

Problem No. 3:

Players: Bob and Carol
Ted and Alice

(Bob and Carol shake hands.)

Bob: Carol I am really glad we could get this settlement done. It's been a long, hard case.

Carol: Boy you're sure right about that Bob.

(End of scene.)

(Next scene.)

(Bob and Alice are together.)

Bob: It's a real coincidence that would show up at my office this afternoon Alice. I was going to call you and tell you that we have made a deal to settle your case just like you wanted.

Alice: Well that's great Bob. I'm really glad to hear that. I probably shouldn't even bother you with this then.

Bob: What is it Alice? Is there some other reason you came in?

Alice: Well Bob, we were closing out our storage room and I found some papers about our case. It looks like I was wrong when I told you and testified in my deposition that our company never approved any change orders on this project that the lawsuit was about. These papers are notes of telephone calls where our project manager approved all those changes that we said we didn't need to pay for.

Bob: Oh my gosh. Well, that's interesting. We've already made a deal to settle your case and we sure didn't know about these papers when we made the deal.

Alice: Well I want to go ahead with the settlement. I still think we are paying too much. And it's darn sure fair for the plaintiff. So I think we ought to just go ahead and do the deal and forget about this stuff.

Bob: Well Alice, I'll have to think about that.

(Next scene.)

(Carol and Ted.)

Carol: Well Ted, what a surprise. I'm glad you came in today. I was going to call and tell you that we settled your case, just like you wanted.

Ted: Well that's great news Carol. I'm really glad to hear it. Maybe I shouldn't even tell you what it was I came in for.

Carol: Oh go ahead, tell me. Was it about your case?

Ted: Well it kind of is.

Carol: Well tell me Ted, what is it?

Ted: Well you remember the real fact question in this case? We said that our foreman got approval of change orders from the defendant for this project and the defendant's expert witness was going to testify that whether they were change orders approved or not, that none of that work was done and so we shouldn't be able to collect the extra money.

Carol: I remember that Ted.

Ted: And you remember our foreman swore up and down that he did all the extra work? And he was a real believable witness? And you said that he was such a good witness that was probably why we had a chance to win and that was the only reason why we could get a good deal in settlement.

Carol: I remember all that.

Ted: Well here's the problem. Our foreman ran away to South America with our secretary and there's no way we can make him come testify at the trial.

Carol: Well Ted there's no way that we could have won that trial without that witness. When did you find this out?

Ted: Oh about two weeks ago. But I didn't tell you because I wanted to see if you couldn't settle the case before I had to tell you because I knew you would want to tell the other side. And without him, this case wouldn't be worth a dime.

Carol: Well Ted, you should have told me. This puts us in a real difficult spot.

Ted: No it doesn't Carol. A deal is a deal. We don't need to ever tell them. What they don't know won't hurt them.