

ANSWER TO QUESTION NO. 7

The likely result is that a court will find an enforceable oral contract between Dribble and Premier.

The general rule under the Uniform Commercial Code in Michigan is that an oral contract for the sale of goods of \$1,000 or more is not enforceable unless there is a writing sufficient to indicate that a contract for sale has been made between the parties and signed by the party against whom enforcement is sought. In this case there is no writing signed by Dribble. MCL 440.2201(1).

An exception to the general rule requiring a writing signed by the party to be charged applies to oral contracts between merchants (Dribble and Waffle are merchants), commonly referred to as the merchant confirmation.

A merchant confirmation sent by one party to the other party within a reasonable time is sufficient for enforcement of an oral contract, if the party receiving the writing has reason to know its contents and does not object within a reasonable time. See MCL 440.2201(2).

The confirming letter from Waffle's President to Dribble's President is a merchant confirmation delivered within a reasonable time. Even though Dribble's President did not review the contents of the letter, Waffle could argue that Dribble's President had reason to know its contents, because the confirming letter was sent only one day after the oral agreement. Dribble's President did not object to the writing.

In addition, it could be argued that the oral contract is enforceable because the red and white striped basketballs have been specially manufactured for Dribble. MCL 440.2201(3) (a).

Waffle can delegate its performance under the oral contract to Premier, since there is no agreement precluding a delegation and the facts do not indicate that Dribble had a substantial interest in having Waffle perform the contract, *i.e.*, the manufacture of basketballs. MCL 440.2210(1).

The likely result is that Premier and Waffle breached the contract.

Although the merchant confirmation did not expressly state the