

MONTEREY COLLEGE OF LAW - HYBRID

CONTRACTS II – SECTION 2

FINAL EXAMINATION

SPRING 2025

Prof. Wolfrum

Instructions:

There are three (3) questions in this examination, two essays and 17 Multiple-Choice questions. Answer the Multiple-Choice questions in Exemplify.

You will be given three (3) hours to complete the examination.

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Contracts
Spring 2025
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Question 1

Ralph bought land to build a retirement home in the Santa Cruz Mountains. Ralph reached out to Foundation Builders, Inc. (FB) and others for bids to level the ground and lay the house foundation. Ralph had written plans for the work. Ralph shared the plans with FB and the other companies.

FB submitted its bid to Ralph, but due to an oversight, FB failed to include the cost of the wood to shape the concrete foundation. The cost of the mistake made FB's bid \$10,000 lower than it should have been. FB's bid was \$100,000. The next lowest bid was \$112,000.

Ralph accepted FB's bid and both parties signed a contract containing the following terms:

- A) Payment will be made in two installments of \$50,000 with the first payment due on the ground leveling and the second payment due on the foundation being complete.
- B) Performance by FB shall be satisfactory to Ralph.

One week later, FB discovered their error on the bid. FB did not tell Ralph and kept working on the ground leveling until they reached the end of the first portion of the project.

FB asked Ralph for the first \$50,000 payment and he paid. After Ralph paid, FB told Ralph they needed \$60,000, not \$50,000, to complete Phase II. FB further said they would do no more work until he agreed the total payment for the job would be \$110,000, not \$100,000.

Ralph's best friend, Ed saw what was going on. Ed knew Ralph was frustrated. Ed looked forward to coming out to visit Ralph for long weekends. Without Ralph's knowledge, Ed called FB and said that he (Ed) would pay the \$10,000 if Ralph refused to do so, if FB would complete the work. FB agreed to complete the work.

Shortly later, over a phone call, Ralph agreed to pay FB \$60,000 for Phase II.

One month later, FB completed the work and asked Ralph to pay the remaining \$60,000. Ralph said he had been out to the land and he was dissatisfied with FB's work. FB called Ed and asked him to pay the \$10,000 he had promised. Ed also refused to pay.

1. What amount, if any, may FB recover from Ralph and/or Ed? Discuss.
2. You may assume a valid enforceable contract (offer, acceptance, consideration) was formed.

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Question 2

1. Reba took her new metal detector out to the beach to try it out. Soon she found a diamond ring that looked clean and new. Realizing the ring must have been recently lost, Reba looked around and saw no one nearby.

Heading into the parking lot Reba saw a couple hanging signs that said, "Lost Ring". Reba asked the couple for a description of the ring. The couple introduced themselves as Jane and Jackson and said the ring had three diamonds with a round main stone round and two square stones. Reba gave the couple the ring.

Jane and Jackson asked Reba what they could do for her. Reba said she did not need anything but that she planned to take a trip to Santa Barbara to go to a conference for metal detector hobbyists.

Jackson said, "I want to pay for you to take the trip. If you send me your address, I will send you a check for the cost of the hotel and registration for the conference".

Reba replied, "Thank you! I will register and book a room as soon as I get home".

A few days later, Reba decided she wanted to pursue her breadmaking hobby more than metal detecting. She signed up for a weekend breadmaking course and paid by credit card. Reba emailed Jackson a copy of the receipt for the breadmaking program and asked him to send a check. Jackson wrote back, "Breadmaking? That's not what we agreed to, I am not giving you the money".

Reba wishes to sue Jackson to recover the \$1,000 she spent on the breadmaking course. How would you advise Reba on these issues:

1. What legal theories can Reba assert to recover the \$1,000?
2. How likely it is that Reba will prevail?

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ANSWER OUTLINE

Q1- Outline – Answer

- I. Governing Law
 - a. Contract for a service is governed by common law
- II. Quasi Contractual Relief and Divisible Payments
 - a. Parties may recover for parts of a contract
- III. Conditions – Time and Order of Performance
 - a. Here, payment in two parts
 - b. Failure to perform a matured obligation is a breach of contract
 - c. Condition to act in good faith
- IV. Conditions of Satisfaction
 - a. Personal taste: subjective, needs good faith, specific reason
 - b. Non-Personal: issue is fitness, objective test assessing reasonableness
 - c. Third Party: subjective, must be in good faith, specific reason
 - i. Here, personal taste, but no specific reason
- V. Modification of Contract
 - a. To modify a valid existing contract, new consideration required
 - b. New consideration required b/c both parties had a pre-existing duty to perform
- VI. Defense: Duress
 - a. Leaving a project half-finished, defense to contract formation
- VII. Restitution
 - a. To avoid unjust enrichment to Ralph, he should have to pay for the first half of the work, but FB put possibly put Ralph in a position of duress which may make the second part of the contract non-enforceable
- VIII. Third Party Beneficiaries
 - a. Can be incidental or intended
 - b. Donee: a person who receives a free benefit, only has rights against promisor
 - c. Creditor: a person whose debt is being paid, has rights against promise and promisor
 - d. When a donee or creditor's rights vest – when intended beneficiary knows of the benefit
 - i. Here, Ralph is a creditor beneficiary but does not know of the benefit
- IX. Defense: Statute of Frauds
 - a. A suretyship must be in a signed writing
 - b. Contract between Ed and FB not in writing therefore not enforceable

Q2-Outline – Answer

- I. Governing Law
 - a. Common law applies to this situation that involved a service
- II. Two main theories for recovery
 - a. Contract Law
 - b. Promissory Estoppel
- III. Elements of Contracts: offer, acceptance, consideration
 - a. Offer and acceptance: Met when Jackson offered to send the check and Reba said thank you
 - b. Consideration: is a bargained for exchange of value between the parties. Value exists when there is either a detriment to the promisor or a benefit to the promisee; however, past consideration is not sufficient
 - i. There is no consideration for Jackson's promise to send Reba a check because the payment did not induce Reba to find the ring, Reba had already found the ring and given it to Jane and Jackson when Jackson offered to do something for Reba.
 1. In a majority of jurisdictions, there is no contract between Jackson and Reba because there was no consideration, and Reba will not prevail
 2. In a minority of jurisdictions, there is an exception that past consideration can be good consideration ("the material benefit rule")
 - a. A material benefit was provided by Reba to Jackson
 - b. Reba's can assert she did not intend her act to be a gift
 - c. The promise is enforceable in proportion to the benefit received (was the reward fee of \$1,000 reasonable?)
 - d. Under this theory Reba could prevail
- IV. Promissory Estoppel
 - a. A promise is enforceable without consideration when these elements are met:
 - i. A promise
 - ii. The promisor should expect the promisee would rely on the promise either by taking an action or refraining from an action
 - iii. The promisee did rely on the promise and changed their position in reliance on the promise (Reba signed up for the class)
 - iv. Enforcement of the promise is necessary to avoid an injustice
 - b. Jackson promised to pay for Reba's conference to compensate her for finding the ring, Reba said she would sign up for the conference and she signed up for a type of class thinking she could rely on Jackson's promise to cover the cost. Jackson should have reasonably expected her to rely on his promise. Reba did rely on Jackson's promise, although she paid for a different class than she said she would,

- c. Additional points for discussing if which class Reba took matters. Both were likely about the same cost or the breadmaking class may have been less expensive than the metal detector conference.



1)

1. What amount, if any, may Foundation Builders (FB) recover from Ralph?

Under what law is this scenario governed?

Excellent

Most contracts are governed by common law. Sales of goods fall under the purview of the UCC; the UCC excludes sales of real estate, intangibles, services, and construction contracts.

Here, Ralph has contracted with FB for construction work.

Therefore, this contract falls into the realm of common law as opposed to the UCC.

Was there a successfully formed contract?

We are told that the contract was successful in terms of offer, acceptance, and consideration. An express condition is one that is explicitly included in a contract's terms.

In this scenario, the contract includes two express terms: payment installments based on two phases of completed work, and a condition based on Ralph's personal satisfaction.

yes

There are no issues to be examined for contract formation; the condition of satisfaction will be discussed further below. OK good

Is FB's attempt to modify the contract with Ralph permissible?

Under the ^{general contract law} ~~pre-existing duty rule~~, modifications to a ~~common law~~ contract require new consideration. *yes*

Here, FB's price increase was based on an undisclosed mistake and was badly handled. From Ralph's perspective, this appears to be an increase from the vendor without any justification like acceptable unforeseen circumstances. Ralph wouldn't receive anything different for paying the additional \$10,000. ^{yes} FB would also only be completing what it already agreed to complete from the beginning of their bargain. *good analysis very practical*

Therefore, FB's attempt to modify the total pricing through an adjustment to the second phase of the contract is unacceptable. *yes*

Was there a unilateral mistake?

A unilateral mistake is one in which there is a mistake of material fact from one party of the bargain. Unilateral mistake defenses can't be claimed by one who knew of the mistake at the time of contract formation. *great*

Here, FB made an honest mistake in its pricing but did not handle the situation appropriately. *good nuance to mention →* Arguably, Ralph may have had a hint that there was a mistake in pricing due to the fact that FB's bid was \$12,000 lower than the next vendor. This said, the error was not so glaring that it "jumped off the page" or could have been unreasonable. Regardless, FB's failure to communicate its mistake early and upon discovery, and FB's inappropriate attempt to recoup its error later, would defeat any possible mistake defense FB could have tried to claim. When FB tried to force the missing \$10,000 for wood supplies back into the dues of the second phase of the project, FB left the territory of good faith and fair dealing. *Excellent.*

Therefore, FB will not be able to claim any unilateral mistake defenses.

Can Ralph claim duress from FD?

Duress is an improper threat that leaves a party no reasonable alternative. Duress is not an acceptable business practice. *yes*
It is not permissible to induce another party to act by placing them in a situation that causes them to act under duress.

Here, when FB attempted to increase the costs for Phase II it threatened to stop work until Ralph agreed to the price increase. This is arguably duress. The project was halfway complete, and Ralph may have felt pressure to ultimately agree due to the stress, costs, and procedural burden of switching vendors at this stage of work. *Feeling pressure is not the same as no reasonable alternative*

Therefore, Ralph has ^{*could argue*} a ~~very strong~~ case for duress from FD. This will make FD's attempt to collect payment for Phase II difficult.

Can Ralph claim any other defenses?

An implied condition, or constructive condition is one that courts impose for justifiable outcome. Good faith and fair dealing is an implied condition of all contracts. *yes*

As already discussed through previous sections, FB's behavior in this commercial transaction do not demonstrate fair dealing, ^{*reasonable*} mature business practices, and cooperative partnership. Their method of reinserting costs of the missing supplies into Phase II was underhanded and coercive. *yes*

Therefore, said in yet another way, FB has violated fair dealing expectations that exist for any contract. Ralph can claim breach of ~~this constructive condition~~. *Contract for FB's lack of good faith and fair dealing*

Does Ralph's dissatisfaction mean he does not owe FB for any of the work performed?

A condition is an event that, when it occurs, triggers or dismisses an obligation. The failure of a condition can cause the death of a contract or divisible part of a contract. Conditions of satisfaction are divided into two categories. Conditions of satisfaction based on utility, fitness or value are objective. ^{yes} Conditions based on a party's personal taste, fancy, or opinion are subjective. Personal dissatisfaction must be in good faith, and based on something specific. ^{→ fantastic}
→ yes!

Here, the terms of Ralph's agreement with FD appear to incorporate a personal condition of satisfaction over the whole project. This means that the work must meet Ralph's personal opinion and taste in order to be acceptable. There are no indications that Ralph's dissatisfaction with the work was in bad faith, however there are also no additional details provided as to what exactly was unsatisfactory to Ralph. ^{good observations}

Additionally, because the project is divided into two segments, and Ralph already paid for the first segment without complaint, it is not likely that Ralph can claim dissatisfaction and avoid dues for all of FB's work. This would arguably enrich Ralph unjustly.

Therefore, there is valid contention about unsuccessful completion of FD's work in Phase II due to dissatisfaction. Alone, this means that FB will not clearly be able to recover \$60,000 from Ralph for the second portion of its work. In conjunction with the other details discussed above--FB's chances of success for Phase II payment are even more diminished. ^{great}

2. Can FB recover any amount from Ed?

Is Ralph a third party beneficiary to Ed's oral contract with FB?

A third party beneficiary is one who benefits from a contract made by two other parties. Third party beneficiaries can be direct or indirect. A creditor beneficiary is one whose debt is being paid. A third party beneficiary must know of the agreement for their rights to vest.

Here, Ralph does not know that Ed contacted FB to offer to cover the cost increase.

Therefore, because Ralph did not know of the offer, and because of the final detail below regarding writing component, Ralph is ultimately not a third party beneficiary of an agreement between Ed and FB. *yes*

Can FB enforce Ralph's oral promise?

Contracts regarding suretyship, or the payment of the debt of another, fall under the statute of frauds. Surety contracts must be in writing in order to be enforced.

↳ fantastic

Here, we are told that Ed connected with FB by phone when making the offer to cover the additional dues. Nothing in the facts present that there was any follow-up in writing.

Therefore, FB will be unable to collect on Ed's promise. There was no writing confirming the oral agreement. *yes.*

Conclusion

In conclusion, FB should be able to keep collect payment for Phase I of its agreement with Ralph (\$50,000). FB may be able to collect reliance damages for work under Phase II (some part of \$60,000, potentially for materials or labor)--although this is compromised

↳ yes

by FB's bad business practices throughout this dealing with Ralph. FB will not be able to recover any money from Ed.

Yes good win

2)

GOVERNING LAW

Contracts for services are governed by common law and the sale of good are governed by the Uniform Commercial Code (UCC). *yes*

Reba (R) provided a service to Jackson (J) by returning his ring that he lost at the beach. If a valid contract exists, it will be considered a services contract between R and J. *great*

Therefore, the contract between R and J is governed by common law. *yes*

CONTRACT LAW *Formation Under Contract Law*

A valid contract consists of an offer, acceptance, and adequate consideration.

OFFER

An offer is a promise by one party in exchange for another party's performance. Simply, an offer is an invitation to an offeree to enter into a binding contract. *good*

After R found the diamond ring on the beach, understanding it was likely recently lost, she saw a couple hanging out in the parking lot with a sign that said "Lost Ring". After confirming the ring was theirs, she gave the ring back to J. The couple then asked what they could do for her for returning her ring. When R mentioned that she wanted to go to Santa Barbara to a metal detector hobbyist conference, J replied: "I want to pay you to take a trip. If you send me your address, I will send you a check for the cost of the hotel and registration for the conference". An issue here is that a figure was not offered, just a promise to pay. While not a usual way to make an offer, and a monetary figure was not provided, J did provide a promise to R to pay for her trip.

Therefore, it can be concluded that J's promise to R constitutes an offer.

good use of exact words when the exact words matter to the answer

ACCEPTANCE

Acceptance is an offeree's unequivocal agreement to an offer with certain terms. The **mirror image rule** states that the terms offered by the offeror must be the identical terms agreed to by the offeree to have valid acceptance. *yes.*

After J offered to pay for R's trip, R responded: "Thank you! I will register and book a room as soon as I get home". On the surface, R's response appears to be a valid acceptance of J's offer. However, it can be argued that the acceptance is invalid per the mirror image rule. Again, the mirror rule states that the terms offered must identically match the terms accepted. R accepted J's offer to pay for her metal detecting hobby trip, not her bread-making hobby class. Therefore, there is a good argument that R's acceptance is invalid as it violates the mirror image rule. That said, both activities are hobbies, so we will assume valid acceptance. *perfect*
good analysis, really good!

Therefore, there is ^{R's} valid acceptance. *of J's offer is valid. } full sentences are better*

CONSIDERATION (MAJORITY VIEW)

Consideration in the majority view is the bargained for exchange between parties where each incur a legal detriment or benefit. Past consideration is not valid consideration unless an exception applies. *yes!*

In the majority view, it will be found that R did not provide valid consideration for the funds promised by J. Again, R found the ring, gave it to the couple, and J offered the funds after the fact. This would be considered past consideration as the bargained for exchange that R provided occurred before the offer was made and acceptance was communicated. *yes*

Therefore, there is ^{no} ~~not~~ valid consideration under the majority view.

MATERIAL BENEFIT RULE (MINORITY VIEW)

In minority view jurisdictions, the material benefit rule applies. The material benefit rule states that a promise may be enforceable without new bargained for consideration if:

1. The promisor receives a material benefit from the promisee
2. The material benefit was not intended to be a gift
3. The promise is enforceable to the necessary extent to avoid injustice, proportionate to the material benefit received.

J, as the promisor definitely received a material benefit from R as she returned the couple their diamond ring with multiple stones. *yes*

R did not buy or own the ring, nor did she preemptively plan to give the ring to J as gift. R simply found the ring on the beach and returned it to the rightful owners when she noticed them in the parking lot with their sign. While it was a nice gesture, R did not provide a gift to J. *- good analysis. she didn't know them. They had no "gift giving" type relationship*

While the facts do not discuss the value of the ring, it can be assumed that a diamond ring is valuable piece of jewelry. The couple sitting in the parking lot with a sign shows how much the ring meant to them to. Given the benefit that J received in the ring, there is a great argument that the promise should be enforceable to avoid injustice, especially considering the benefit received: the financial and sentimental value of the ring. *good*

Therefore, R should be able to enforce the promise and contract in minority view jurisdictions.

PROMISSORY ESTOPPEL

Promissory Estoppel is an exception to enforcing a promise to form a valid contract, without valid consideration. A promise may be enforced without consideration if:

1. The promisor clearly made a promise
2. The promisor reasonably believed that the promisee would rely on that promise
3. The promisee reasonably and detrimentally relied on the promise
4. To avoid injustice, the promise is enforced. *great!*

J clearly made a promise to R. After R returned the ring, he not only verbalized the promise, he went as far to ask her for her address so he could send her a check to pay for her trip. Therefore, I believe that J clearly made a promise to R. *good*

Again, by J asking R for her address so he could send the check, J should reasonably believe that R would rely on the promise. Additionally, R returned a potentially expensive and precious item back to J. Given the item, J's statements, and the modest cost for a hotel room and event registration, J reasonably believed that R relied on his promise. *good observation of detail and application to your analysis*

R did rely on J's promise, however, she did not use her money on hotel and registration. Instead, she spent \$1,000 on a bread-making hobby course. Regardless, she relied on J paying the bill. R has an argument that both metal detecting and bread-making are hobbies, and the hobby shouldn't affect J's contractual obligation to pay her what was promised. The hobby activities are close enough that she did not think twice as to whether J would pay a modest figure after returning such a valuable item. *good*

As mentioned above, given the financial and sentimental importance of a multi-stone diamond ring, it would be an injustice for J not to send R a check for \$1,000 to fulfill his part of the contract. Therefore, I believe the promise will be enforced to prevent an injustice to R. *yes*

Therefore, R can recover under ^{*a theory of*} Promissory Estoppel.

RELIANCE DAMAGES

Promissory Estoppel allows for reliance damages. Reliance damages put the affected party back in the position that they were in prior to detrimentally relying on the promise. In most instances, this includes out-of-pocket expenses that the affected party spent while relying on the promise. *fantastic nuanced understanding.*

R spent \$1,000 on her bread-making hobby course. Given that this was an out of pocket expense that she already paid, she will be entitled to recover the full \$1,000.

R is entitled to reliance damages in the amount of \$1,000 under Promissory Estoppel.

GIFT PROMISE DOCTRINE

The Gift promise Doctrine states that a gratuitous gift cannot form a contract due to lack of consideration. When someone received a gift, they don't give back anything in return, hence no consideration.

Again, R didn't buy or own the ring. R simply returned the ring the day that she found it as a nice gesture and then was promised fund to pay for her hobby and trip.

Therefore, the gift promise doctrine will not apply as it was not a gift given from R to J.

MUTUAL MISTAKE

good, also they were strangers not likely to give each other gifts.

A mutual mistake is made when both parties are mistaken about a material term of the agreement at the time of contract formation and execution. If a mutual mistake occurs, the contract can be voided and is unenforceable. *ok*

J will likely raise mutual mistake as both him and R were not clear or on the same page about the material term of how the money was to be spent. J thought R was using it for a hobby trip but instead used it to pay for a hobby class. *Great*

Given that both are hobbies, mutual mistake will not apply.

CONCLUSION

tho shows you really understand how contract law works in practice!

Given the facts, R and J have a valid contract. There was a valid offer, acceptance, and the exception of Promissory Estoppel in place for valid consideration. R was made a clear promise, it was reasonable to believe that she would rely on that promise, reasonably and detrimentally relied on the promise, and spent \$1,000 with the expectation it would be paid. J will need to pay R \$1,000 in reliance damages. Additionally, in a minority view jurisdiction, R would likely be able to recover damages under the Material Benefit Rule.

END OF EXAM