

Conciliation Role Play – Consumer Case

General Information

Mr./Mrs. Greenberg purchased carpet for the living room, dining room, bedroom, loft, and hall two months ago. BC Carpet sold and installed the wall-to-wall 600 square feet of carpet for a total price of **\$12,600** (\$21/sq.yd.)

Now, the Greenbergs contend that the carpet has developed bulges in all of the rooms and that there is excessive “flattening” of the carpet in high traffic areas.

BC Carpet inspected the carpet when they were notified of the problem one month ago, and they claim that there are only minor problems with bulges, which can be corrected by tightening of the carpet at one edge.

According to BC, the “flattening” is normal and not easily visible. BC Carpet owner Mr./Ms. Johnson was awaiting a call from the Greenbergs to arrange a time to tighten the carpet when s/he got notice for the lawsuit filed in District Court.

The claim is for \$12,600 the full purchase and installation price of the carpet.

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PLAINTIFF MR/MRS GREENBERG

Confidential Information for Mr/Mrs. Greenberg

You are **upset about the quality of the rug.**

You thought you had purchased a high quality carpet from a reputable dealer and experienced installer and **instead** you have a substandard defective rug!

The flattened areas look horrible! Also, **you have been tripping on the carpet** where there are bulges, and you almost have fallen.

The high traffic areas in the hallway and living room are the worst areas (@ 25% of the total carpet).

You want the carpet totally replaced in these areas with a better grade of carpet (\$25/sq. yd) at no cost to you. If you had to purchase this, it would cost you **\$4,125**. In addition, you want the carpet tightened to take care of the bulges.

The reason you filed suit was because you were getting **“the runaround”** and you now think they sold you **“knock off”** carpet.

You **never** understood that BC Carpet was willing to tighten the carpet for you.

You and the owner of BC Carpets have exchanged words on several occasions about your claim of being **defrauded**. You are not sure you trust them and aren't sure that you want them to do the work.

You came in today wanting cash so that you could have someone else replace the carpet.

Your spouse had wanted a higher quality of carpet when the job was originally done, **but you said no! It was too expensive.**

You feel bad because you should have listened and brought a better carpet.

You are open to settlement ideas where you get the carpet replaced without paying for a new carpet.

You are **representing your self** and **want this case resolved** short of trial.

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DEFENDANT MR/MS Johnson – Owner of BC Carpet

Confidential Information for Mr/Mrs Johnson

You are the **owner** BC Carpet and have been in business for 10 years. **Business has been slow recently.**

When you received the call from the Greenbergs, you went to the home immediately to inspect the carpet. **You had told him that when s/he picked the cheaper carpet that bulging may happen.**

You found **mild wear** in the high traffic areas that you did not believe was abnormal for this price of rug.

You had **never heard back from the Greenbergs** after telling them you would tighten the carpets and that they needed to schedule a time for you to come in to do so. You are always willing to satisfy a good customer and **pride yourself on your customer services.**

You were **shocked** when you received notice of the lawsuit. **Due to your cash flow problems, you have no money to offer a cash settlement.**

You do not have the better grade of carpet in stock and would have to purchase it from the distributor. **Your cost to replace the carpet for the high traffic areas would be \$1,650;** it retails for \$4,125.

You are **willing to compromise** on some sort of settlement, **which doesn't include your paying any cash to anyone.**

Your bottom line is selling the new carpet to the Greenbergs at your cost and providing free installation.

You do not want the Greenbergs to know about your financial problems. You have a contract in the works with a big developer and may have significant improvement in your business in three months, but you're trying to hang on until then. If they can wait 3 months, you could negotiate some monetary settlement.

You have heard from a few people that the Greenbergs have been **badmouthing** your business around town saying **that you are selling “knock off carpet at premium rates.”**

Your attorney has served Mr/Mrs. Greenberg with a **defamation countersuit** today, before the conciliation.

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COUNSEL FOR DEFENDANT JOHNSON d/b/a BC CARPET

Confidential Information Defendant's Counsel

You are a **friend** of Mr/Ms **Johnson**.

You know that BC Carpets is having financial difficulties and have agreed to **file an appearance in this case for the conciliation only** in exchange for a free carpet installation for your daughter's bedroom.

You think the Greenberg's are way out of line suing for the full purchase and installation price. **The carpet is perfectly good and may only need a tuck here or there.**

You believe that this case should settle out of court, but you know that Mr/Ms. Johnson has no money to pay out in any settlement, and the parties have not been communicating with each other.

You have discussed with Mr/Ms. Johnson and his/her brother the option of selling replacement carpet at cost to the Greenbergs and providing a free installation to resolve this matter.

BC carpet is willing to do this, but they are extremely upset that they are being badmouthed around town by Greenberg. **They want this to stop, and they want an apology.**

Before the conciliation, you served Mr/Mrs Greenberg with a **defamation counterclaim**.

CONCILIATOR

Contested Issue:

1. Liability: is the rug defective, or not fit for the particular purpose
2. Damages: what is the cost to tighten the bulging? What is the value of BC services to date?
3. Negotiation History: plaintiff feels BC carpet may have sold them defective or “knock off carpet” and defendant feels plaintiff did not cooperate with his offer to fix and is now bad mouthing BC carpet.
4. Issues for Trial: counter claim and need to prove defect or breach of warranty.

Conferencer's Goals:

- A. To facilitate a settlement of the case where plaintiff gets new carpet; OR
- B. To help the parties to agree on the following:
 1. How to consolidate the issues for trial
 2. A trial date
 3. That they will consider scheduling a mediation session before trial