1971

# Business Organizations II (May 29, 1971)

William & Mary Law School

BUSINESS ORGANIZATIONS II (L22)
Second Semester 1970-71

Saturday, May 29, 1971 Rooms 215, 216

I.

A class action was filed against a meat company selling meat orders and freezers on behalf of buyers residing in two counties who had each purchased a meat order and freezer. The installment contracts were assigned by the company to three finance companies who were made co-defendants. The complaint alleges facts showing a common scheme of misrepresentations by salesmen who went to the homes of the individual buyers. There was no claim of misrepresentation by the finance companies, but these companies had prepared and furnished the installment contracts and they maintained a continuous relationship with the seller meat company. The complaint asks for rescission, consequential damages and punitive damages against all defendants. The meat company was small and thinly capitalized. A demurrer was filed by the defendants. How should the court rule? Explain.

II.

P contracted to buy from D 28.3% of the outstanding stock of R Corporation. A premium of $2.00 per share above the New York Stock Exchange price was to be paid. The contract included a provision giving the buyer an option to require upon consummation of the sale the immediate resignation of a majority of the board and installation of the buyer's nominees on the board. D refused to perform the contract and was sued for his breach of the contract. D defended on the ground the contract was unlawful. Discuss the issues raised and explain how you think they should be resolved.

III.

P sued D Corporation for goods sold by P to D. It became apparent D Corporation had no funds available to pay the claim and P moved to amend the complaint to include K, president of the corporation, as a party defendant. The first complaint was not amended except to add K in the style of the case. However, the motion to add K as a party stated K was the principal stockholder and had been using the corporation as a means of avoiding personal liability for his business activities, commingling his personal assets with those of the corporation and drawing funds for his personal use. P made a motion for summary judgment supported by an affidavit of D Corporation's Comptroller who stated he had been present when K made a deposition in another case in which it appeared beyond doubt K had used the banking accounts and other assets of the corporation for his personal benefit and convenience and individual needs. The lower court on examination of the deposition granted the motion for summary judgment. On appeal K argues it was improper to add him as a party and to grant summary judgment against him. How should the court rule on appeal? Explain.

IV.

P had a 11 year employment contract with D Corporation. The directors determined P was permanently disabled and his services should be terminated. The contract provided for arbitration of any controversy arising out of it. After P invoked the arbitration clause, the arbitrators ruled in favor of P and ordered him reinstated. Should the award be enforced by a mandatory injunction? Explain.

V.

A, a father who had retired had stock registered in joint names with his son, with right of survivorship. A payed the entire purchase price of the stock and received the dividends regularly and deposited them to a bank account which was also held jointly with B, with right of survivorship. On A's death B seeks to have the stock transferred to his name, forwarding to the corporation evidence of A's death. A's wife notifies the corporation that she is bringing suit to establish that the stock is a part of A's estate, but the corporation nevertheless transfers the stock to B as requested. What rights, if any, does W have against the corporation? What principles will apply in determining the interests of B and W in the stock? Explain.