

Contracts
Fall 2002
Section 8
Final Exam
Professor Mark Sidel

This final exam lasts three hours and is open book. It consists of short answer questions and four essays. The short answer questions account for 20% of the exam grade and the four essays together account for 80% of the exam grade (each 20%).

Your suggested time allocation is about thirty-five (35) minutes for the short answer questions and thirty-five (35) minutes each for each of the essay questions. (That would leave about five extra minutes.) Be careful not to take so much time on the short answer questions that you do not have enough time for the essays. Please follow all additional instructions below.

Do not get discouraged if particular sections seem difficult – keep working hard for the entire three hours. Good luck!

Short Answer Questions

In seven written lines or less, please define and explain the importance of each of the following terms in contract law. No more than seven lines will be read for each answer. Please single space your answers.

1. Promise
2. Fair dealing
3. Statute of frauds
4. Reliance
5. Unjust enrichment
6. Unconscionability
7. Punitive damages
8. Specific performance
9. “I will guarantee to make the hand a hundred per cent perfect hand”
10. Valuation of consideration
11. Mental incapacity
12. Unilateral contract
13. Illusory promise
14. Limitations on damages

ESSAY QUESTIONS BEGIN ON THE NEXT PAGE

Essay Questions

Please the answer to each essay question in the books provided. You may single space or double space at your convenience.

Essay 1

Uncle says to Nephew, if you work hard at law school and graduate, I'll pay your bar exam expenses and reimburse you for a trip to Europe after you've graduated. He tells Nephew that the exchange for his (Uncle's) promise, in order to make the agreement binding in Uncle's view, is that Nephew give him Nephew's one dollar bill from 1945, which Nephew prizes. Nephew agrees and gives him the one dollar bill. He prizes it, but there are many 1945 dollar bills circulating and this is worth exactly one dollar.

Nephew works hard at law school and graduates. Uncle reneges on his promise. When Nephew threatens to sue, Uncle asks for a new agreement. He tells Nephew that if he'll withdraw his suit and agree never to sue on this matter in the future (for Uncle is a lawyer and doesn't want any trouble with the bar), Uncle will go ahead with the promised bar exam expense and reimbursement for the trip to Europe. Nephew agrees. Nephew is never paid.

Eventually the matter comes up for adjudication, and you are the clerk for the judge hearing the case. Who wins and why?

Essay 2

Seller Sam, proprietor of a clock store, sells an expensive grandfather clock to Barbara for \$1,000 on November 1, to be paid for and delivered on November 3. Seller's cost for the clock is \$700; the craftsman who made it lives in Maine and produces about fifty a year, and Seller Sam has an informal agreement with the craftsman to have about ten available to him to sell during the year. They are usually priced at \$700 to Sam, but the occasional mahogany model is priced to Sam at \$900 and he sells those for \$1,200 each. On November 2, Barbara calls Seller Sam and says that she has had second thoughts and doesn't want to buy the clock. There is another buyer in the store that day, but that buyer is a hard bargainer and won't pay more than \$900 for the clock. Seller Sam won't sell the clock for that price and hopes that Barbara will change her mind again. She doesn't. What can Sam recover from Barbara, if anything, in a breach of contract action?

ESSAY QUESTIONS CONTINUE ON THE NEXT PAGE

Essay 3

Gabriel Enterprises is a substantial manufacturer of flat panel computer monitors, supplying distributors around the United States who then resell directly or through computer stores. Nishant has applied to be a distributor of the monitors. Gabriel sent him the distributorship agreement, and had extensive discussions with him. Nishant signed the distributorship agreement, undertook extensive preparatory expenses to outfit a warehouse and hire staff (amounting to \$10,000 in expenses) and told Gabriel that his initial order would be 2,000 flat panel monitors, which he would sell for \$300 each. Gabriel now refuses to sign the distributorship agreement. Nishant has an expert who estimates that while this is a relatively new product, there is enough data to indicate that Nishant could reasonably expect profit of \$30 per monitor. Nishant renews his warehouse space and maintains his staff, hoping and planning that the monitors will arrive. You are the judge in the breach of contract suit by Nishant against Gabriel. What theory or theories should Nishant consider, which theories are winnable, if any, and why, and how much if anything should he recover, and why?

Essay 4

The David Foundation provides a grant to Upala, its grantee. Under the grant agreement, the Foundation provides some funds (\$50,000) to plan an anti-poverty project in eastern Iowa, in exchange for Upala doing the planning work and presenting it in a document to the Foundation. The agreement says that if the Foundation finds the planning work and document acceptable, it may provide a further grant of between \$200,000 and \$300,000 to implement (actually carry out) the anti-poverty worked planned in the initial grant.

Over the next year Upala does most of the planning work and then she sends an initial report to the Foundation. The Foundation reviews the initial report, then writes to Upala thanking her for her efforts. The Foundation adds that “based on our review of your report, we will not be in a position to provide you with an implementation grant. However we wish you the best of luck in locating other funders to support this work.”

Upala has come to you and asks, “What options do I have? I have invested over a year in this. Of the \$50,000 I only received \$25,000 in salary – the rest was used for planning expenses as agreed with the Foundation – and I could have earned \$75,000 in my regular consulting work. I want to sue them.”

We are meeting with Upala tomorrow morning. Please discuss Upala the various bases, if any, on which she might proceed, and what her chances of success might be.

END OF EXAM