

QUESTION 14 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK V

ABC Company (ABC) is a landscaping company that primarily cares for and fertilizes city parks for different municipalities. It also does the same type of work for two large privately-owned estates. It has historically purchased its fertilizer from LCS Supply Company (LCS). Most recently, ABC and LCS entered again into their usual contract where LCS is to provide ABC with 500 lbs. of fertilizer semi-annually for the next three years at a specified cost.

Unfortunately, LCS's financial situation began to deteriorate as larger supply companies increasingly have come to dominate the supply market. Unbeknownst to ABC, LCS reached the point where it had to assign its contract with ABC to one such large supply company--Maximum Supply. LCS did not seek ABC's consent to the assignment.

Shortly thereafter, Maximum Supply advised ABC it had assumed the shipments and, pursuant to the contract, sent ABC the next scheduled supply of fertilizer. ABC accepted it, but came to dislike the brusque manner of the people at Maximum Supply and preferred its prior relationships with LCS personnel. ABC used the fertilizer it received from Maximum Supply and fertilized the city parks and private estates, just as it had done in the past.

Approximately one month later, one of ABC's private customers complained to ABC that his lawn did not look as green and vibrant as it had in past years. ABC checked Maximum Supply's fertilizer composition and found it was not the same mix as ABC had received from LCS.

ABC seeks your legal counsel and wants to end its relationship with Maximum Supply. **Answer both of ABC's two questions based on the above facts:**

(1) Can ABC consider LCS's assignment or delegation of its contractual obligations to Maximum Supply a breach of contract permitting ABC to now discontinue dealing with Maximum Supply?

(2) Can ABC revoke the contract on the basis that the fertilizer supplied by Maximum Supply did not conform to the original contract?

Explain your answers.

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