

Essay Question No. 7

Answer this question in booklet #7

Chuck is an investor with business and real estate holdings throughout Alaska. He has gathered together a group of investors to purchase some land to create a resort/residential development, with a country club, homesites, and condos. A new bridge will be necessary, however, to make the land accessible from the closest urban area, Anchorage, Alaska.

To sell his plan to the investors, Chuck created a brochure, which contained pictures of the land and touted its geographical proximity to Anchorage. "When the bridge is built" said the brochure, "there will be high demand for the type of nearby recreational and residential opportunities offered by our project."

Les was convinced by Chuck and his brochure to invest in the project. He has now read an article in the local paper, however, that indicates that the bridge project is not a sure thing, and Les is having second thoughts. Reviewing the brochure more closely, Les sees a disclaimer stating, "Investors should understand that real estate investments have an element of risk. There is no guarantee that this project will turn a profit. The risk of loss extends to the amount invested, and any money invested is non-refundable." Les convinces himself that he has been taken, and that he has to get his money back.

Overwhelmed by anxiety, Les calls his attorney, Furman. Thinking of Chuck's statement about the bridge being built, he tells Furman "That guy Chuck lied to me! You've got to get me out of this! I could lose everything!"

Although there are no statute of limitations issues or other immediate time constraints, Les insists that Furman file an action immediately. Based on nothing more than his brief conversation with Les, Furman drafts, signs, and files a "bare bones" complaint against Chuck, alleging simply that "Chuck obtained Les's investment through fraud," and seeking return of Les's investment.

After this complaint is properly filed and served, Chuck asks his attorney, "How do I get rid of this? I don't even know what I'm supposed to have done!"

1. What relief could Chuck seek based solely on the face of the Complaint? Explain.
2. Assume that Les' case is summarily dismissed. Chuck knows that Les has no further funds available, and he wants to seek an attorney's fees award not

only against Les, but also directly against Les' attorney, Furman. On what basis could Chuck seek an award of full attorney's fees against Les and against his attorney Furman? Your answer should describe the procedure for seeking an award of actual attorney's fees and analyze Chuck's chances for success in obtaining such an award against both Les and his attorney.