

PRACTICAL ASSIGNMENT: Demand letter!

Scenario: You are still a paralegal with the law firm of Dewey, Cheatem & Howe, LLP, 300 Jay Street, Suite N622, Brooklyn, NY 11201, (718) 260-5124. Another one of your firm's clients is Kendra Claimant. Ms. Claimant has asked your firm to help her resolve a dispute with Ricardo Respondent, 123 Sleazy Street, Bronx, NY 12345, without the cost and inconvenience of a civil action against him in court, if possible.

Choose the dispute!!

- Mr. Respondent makes a beverage called "Healthtea." He advertises it as "the dieter's secret weapon" that guarantees weight loss of seventeen pounds in just twelve weeks without diet or exercise. Ms. Claimant purchased a six-month supply of Healthtea from Mr. Respondent for \$500. After six months (more than twenty-four weeks), she had only lost three pounds. She wants her money back.¹ **OR . . .**
- One evening, Ms. Claimant was in her favorite bar enjoying a drink, wearing her favorite all-white outfit. Mr. Respondent was sitting nearby. (This was pre-covid.) He was enjoying a Tequila Sunrise, a brightly colored drink. When Mr. Respondent reached for the jalapeno flavored peanuts, he spilled his drink all over Ms. Claimant. Ms. Claimant tried washing and bleaching the outfit, but the stains would not come out. She wants Mr. Respondent to reimburse her the full cost of the outfit, \$250.² **OR . . .**
- Ms. Claimant has lived next door to Mr. Respondent for ten years. Their apartment building has very thin walls. During those years, Mr. Respondent has blasted heavy metal music every day for several hours at a time. Ms. Claimant believes it has caused her significant hearing loss. She recently had to purchase a hearing aid that cost \$1,000. She wants Mr. Respondent to reimburse her the cost of the hearing aid. **OR . . .**
- *Create your own dispute!* Brainstorm something Mr. Respondent did, or did not do, that made Ms. Claimant angry, and the relief (or remedy) Ms. Claimant wants, to make her whole. It could be money, or for Mr. Respondent to do or stop doing something, or something else. Be creative!

Assignment: Your supervising attorney is still Donatella Dewey! She has asked you to draft a demand letter, for her signature, to Mr. Respondent, explaining Ms. Claimant's complaint and requesting that Mr. Respondent provide the relief Ms. Claimant desires, so they can avoid a legal action. Draft the letter. Please follow legal letter format (similar to the sample on the other side and those we reviewed in class). A first draft letter is due by email at **8am Tuesday, Dec. 7**, as an attached word processing document, not a pdf or a link! Your final demand letter is due by email by the end of Thursday, Dec. 9. It will be graded according to the rubric below, and counts for eight points toward the "Homework and other assignments" portion of your grade.

	Good	Passable	Poor	None
<u>Content:</u> Responds to assignment thoroughly and accurately.	2	1.5	1	0
<u>Format:</u> Follows appropriate format.	2	1.5	1	0
<u>Tone:</u> Uses appropriate tone.	2	1.5	1	0
<u>Mechanics:</u> Uses proper grammar, spelling, and language; sufficient proofreading.	2	1.5	1	0

¹ Adapted from M&M 7th ed. p. 213.

² This and the next scenario were inspired by scenarios in "Torts Problem Set," available at https://biotech.law.lsu.edu/Courses/study_aids/torts/Intentional_torts_problem_set.htm.

From M+M pp. 259-262

Demand Letters

Another basic type of letter is the demand letter. In a demand letter, one party explains its legal position in a dispute and demands that the recipient take some action. Typically, an attorney will send a demand letter before filing a lawsuit against a person or company. In fact, sending a demand letter may even be required, such as in many cases involving consumer-protection violations. Suppose your supervising attorney asks you to draft a letter demanding that a company pay a debt it owes to a client. Your demand letter would summarize the relevant facts, demand payment by a certain date, and say that the client will sue if the company does not pay the debt.

The demand letter should adopt a serious and forceful tone, and the client's demand must not be frivolous. Although the letter should be insistent and adversarial, it should not come across as unreasonable or harassing. After all, a demand letter seeks to accomplish something. For a sample demand letter, see Exhibit 8.7

on page 262. It covers the common situation of demanding that an adversarial party respond to a settlement offer in a lawsuit.

demand letter

A letter in which one party explains its legal position in a dispute and requests that the recipient take some action, such as paying money owed.

EXHIBIT 8.7
A Sample Demand Letter

Jeffers, Gilmore & Dunn
553 Fifth Avenue
Suite 101
Nita City, NI 48801

Telephone (616) 555-9690
Fax (616) 555-9679
e-mail: JGD@nitanel.com

June 13, 2014

Christopher P. Nelson, Esq.
Nelson, Johnson, Callan & Sietz
200 Way Bridge
Philadelphia, PA 40022

RE: *Fuentes v. Thompson*

Dear Mr. Nelson:

This morning, I met with my clients, Eduardo and Myrna Fuentes, the plaintiffs in the lawsuit against your client, Laura Thompson. Mr. and Mrs. Fuentes expressed a desire to withdraw their complaint and settle with Ms. Thompson. The Fuentes' settlement demand is \$50,000, payable by certified check no later than July 15, 2014. We think that you and Ms. Thompson will find this offer quite reasonable. After all, given the strength of the Fuentes' claims, a jury award exceeding \$200,000 is quite possible.

If you plan to take advantage of the Fuentes' settlement offer, please contact me by the close of business on Friday, June 20, 2014. If we do not hear from you by that date, we will assume that you have rejected our demand and we will proceed with litigation.

Very truly yours,



Allen P. Gilmore
Attorney at Law

APC/ec