

QUESTION 13 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK V

Stella Seller recently retired from a successful career as a business executive and moved to a lakeside cottage in Anytown, Michigan. To supplement her income, she used a small workshop to create decorative stone statues. She began selling her statues at art fairs, bazaars and popular roadside stands. Stella also took photos of her statues to offer them for sale through a website she created.

Brenda Buyer had recently graduated from college, purchased a home, and wanted to decorate her garden with a statue. Brenda saw the cement statues on Stella's website and saw a gargoyle she really liked. Brenda called the number to ask about availability and price of the statue. Stella answered and confirmed that she had two gargoyles available, and the price was \$1,400 each. Stella added that customers typically pick up the statues and that she would hold onto it for Brenda. She also mentioned that since Brenda lived in a nearby town, Stella could ask people that stopped by if anyone would kindly drop it off at Brenda's home. Brenda replied, that sounds great--I sure would appreciate it, if you could do that," and "I can't wait to see that statue in my garden." Stella filled out an invoice on her business' letterhead, noting the price as \$1,400, and mailed it to Brenda.

A week later, Stella's younger brother and his friend stopped at her house. Since her younger brother had arrived in his pickup truck, Stella suggested that it shouldn't be a problem for him and his friend to deliver the statue. She mentioned that Brenda had just graduated from college and may tip them for their trouble. The statue was easily loaded into the bed of the pickup. Unfortunately, the statue was destroyed when the pickup truck swerved to avoid a deer that leapt in the truck's path causing the truck to strike a guardrail. Police determined that Stella's younger brother had acted properly under the circumstances. Two weeks later, Brenda called Stella demanding her gargoyle statue. Stella refused, and demanded \$1,400.

Analyze and discuss whether there is an enforceable contract between Stella and Brenda. Assuming there is an enforceable contract, are Stella and Brenda in breach of contract? Explain your answer.

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