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===== Start of Answer #1 (898 words) =====

Cal(C) v Bob(B)

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Molly and Bob entered into a Written contract for the building of the Shopping center. This contract is governed by common law because it is for service not sale of goods. This contract had consideration. A legal detriment or promise thereof given as part of a bargained for exchange the 2.1 million was given in exchange for bob building the building. So there was a valid Contract. The key issue in this contract is whether or not Bob was justified in stopping performance of the mall. Bob will argue that the payment of the full amount was an express condition precedent to him having to complete the project. Express conditions must be strictly complied with or the other parties duty to perform does not arise. However, it is more likely that M's payment is a constructive condition because the contract does not use express condition language that would say that B's duty to perform only arises in the event of complete and total payment. As a constructive condition substantial performance is sufficient to require the other party perform. By paying all but 25,000 of the next to last payment M has not materially breached there agreement and her substantial performance gives rise to B's duty to perform his part of the contract. B can sue M for the damages caused by her incomplete performance but he was not justified in stopping performance. Therefor B did breach the contract between Molly and Bob.

good

However Cal cannot sue on this contract because C is not an intended beneficiary to the contract between M and B. Although, prospective tenants are mentioned in the contract the benefit does not go directly to C nor would it effect the intentions of the parties to this contract by giving him the right to sue. This was a contract between a land owner and a contractor for construction of property and although it was contemplated that tenants might benefit it was not the intended purpose of the agreement.

Cal(C) v. Molly (M)

Molly entered into a valid contract with Discount City(DC). One key issue in this lease agreement is whether or not the orally discussed agreement that DC would not have the right to assign the lease without M's consent. This presents a parole evidence question. The parole evidence rule bars prior or contemporaneous oral evidence of a side deal. Because the lease is "detailed" and the fact that ability to assign the lease is an important issue that would not naturally be left out of a detailed agreement it is likely this is a fully integrated agreement. This means that no evidence can be introduced to contradict or supplement this agreement therefor the limitations on assignment is likely barred by the parole evidence rule.

good

However, even if it werent barred the normal rule is that language that bars the right to assignment only refers to the delegation of duties. And the language of the side deal seems to have only been to remove the right to assign not the power(null and void language. Therefor DC's assignment to Cal is not barred by this oral agreement. Therefor DC assigned the entire contract because assignment of the whole contract is assumed to include assignment of right and delegation of duties.

good

Therefor DC becomes the assignor Molly the obligor and Cal the assignee. As the Assignee C can sue Molly for damages from the breach of the lease. However, molly has another defense against the validity of the assignment. She can say that the assignment without her knowledge increased her risk or endangered her return performance. However, since this was a lucrative business it probably didn't. Also M will say she had a substantial interest in DC performing the duties because the different business models could affect her rent however, the 10,000 a month part of the lease would protect her from that. Therefor the assignment to C from DC may be valid. M may also have a defense of impossibility because the shopping center is not built therefor it is impossible for her to rent him space in it. However, C may be able to assert that M assumed the risk of this situation occuring by assigning leases before the Mall was fully completed. If M assumed the risk then impossibility will not be a defense for her. If she did not assume the risk and this was suffieciently unforeseeable impossibility is a defense to her performance. If C has recourse do to M's defenses he

good

good

may be able to assert an estoppel argument. Molly could reasonably foresee that business owners would rely on the lease and the mall opening and by renting to them she may have induced the tenants' reliance and C did rely. Although the reliance of C wouldn't be foreseeable to her because she thought it wouldn't be assigned, she could foresee some tenants would rely therefor C maybe able to recover reliance damages from M.

Cal(c) Discount City(DC)

Cal may be able to sue DC on breach of warranty of assignment. By assigning the lease DC warranted that it was a valid assignment, that M had no defenses and that it would do nothing to interfere with the rights. M did have defenses and there is some question as to whether DC had the right to assign the lease. Therefore C could recover the 5,000 from DC.

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End of Answer #1
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2)

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Start of Answer #2 (1426 words)
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This contract involves the sale of goods (reception area furniture) and is therefore governed by the UCC.

(85)

Was there an offer?

An offer is a manifestation of willingness on the part of the offeror to enter into a bargain. Here J (an agent of ZB) made an offer to build the furniture for \$4000 based on the attached specifications. This was an offer on the part of J.

Was there an acceptance?

A acceptance was a manifestation of willingness on the part of the offer in the manner invited by the offeror. Here R said that he wanted to change the plans to make the desks three inches longer. This took away R's power of acceptance as it became a counter offer to the contract. This changed an essential term (the dimensions of the desk).

excellent!

Did J accept R's counter offer. Here J stated that he would redo the drawings and that he would send them along with the new contract. He never did. It could be argued that J never accepted the counter offer, though his comments strongly indicated acceptance and it could be argue that by his performing the contract, he indicated expectancy.

Was there consideration?

Consideration is an act or forbearance on the part of the promisee given in a bargain for exchange. Here R was to pay J for the desk. There was consideration.

Does R have an defenses?

Should the lack of J's acceptance of the contract not release R, R will likely argue statute of frauds.

When arguing the statute of frauds you must look at three elements (1) was it

triggered? (2) was it satisfied? (3) Was it excused?

This involved the sale of goods for more than \$500, therefore the statute of frauds applies. Here, J will be suing R to hold him to the contract. R signed a contract, but not with the additional three inches. However, as the contract he signed did include all of the essential elements of the contract (price, delivery, date, items ordered) it is likely the SoF will be satisfied even though J never signed it.

→ UCC — Not all this way needed

Furthermore, it is likely the SoF could be excused even if not signed in that this was an order for a custom good. J performed on the contract and under the UCC, he will be able to receive reliance damages based on his part performance (aside from the loss in value of the three inch desk).

J
Does R have to perform on the contract?

A condition is an event not certain to occur but which must occur prior to performance on a contract. An express condition requires strict compliance. A constructive condition (implied by law) requires merely substantial performance. When determining whether a condition is express or constructive, courts tend to lean away from interpreting them as express due to the risk of forbearance.

J
R will argue that he substantially performed under the contract and the mere 3 inch different was not a material alteration to the contract. Therefore, R should still have to pay.

UCC has perfect tender rule

Will the oral discussion as to the satisfaction clause be barred by the Parol Evidence Rule?

OK you discuss this later

Under the Parol Evidence Rule any evidence of prior or contemporaneous oral agreements would be barred unless given to interpret vague language, invalidate, or to reform. The evidence may be allowed to supplement but never to contradict In order to be allowed to show reformation, the agreement must have been subsequent to the

signing of the contract and while not entirely clear on the facts, it appears this was a contemporaneous agreement. It is unclear as to whether this term is included in the written contract. Under the UCC the courts look at course of dealing, course of performance and trade usage to supplement a contract. Here, J indicates the satisfaction clause is a course of dealing for his company in that it is company policy, therefore the evidence may be allowed in under the UCC.

course of dealing is prior dealing between parties to this K

If the satisfaction clause is valid it will be considered an express condition of the contract. Satisfaction can be measure objectively (utilitarian) or subjectively (fancy taste and judgment) depending on the subject matter. Here, the contract was for custom furniture, and it could be argued that that is a matter of fancy taste and judgment and should be strictly held to the satisfaction clause. However, R must still act in good faith. His determination not to pay was not based on the furniture itself, but the fact that his daughters boyfriend is a cabinet maker. This determination was not made in good faith, either subjectively or objectively, he does not sight the incorrect measurements as the reason he is not satisfied. Every contract has an implied covenant that the actor will use good faith judgment when there is an issue of discretion. Had he simply not been satisfied with how the furniture came out, he would have been released from performance. But based simply on a decision to go with someone else (who will probably be cheaper) it is not likely.

good

R will then argue that under the Perfect Tender Rule, he may return any goods that are non-conforming to the original contract. Under the perfect tender rule even the slightest deviation allows return provided the buyer rejects the goods in a reasonable time. However, J may offer to cure the defective product within the contract period (it is not specified what the contract here was to mature) or, if he reasonably believed the furniture would be satisfactory, he may ask for a reasonable extension to cure. The buyer must cooperate with the seller's efforts to cure. Here R refused to discuss the matter further and as a result is likely in breach of the contract.

good

Rights of the parties

J v. R

What damages may J receive?

Here, under the UCC, J will be able to receive damages in the amount of the contract price, minus the resale value of the furniture. R was to pay for the furniture, and act in good faith. If it is found that no contract existed as there was never an acceptance on the part of J (and ZB's president) J will likely be able to gain damages under promissory estoppel in that he detrimentally relied on R's promise to pay for the goods. In this case he will likely receive reliance damages which will place where he was when he entered into the contract.

R v. J

Can R sue J for failing to make the furniture correctly in the first place and requiring him to buy new furniture from A's boyfriend?

Here, J gave R no opportunity to cure the non-conforming good and refused to discuss the matter further. While R will argue the satisfaction clause, he breached the clause in bad faith and not simply because the dimensions were off. He was not satisfied due to incorrect dimensions. He will argue that he now has to pay for new furniture as a result.

Here the court may offer either the cost of completion or loss in value (cost of completion being to rebuild the desk as ordered). The courts tend to lean towards the lesser of the two unless convinced the damages will go towards replacing the incorrectly built furniture. Here, it is likely the court will grant loss in value as the inconsistency is minimal (3 inches)

A v. J

Will A be able to sue J as a third party beneficiary for failing to make the furniture as ordered?

In order to sue as a 3PB the party must be an intended beneficiary of the contract. To determine if someone is an intended beneficiary, you must look as to whether they are specifically named in the contract (no), or whether the contract runs directly to them, and whether it was the intent of the promise that they be benefitted form the contract with the knowledge of the promisor that they were to benefit. Here, it was clearly J's intent to benefit his daughter. R informed J when they were forming the contract that his daughter wished the plans to be changed which provided J with the knowledge that she was an intended beneficiary of the furniture.

Here, A was a donee beneficiary in that P was merely giving his daughter a gift. There was no consideration in the agreement. Therefore, A may only sue ~~P~~ if she detrimentally relied on the contract (not the case here, as she wanted her boyfriend to make the furniture anyways).

A will not be able to sue J under 3PB

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End of Answer #2
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END OF EXAM