

**CONTRACT LAW**  
**PRACTICE EXAM**  
**PROFESSOR ORANBURG, FALL 2022**

**EXAM INSTRUCTIONS**

1. **Time.** You will have one (1) hour to write this exam. The proctor will advise you when exam time begins and ends. *Wait to turn this page over until the proctor calls the start time.*
2. **No Digital Materials.** You may not use any digital equipment except for your laptop while taking this exam. You may not access any digital materials during the exam time except for the exam-writing software. At this time, shut off any prohibited devices and store them away for the duration of the exam time.
3. **Test Materials.** The proctor will provide you with the following Test Materials: (a) this Exam Packet and (b) scrap paper. If you require a physical bluebook because you experience a laptop malfunction, you may ask your proctor for the same.
4. **Pseudonymity.** Write your Exam ID (not your name) in the space provided in the upper right-hand corner of this Exam Packet. Do not write any other personally identifiable information on this Exam Packet or any other Test Materials.
5. **Errors and Ambiguities.** If you encounter a typographical error or ambiguity that impacts how you will answer a question, you may ask a proctor for a bluebook in which you may make a written note of the purported error/ambiguity and explain how you resolved it. Do not write any personally identifiable information on the bluebook. Do not ask a proctor for substantive assistance explaining an error or ambiguity. Use common sense in determining how best to deal with a suspected error or ambiguity.

**DO NOT TURN THIS PAGE OVER UNTIL THE PROCTOR CALLS TIME**

PART I: ESSAY (30 MINUTES)

Abel Branberg, a homeowner in Manchester, New Hampshire, called a professional landscaper named Cameron Doogle to inquire about his services. During their initial phone call, Abel said, "I would like to hire you to grow grass on my lawn." Cameron replied, "Sure, I can do that for you. How about I come over tomorrow, take a look, and give you a quote?" Abel agreed to meet Cameron on his property at noon the next day, and they ended the call.

The next day, Cameron came to Abel's property at noon, where the two walked around the yard talking about the job. "You will need eight yards of topsoil," Cameron said as he got into his truck, "and at least fifty pounds of grass seed. Those materials will cost four hundred dollars, and I'll charge another six hundred dollars to spread the topsoil across your lawn and seed it." "OK," said Abel, "But can you guarantee that I will have a nice lawn if I hire you to do all that?" "No," Cameron said, "whether you have a nice lawn or not depends on how often you water it after I am done, so I won't take responsibility for that." Cameron then drove off.

The next day, while Abel was at work, Cameron came to Abel's property with the topsoil and the seed. He spread the topsoil across the lawn and seeded it, put an invoice for one thousand dollars in Abel's mailbox, and left. When Abel got home, he saw the seeded topsoil and the invoice, upon the back of which Cameron wrote, "Remember to water this lawn four times a day for the next month, or the lawn will not grow nicely."

Abel, who works in an office and cannot be home during the day to water the lawn, was upset. Abel called Cameron and left a voice mail stating, "Cameron, you should have known that I work in an office and cannot be home to water the grass during the day. We never made a deal, and I am not going to pay you unless you agree to water the grass twice for a month a day while I am at work." Cameron ignored the voicemail and sent Abel a bill in the mail for one thousand dollars.

**If Cameron sues Abel for breach of contract, can Abel successfully defend by claiming that the parties did not form a contract? Discuss the elements of contract formation that Cameron must prove and provide Abel's best defenses regarding each element. Do not discuss performance, breach, or damages.**

## PART II: MULTIPLE CHOICE QUESTIONS (30 MINUTES)

Directions: Each of the questions or incomplete statements below is followed by four suggested answers or completions. You are to choose the best of the stated alternates. Answer all questions according to the generally accepted view (i.e., in accordance with the Restatement (Second) of Contracts or the Uniform Commercial Code, as appropriate), except where otherwise noted.

1. A cat owner leaves his door open, and his cat runs off. The owner makes flyers and posts them around his neighborhood. The flyer describes the cat and how to contact the owner and says at the bottom, "\$500 reward if you find the best cat ever!" A neighbor finds the cat and brings it to the owner. When the neighbor asks for the reward, the owner says, "Are you kidding? This is not the best cat ever -- he's too dumb to come home on his own!" The neighbor sues the owner in small claims court.

Is the neighbor entitled to a reward?

- a. Yes, because this is a self-limiting reward, and the neighbor fulfilled its requirements.
  - b. Yes, because this is a general solicitation, and the neighbor accepted by promising to perform its terms.
  - c. No, because the poster contains allowable puffery.
  - d. No, because the reward statement was not specific enough to identify the particular cat.
2. On Monday, a man told a gardener, "I am having a party on Sunday, and I want my house to look good. If you promise to mow my lawn by Saturday, I will pay you \$50. Think about it. Check your schedule and let me know." On Friday, the gardener arrived at the man's home just as the man was leaving for work and began to mow the man's lawn. The man said nothing to the gardener but drove off as he saw the gardener unloading his mower. When the man arrived home from work that evening, he noticed that only half of his lawn had been mowed. He then found a note from the gardener slipped into his mailbox. The note said, "Sorry, but I ran out of gas for the lawnmower and did not have time to buy more gas to finish the job. I'm taking the weekend off, but I will be back on Monday to finish the job."

Who is likely to prevail if the man brings suit for breach of contract?

- a. The man, because under the doctrine of promissory estoppel, the gardener's part performance was evidence of his intent to honor the entire contract.

- b. The man, because the gardener's part performance necessarily implied an acceptance and a promise that he would render complete performance.
  - c. The gardener, because he never accepted the offer by the man.
  - d. The gardener, because he offered to cure the defective performance by finishing the job on Monday.
3. A sole proprietor had his business and personal debts discharged in bankruptcy. Before filing for bankruptcy, the proprietor learned that a small design firm might go out of business if he did not pay the \$40,000 he owed the firm. After the proprietor's debts were discharged in bankruptcy, he wrote a note to the design firm saying he had just started a job and would pay them \$200 a week until the debt was paid. For six months, he made payments. Then he lost his job. He notified the firm that he could not continue making payments. The firm informed him that it had received a loan to stay in business partly because of his promise to make payments. The firm sues the proprietor for the balance of the original debt. The proprietor argues that there was no consideration for his promise to pay the pre-existing debt discharged in bankruptcy.

How should the court decide?

- a. The proprietor made an unenforceable gratuitous promise.
  - b. The proprietor's promise is not enforceable because there is no consideration.
  - c. The promise to make weekly payments is enforceable without consideration.
  - d. The doctrine of promissory estoppel applies and makes the promise enforceable.
4. A contractor learned that a city intended to open a new grammar school and was going to ask for bids to construct the school. The contractor decided to submit a bid to do the construction. The contractor contacted all of the subcontractors she had worked with in the past, informed them of the specifics of the school construction project, and asked each to submit a bid for the work they would be requested to perform. An insulation company submitted a bid of \$25,000 to do the required insulation work in the new school. Based on that and other subcontractors' bids, the general contractor prepared a general bid and submitted it to the city.

Three days after the contractor submitted the bid to the city, the insulation company notified the contractor that it had overbooked its workforce and would be unable to perform the insulation work. The next day, the city notified the contractor that she had won the bid to build the school. The contractor was forced to find another company to do the insulation work. The other company charged the contractor \$30,000 to do the insulation work.

Which of the following arguments best supports a claim for \$5,000 by the contractor against the insulation company?

- a. The contractor had made an offer to the insulation company that the latter accepted when it submitted the bid.
  - b. The insulation company had made an offer that the contractor accepted by using the insulation company's bid in computing the bid it submitted to the city.
  - c. The insulation company's bid was an offer that it was obligated to hold open because the insulation company and the contractor were merchants.
  - d. A quasi-option contract was created when the contractor used the insulation company's bid in computing the bid it submitted to the city and notified the insulation company of that fact.
5. Fantasy Vacation Corp. (FVC) is in the business of selling fantasy vacation packages to buyers who will pay \$70,000 for a week of moviemaking, including appearances with a "genuine movie star." FVC sends Susan Starlet, the designated "star," a proposed 14-page contract specifying the dates and location of her appearance for an FVC vacation package, her duty to be "on call" from after breakfast until dinner each day, her acting roles and scenes, her release of publicity and filming rights, her duty to provide media appearances "as appropriate" during specified days, FVC's duty to pay Starlet a \$30,000 fee and up to \$8,000 for her expenses, and FVC's duty to provide Starlet with two first-class round-trip air tickets, hair and makeup services, wardrobe for the filming, hotel expenses, and a hotel suite with "two bathrooms if available." FVC's cover letter asks Starlet to sign the agreement as soon as possible and return it to FVC

Starlet makes the following handwritten changes before she signs and returns the documents: she inserts the word "one" in the sentence about media interviews, she changes "two bathrooms" to "two bedrooms" in the hotel suite description, and she adds the phrase "to be supplied by Neiman Marcus department store" to the provision regarding the wardrobe.

Has Starlet accepted FVC's offer?

- a. Under the strict application of the mirror image rule, Starlet has accepted FVC's offer.
- b. Under the strict application of the mirror image rule, Starlet has not accepted FVC's offer.

- c. Under the weak application of the mirror image rule, Starlet has not accepted FVC's offer because her changes to the hotel suite description reduced the burden on FVC.
- d. Under the weak application of the mirror image rule, Starlet has not accepted FVC's offer on the terms to which they mutually agreed, and the additional terms are knocked out.

**STOP**

IF YOU FINISH BEFORE TIME IS CALLED, CHECK YOUR WORK ON THIS TEST

SAMPLE