document said:

"DAW hereby retains UP, beginning October 1, 2011, to perform pre-production services for the Project, including without limitation negotiating leases and options for Michigan filming locations and identifying Michigan-based crew members and extras. DAW will pay for this work at the rate of \$150 per hour, plus expenses, with a guaranteed minimum of \$15,000 per calendar quarter for at least two quarters."

The writing did not mention anything about financing for the Project or other contingencies. After they signed, Dean said to Phil, "I am excited to be working with you, and I personally guarantee that you will receive the amounts promised." Dean also gave Phil his specifications for other locations he wanted scouted soon.

UP began doing the requested scouting on October 2, 2011. On October 15, 2011, Dean called Phil to say that things had taken a

turn that Dean had not been expecting. Ms. Lovely had relapsed and would be unavailable to do the film. All of Dean's possible investors had backed away immediately except for one--who was willing to fund a lower-budget version, but only if it starred his niece and was shot in California. Dean told Phil to stop all work and he would send him a check for \$2,000 for his trouble. Phil said to Dean: "Wait a minute. I have spent 50 hours driving around the state this month, and you promised me much more pay and work than that. You will be hearing from my lawyer." Dean responded: "You should have known nothing was for certain until the money was there."

Applying Michigan law, discuss whether there was an enforceable contract between Phil and Dean's respective companies and what defenses could reasonably be raised to argue that DAW is not liable to UP for breach. Also discuss whether Dean is personally liable for breach of his personal guarantee.

*****THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK II*****