

## The Grocer's Dilemma Assignment

### The basic assignment for discussion and writing

*You work for a grocer who is about to leave on a long vacation to a remote island. Before leaving, the grocer makes you, a trusted but new store employee, Manager of Produce, in the small, urban grocery store with a big front window. The grocer says that the point of putting produce in that window is to attract customers. On the day before the grocer leaves, you watch the grocer put red apples in the front window and brown potatoes in a bin near the back of the store. The next day, a shipment of limes arrives. The grocer is gone, and you are now in charge.*

### The writing assignment

After the in-class discussion, ask students to draft a written analysis of the Grocer's Dilemma. Writing out their interpretation of the class discussion is not only good for working on internalizing the concept of malleability, but it also helps them apply all of the skills of legal reasoning including analysis and counteranalysis, rule-based reasoning, and analogy and distinction.

Concerning malleability, students will need to wrestle further with the challenges that rule malleability presents—how, exactly, should they describe the “attractiveness” rule? What features of apples and potatoes are important to the rules? What values matter in considering what is attractive? If different interpretations are possible, how should those be expressed and applied?

Faculty may give individual feedback on the assignment or provide students with an annotated sample. Have them compare the annotated sample to their own assignment and write a paragraph or two about their similarities and differences. Collect and review the reflections.

### Other ways to build on the assignment

Professors can introduce students to persuasive authority and binding authority by suggesting that a large grocery chain in the area puts the limes in the back next to the margarita mix. Ask students: *What kind of authority does the placement of the limes represent? How does it impact how you construct your rule for placing the limes?* Discuss with students the differences between binding and persuasive authorities and how they impact legal rules.

Professors can also introduce new facts that require both applying and rethinking the rules. Suggest that a shipment of bananas has arrived. Ask students: *Where do we place them? Now that we've placed the bananas, what do we do with a shipment of red peppers? How about a shipment of* How does the analysis

*change a shipment of juicing apples of second quality (spots and bruises)? Does this change our rule or our analysis?*

Here are instructions to give the students for the writing assignment:

Now that we have discussed The Grocer's Dilemma in class, your assignment is to write the "legal" analysis of where the grocer's assistant should put the shipment of limes. You will write the analysis in CREAC format. You may use your notes from the class discussion to help you. Remember that because this is a new method of thinking and writing, this assignment is likely to feel effortful and perhaps confusing. These feelings are part of the process of moving from novice to expert and acquiring a new ways of approaching problems. Here is a step-by-step approach for writing the analysis.

Step 1: (C) Start with your conclusion. Do the limes belong in the window?

Step 2: (R/E) Explain the "Grocer's Rule" to your reader. Tell the reader the boundaries that limit where we can put the limes. Start with the general rule that you learned from the grocer. Then add more detail to that rule by including what you learned from the "case of the apple" and the "case of the potato." You will want to include in this part a description of the apple and potato cases. Remember, rules can be malleable; that is, they may not be easy to determine and could, depending on the context and the interpreter, be slightly different. Accordingly, while you may realize that the rules that govern this situation could be described in more than one way, you will need to choose one in order to move to the next step. If you would like, drop a footnote to explain to me why you chose to formulate the rule like you did. You may also include in that footnote any alternative formulations of the rule you considered.

Step 3: (A) Analyze the limes using the Grocer's Rule you developed in Step 2. Explain to the reader why the Rule requires the limes to go where you concluded they should be placed. Remember to not only explain your reasoning but to draw analogies and distinctions to the apple and potato cases as necessary. Note that some features of the limes will be more important or less important depending on how you crafted your Rule. Facts, too, are malleable in light of the rules that we use to analyze them.

Step 4: (C/A) Repeat Step 3 except this time support a conclusion opposite to your original conclusion. This is your counteranalysis and is necessary to ensure your overall analysis is well-balanced. End this step by explaining why you think the counteranalysis is weaker than the analysis in Step 3.

Step 5: (C) Repeat your conclusion.