

Memorandum

To: Contracts Students
From: Professor Aiona
Date: Monday, December 17, 2018
Re: Midterm Examination

This is a closed book exam. Please abide by all that this implies.

If you are writing your exam, remember to use only one side of each page inside your Blue Books, write legibly, and skip every other line.

If you type, remember to type double space.

Your exam consists of two essay questions and 18 MBE questions. The total test time is **two hours and 30 minutes (2.5 hours)**. You will have two hours to complete the essay questions. After a short break, during which all exams must be turned-in at the Law School office, the whole class will be given the MBE questions. You will have 30 minutes to complete the MBE questions.

Your answer should demonstrate your ability to analyze the facts presented by the problem, to select the material from the immaterial facts, and to discern the points upon which the problem turns. It should show your knowledge and understanding of the pertinent principles of the law of contracts, their relationship to each other, and their qualifications and limitations. It should evidence your ability to apply the law to the facts given and to reason logically in a lawyer-like manner to a sound conclusion from the premises adopted. Try to demonstrate your proficiency in using and applying legal principles rather than a mere recitation of your memory of them.

An answer containing only a statement of your conclusions will receive very little credit. State fully the reasons that support them. All issues should be thoroughly discussed. Although your answer should be complete, you should not discuss legal doctrines that are not relevant to any issue in the problem.

Good luck!

Empire College School of Law
Professor Aiona
Contracts – Midterm
Monday, December 17, 2018

Student ID# _____

QUESTION 1
(One hour)

Dan Defoe owned a huge section of desert land, which he calls Rattlesnake Ranch. Recently, Dan had heard talk that there might be oil under the ranch. This idea was enhanced when he received, on October 1, the following letter:

Dear Mr. Defoe:

Betty Oil is interested in buying Rattlesnake Ranch for three million dollars. If you want to sell it to us for that price, please sign the enclosed document and return it to us immediately.

Sincerely,

Barbara Betty
President, Betty Oil, Co.

The enclosed document states:

Betty Oil shall have sixty (60) days after October 1 to investigate Rattlesnake Ranch. It shall obtain at its own expense engineering, soil and geology reports, a copy of which will be provided. The Board of Directors of Betty Oil, after review of said reports, shall approve of the transaction on or before December 2. This offer shall become a contract upon acceptance by seller and approval by the Board.

Dan excitedly signed the document and returned it to Betty Oil.

Betty Oil promptly and extensively investigated the ranch for oil. The investigation was completed in thirty days. The reports were all positive and suggested that the land was probably worth at least ten million dollars to any oil company. Unfortunately, a loose-tongued geologist working for Betty Oil carelessly revealed their conclusions to an officer in Quick Action Oil. The very next day Quick Action Oil bought Rattlesnake Ranch for three million dollars.

At the regular November meeting of the Board of Directors of Betty Oil, held on November 29, the reports were reviewed and the purchase of Rattlesnake Ranch for three million dollars was approved.

On December 1, Dan wrote Barbara Betty and advised her that the ranch had already been sold to Quick Action. On December 3, Barbara Betty, before receiving Dan's letter, wrote the following:

Dear Mr. Defoe:

Good news. The Board, at its regular November meeting, has approved the purchase of Rattlesnake Ranch for three million dollars. Our legal department will prepare the necessary documents, such as deeds, etc. Although we have heard rumors the past couple of weeks that Quick Action had bought the property, we simply ignored them since you had already accepted our generous offer.

Sincerely,
Barbara Betty, Betty Oil Co.

Betty Oil Company sued Dan Defoe for damages for breach of contract. Discuss the issues involved.

QUESTION 2
(One hour)

George is the owner of the Gibson Guitar Manufacturing Company. Recently, he has come up with the new custom guitar for the year 2011 and was unsure at what price they would sell. From the company server, he sent the following email to several small guitar retailers to offer them specials, knowing they purchased in limited quantities, including John, Paul and Ringo.

“Here is the new custom Gibson Model for 2011. On special for all small guitar retailers, the wholesale price is \$2,000 each, minimum purchase order of 5. Also, if you order 10 or more, I will include the same number of hard-shell guitar cases at \$10 each, normally \$100. We will ship the order within two weeks of acceptance. To place your order, you must fill in the attached purchase order form and email it back.

I will hold this offer open to small retailers for the next six months, provided you deposit \$100.”

John’s son, who worked at the store, received George’s email and knowing how conservative John was, knew he would ignore it. He mailed George a check for \$100 from the company ledger, with a notation that said “deposit.” He also forwarded the email to Mark, another small retailer, who also sent in a check.

After receiving his email, Paul sent George an email back, saying he wouldn’t buy them unless 90-day warranties applied. George did not respond. Later that evening, Paul looked up the Gibson website and seeing that all their guitars included 90-day warranties, called and left a message, placing an order for 20 guitars, with cases. He also promised to send the \$100 deposit, which he did weeks later.

Since Ringo was in the process of moving, he didn’t respond to his email for a few days. He had heard from his agent, George’s brother, that George had raised the price on the new model. Ringo immediately filled out the purchase form attached to the email, ordered 500 guitars, and pressed “return” on the email; he also stuck a check in the mail for the full amount, which included an extra \$100. He then called the newspaper and purchased advertisements for the new Gibson model.

Unbeknownst to John, Paul or Ringo, the day after George sent the emails out, a news article about the new Gibson model circulated in Europe and George began receiving hundreds of orders. Due to the demand, George immediately mailed notices to all potential customers, including John, Paul and Ringo, that the price had gone up to \$3,000 per guitar, 5 guitar limit, with only 30 day warranties. John and Paul received the letter. Since he had moved, Ringo received the letter a week later. Mark never received it.

Three weeks later, John learned about his son’s deposit and, thinking he could make a killing by re-selling them to larger stores for a profit, filled out the purchase order from the original email, ordered 100 guitars for \$2,000 each, and sent it by certified mail.

After hearing about it from John's son, Mark filled out the purchase order for 100 and sent it by return email.

John, Paul, Ringo and Mark demand George fill their orders. He comes to see you for advice. Discuss any legal defenses George may have.