

Mock Midterm Student Essay Example #4

Issue: Whether a contract was formed when Cameron and Abel discussed Cameron's mowing of Abel's lawn.

Rule: R2d 1 "a contract is a promise or a set of promises for the breach of which the law gives a remedy, or the performance of which the law in some way recognizes as a duty."

Analysis:

All parties [what about infants? Persons under guardianship?] are capable of forming contracts. To determine if there was an contract, there needs to be an offer, acceptance (while they had the power of acceptance), and consideration. [Good umbrella structure that sets up for sub-IRACs]

Offer IRAC:

Issue: Whether there was an offer for Cameron to mow Abel's lawn when Cameron quoted his price for the job. [Good issue statement with regard to a singular incident, but not there are several incidents which could have been offers, not just one manifestation]

Rule: "An offer is a manifestation of willingness to enter into a bargain, so made as to justify another person in understanding that his assent to that bargain is invited and will conclude it." R2d24 [R2d 26 and R2d 33 are also relevant to this analysis]

Analysis: Cameron offered to mow Abel's lawn. While at his house, he discussed the items needed (topsoil and seed), and the price of his performance. This was an offer as defined by R2d § 24 [why? Notice that neither the rule nor the analysis actually states that offers require price, subject matter, quantity, and parties.]

Conclusion: Cameron made an offer to mow Abel's lawn. [The analysis lacked arguments on both sides, and so there was not room for the conclusion to balance those arguments. But a better conclusion would balance the two parties' arguments and resolve them via a "because" or "since" clause.]

Acceptance IRAC:

Issue: Whether Abel accepted Cameron's offer when he said "ok, but can you guarantee that I will have a nice lawn if I hire you to do all that?" [Good.]

Rule: R2d §58 "An acceptance must comply with the requirements of the offer as to the promise to be made or the performance to be rendered." [What about R2d 59 and 61? Are they relevant here? How about R2d 39?]

Analysis: Abel's saying OK and asking if he could guarantee the lawn be nice is an acceptance. [Note the prior sentence is a conclusion and not analysis or parties' arguments] While this is close to being a purported acceptance, which would terminate the offer, it is not. [why?] It would be a purported acceptance if it was conditional on the guarantee that the lawn be nice

R2d§59. In addition, the offer from Cameron was valid at the time that Abel accepted it. It happened during the same conversation, and while Abel still had the power of acceptance.

Conclusion: Abel accepted the offer and he asked a clarifying question. [Similar to above: the conclusion does no new “work” because the analysis was actually a conclusion.]

Consideration IRAC:

Issue: Was there consideration? [where?]

Rule: §R2d 71 (1-3) “(1)to constitute consideration, a performance or a return promise must be bargained for. (2) A performance or return promise is bargained for if it is sought by the promisor in exchange for his promise and is given by the promisee in exchange for that promise.” [OK]

Analysis: Using the bargained for/sought for analysis, there was consideration. [Again, this is a conclusion, not analysis.] The two parties agreed to exchange goods (Bargain). Each party sought for the exchange; Abel wanted his lawn to look nice, and Cameron wanted to be paid to fix his lawn. [Good analysis!] They bargained for and sought for an exchange. In exchange for Abel’s money, Cameron would offer performance by fixing Abel’s lawn.

Conclusion: This meets the requirements of consideration; there was consideration. [Again, the conclusion does no new work because the analysis offered the conclusion.]

Additional analysis: [There is good stuff in here but it’s displaced from analyzing the elements so its hard to assess how it influences the main conclusion.]

While Abel asked if Cameron would guarantee the lawn be nice, he did not make his acceptance conditional on his terms. This is defined by R2d §61, “an acceptance which requests a change or addition to the terms of the offer is not thereby invalidated unless the acceptance is made to depend on an assent to the changed or added terms.”

Abel did not say ‘yes I agree’. This could be an argument for Abel, but the restatement does not clearly state words that must be uttered. There are various ways to accept, and a court would most likely view this as an outward manifestation of assent.

Abel’s best argument here is that they did not discuss the specific terms of when the work would be done. Cameron came and performed his side of the contract, but Able and Cameron’s conversation did not have terms of when this work would be done. The terms included were sufficient however, as they discussed parties, subject matter, quantity, and price.

R2d applies to this case. Cameron’s cost of goods is \$400, and service is \$600. It is clear that the parties are bargaining for a service, and not for the exchange of goods.

Main Conclusion:

If Cameron Sues Abel for breach of contract, Abel will not be able to successfully defend by claiming that no contract was formed. Under the restatement, Cameron and Abel formed a contract. [This conclusion makes sense give the analysis above.]

Scores:

ISSUE: Level 3 ("Correctly identified the main issue, but missed some ancillary issue, or dwelt on irrelevant issues; and/or included unimportant facts.")

RULE: Level 2 ("Stated the rule vaguely and/or mentioned irrelevant rules as well as relevant ones.")

Analysis: Level 2 ("Did not address all the elements, missed some material facts, failed to deal with key counter-arguments, or failed to address critically important or dispositive binding case law.")

Conclusion: Level 3 ("Correctly concluded as to one or more issues, but did not correctly answer the question presented and all sub-issues therein, or offered conclusions without supporting them (i.e., conclusory conclusions).")

Quality: Level 4 ("Wrote clearly and concisely, reflecting careful editing for spelling and grammar.")

SCORE: 7/10