

## Issue Outline

Contracts Final - Spring 2016 -Question 1

STUDENT # \_\_\_\_\_

GRADE \_\_\_\_\_

Gil vs. Cal

Probably no contract.

Specificity re date of use? Consideration? Statute of Frauds?

Emotional distress damages not recoverable.

Gil vs. Bob

Intended or incidental 3PB?

If intended, what defenses can Bob assert?.

Cal vs. Bob (and vice versa)

Effect of “elk horn” clause – a promise or condition?

If condition (oral discussion relevant to prove it was a condition?) – literal compliance required. Cal entitled to terminate (but Bob gets reasonable value of service already performed under quasi K).

If promise – substantial performance required. If it was substantial performance, Cal can only sue for breach, and his failure to pay is a material breach justifying Bob’s failure to perform.

Effect of oral agreement to extend for 2 months? Parol evidence rule. Integrated? If allowed in, then Bob did not repudiate.

Was Bob justified in walking off based on either (1) Cal’s unjustified material breach in not paying, or his unjustified repudiation re future payments or (2) impracticability? (But did he assume the risk because he could foresee difficulty with obtaining elk horn?)

What damages to prevailing party?

Contracts Final  
Aiona 2016  
Question Two

Student No.

ISSUE LIST: QUESTION TWO

- I. Common Law/UCC
- II. Valid Contract b/ Farmer & Contractor.
  - contract divisible re facility and silos;
  - not divisible re progress payments.
- III. Express Condition Precedent re Engineer's Certificate
  - waiver re months 5 and 6
  - condition reinstated because of month 7?
- IV. Condition Precedent Excused Due to Prevention/Breach by Farmer
- V. Breach by Farmer material?
- VI. Election by Contractor
- VII. Breach by Contractor: yes. Material?
  - steel: no
  - temperature controls: yes
- VIII. Substantial Performance by Contractor?
  - no: material breach by Contractor
  - minor breach by Farmer
- IX. Remedies:
  - economic waste re steel; cost to repair for temperature controls.
  - amount owed contractor for months 8, 9 and 10 offset by breach.
- X. Silo Contract:
  - divisible

Comments: