KERN COUNTY COLLEGE OF LAW

CONTRACTS

FALL SEMESTER 2025

PROFESSOR D. OLDAKER

Instructions:

Answer Three (3) Essay Questions.

Total Time Allotted: Three (3) Hours

Please answer all three of the following questions in essay format. You should answer according to legal theories and principles of general application. Your answer should not be limited to conclusory statements but should demonstrate knowledge and understanding of the pertinent principles and theories of law, an ability to analyze the facts in the question, to tell the difference between material and immaterial facts, and to discern the points of law and fact upon which each question turns. Your answer should reflect an ability to apply the law to the facts and to reason in a logical, lawyer-like manner to reach a sound conclusion. Do not merely show that you remember and can repeat legal principles, but instead, try to apply them. An answer consisting solely of conclusions without an explanation of the applicable legal principles and a reasoned application of them will receive little or no credit. State fully the reasons that support your conclusions, and discuss all points thoroughly. Your answer should be complete, but you should not volunteer information or discuss legal doctrines that are not pertinent to the solution of the problem. You may allocate the available time however you choose, but it is strongly recommended that you spend approximately one hour on each question

KCCL Contracts
Professor Oldaker
Fall 2025

QUESTION 1

John, an elderly art collector, owned an original painting by Pablo Picasso that had been gifted to his mother, Jane, by the famous artist when the two had met briefly during a summer vacation Jane had taken in Spain in 1952.

John decided to sell the Picasso, so on Wednesday, he contacted Art, a renowned art dealer, and the two signed a valid written contract which stated in its entirety:

> Art will serve as John's exclusive agent in selling John's Picasso for the highest price attainable over $5,000,000. Upon consummation of a sale and receipt of payment, John will pay Art a commission equal to 10% of the sale price.

On Saturday, John was visited in his home by his former business partner, Dave, who was a wealthy art collector. Over drinks, Dave remarked that he had always admired John's Picasso and would be interested in buying it if John ever decided to sell. John told Dave that he had decided to sell, but was asking $5,000,000. Dave said he was interested, but needed time to sell some securities to raise the money, and asked John whether he would hold the painting until the following Tuesday for Dave to make a decision. John orally agreed, and did not tell Dave about his agreement with Art.

The following Monday, Dave called his broker and liquidated $5,000,000 worth of securities, and on Tuesday, Dave called John on the phone and told him "We have a deal on the Picasso." After talking about their years in business together for a few minutes, Dave asked John if he'd consider selling the painting for $4,500,000 "for old times' sake." John said he would think about it. Dave and John discussed having Dave's attorney draw up a contract for the sale later in the week, and the conversation ended.

The following morning, John called Art and said he was terminating the agency contract. John did not tell Art about his conversation with Dave.

The next day, John received a call from Bill, who told him that he was a friend of Art, and that Art had showed him images of the Picasso and related its history. Bill said the story of how John came to own the Picasso reminded him of a story his grandmother had told him about posing for Picasso during a summer trip in 1952, and being introduced to an American girl who was staying at Picasso's villa, and that he believed John's Picasso was the painting his grandmother had posed for. Bill said he knew his friend Art would be taking a commission so he was willing to pay $6,000,000 for the painting and would mail a written contract to John that day. John said he would

"consider it," but did not inform Bill of either his agreement with Dave, or that he had terminated his agreement with Art.

When Bill's contract arrived the following day, John signed it, placed it in a stamped envelope addressed to Bill, and dropped it in the mailbox.

John died in his sleep that night. His will left all his property to his only living relative, a nephew named Niles.

After talking with several art experts, Niles has decided he wants to keep the Picasso. As a result, Bill and Dave both filed timely claims against John's estate seeking title to the Picasso. Art filed a timely claim seeking a 10% sales commission.

What contractual rights, if any, do each of Bill, Dave and Art have against John's estate?

Discuss.

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QUESTION 2

Al owns a shop that specializes in high end paint for classic automobiles. Al's customers participate in competitions in which vehicles are judges based upon the accuracy and completeness of each restoration, including the use of the period correct formulations for paint and clear coat lacquer. As a result of climate change legislation, the number of suppliers of period correct lacquer paints has declined and only a few companies still make the product, and all of them require at least 30 days lead time on each order.

Bill has a priceless 1931 Duesenberg Model J convertible that he regularly enters in competitions, and usually takes first place due to the cleanliness and accuracy of the restoration. Unfortunately, after competing overseas, the massive hood of Duesenberg was severely damaged by the shipper. After spending $100,000 having the metal damage repaired to original standards, Bill needs to have the entire hood repainted to exactly match the rest of the care before the next Concours, which is 90 days away and has a first prize of $200,000, but unfortunately the paint shop Bill has used for over 40 years closed after the owner died.

Knowing Al's reputation for attention to detail, Bill contacted Al to inquire whether Al could repaint the Duesenberg's hood in time. After examining the car and researching the original paint formulations, Al said he could handle the job and he and Bill entered into a valid written contract to repaint the Duesenberg's hood for $25,000. When Bill sent the signed contract back to Al, he included a letter stating "I am counting on you having my car ready for the Concours in three months. I have paid the $50,000 entry fee, and if I don't cancel at least 30 days before it is non-refundable.

On February 1, Al ordered 10 gallons of lacquer paint and 10 gallons of clear coat from Carl's World of Color for $2,500. The order form specified the formulation of the lacquer paint and clearcoat and said "Delivery be no later than February 20, but stated nothing about warranties, disclaimers, or remedies. Carl responded with its standard acknowledgment, which purported to accept the order and confirmed that delivery would be no later than February 20. It also provided: (1) "Carl's disclaims all warranties of merchantability and fitness." (2) "In no event shall Carl's be liable for consequential damages." (3) "This acceptance is expressly made conditional on your assent to the terms of this acceptance."

On February 15, Al received the paint and the clearcoat.

On February 20, Al tested the paint and clearcoat and discovered to his horror that both the paint and clearcoat were urethane based, not the lacquer he had ordered

On February 23, Al emailed Carl stating that he had sent the wrong type of paint and clearcoat.

On February 25, not having heard from Carl, Al ordered 10 gallons of lacquer paint and 10 gallons of clear coat from Paul's Premium Paints, one of Al's competitors for $3,000, and paid an extra $5,000, in cash, up front for immediate delivery, which was necessary to complete the job on time for Bill. In his discussion with Paul, Al told him the paint was needed for Bill's Duesenberg and that he was worried that if he didn't get the job done on time Bill might sue him for the $200,000 prize money.

Paul's shipment of paint arrived on February 26, and Al immediately started painting the Duesenberg's hood.

On February 27, Carl's told Al that the wrong paint had been delivered due to a mistake in Carl's shipping department, and that Carl had already shipped replacement paint and clearcoat to arrive the following day. Although the replacement paint and clearcoat that Carl shipped was correct, Al rejected delivery and refused to pay.

Due to a manufacturing defect, the paint Paul sent did not harden correctly, and Bill's car did not place at all during the Concours, and Bill did not receive any prize money.

Bill sued Al for breach of contract.

Al sued both Carl's and Paul's for breach of contract, and Carl's sued Al for not paying for the paint and clearcoat.

1. Is Bill likely to prevail in his suit against Al? Discuss.

2. Is Al likely to prevail in his suit against Carl? Discuss.

3. Is Al likely to prevail in his suit against Paul? Discuss

4. Is Carl likely to prevail in his suit against Al? Discuss.

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QUESTION 3

Dave owned a ski cabin at Mammoth in California that he wanted to remodel and expand.

On June 1, Dave contacted Ed, a licensed contractor about the renovations and after several days of discussions Dave and Ed executed a written agreement containing the following provisions:

1. Ed agrees to remodel Dave's ski cabin in accordance with the plans and specifications provided by Dave and to complete construction before Thanksgiving.
2. Dave agrees to pay Ed $200,000 upon completion of construction.
3. Dave and Ed agree that this written agreement contains the full statement of their agreement.
4. Dave and Ed agree that this written agreement may not be modified except upon written consent of both of them.

Prior to execution of the written agreement, Dave told Ed that he insisted the wood flooring and cabinets used during the renovation be supplied by a company owned by Dave's sister, Alice. Ed assured Dave that he would comply.

Ed ordered the cabinets and flooring from Alice at a cost of $30,000. The order form specified that delivery had to be made by July 31.

By August, construction of the renovations had not progressed, and Dave began to doubt whether Ed would complete construction prior to Thanksgiving. Ed told Dave that one of the problems was a delay in getting the flooring and cabinets from Alice's company. Dave offered Ed a $25,000 bonus if Ed would assure completion, and Ed accepted and said he would do everything possible to get the job done on time.

To complete construction prior to Thanksgiving, Ed had to buy flooring and cabinets from a different supplier for $35,000, but decided not to charge Dave the extra $5,000.

Ed completed construction prior to Thanksgiving as promised. Dave, however, has refused to pay Ed anything, claiming that Dave had breached the contract by not using flooring and cabinets from Alice's company.

What are Ed's rights and remedies against Dave? Discuss.

What rights, if any, does Dave have against Ed? Discuss

What rights does Ed have against Alice's company? Discuss.

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1)

Dave v John

Contract

A contract is a promise or set of promises for which the breach the law provides a remedy and performance is recognized as a duty. In order to have a valid contract, there must be an (1) offer, (2) acceptance, (3) consideration, and (4) there must be no defenses.

Governing Law

The governing law would be the UCC because it governs the sale of goods which John is selling the painting (a good), to another. This would also be seen as a bilateral contract because one party is promising the sale of the art while the other is promising mere funds.

Offer

An offer is a communication to an identified party which manifest an objective intent to be bounded to the terms by law.

Dave was a close friend to John and was known to be a wealthy art collector. Dave had told John if he was interested in selling the painting by Pablo Picasso, in which John replied that he decided to sell it but was asking for $5,000,000. This would manifest an offer to a reasonable person because there was the essential terms which are the painting, for how much John was selling it for, and to who the offer was made to. Although there was not a time specified as to how long the offer would be open for, Dave requested for it to be held open until Tuesday, which John agreed to.

Therefore, to a reasonable person, John did make an offer to Dave.

Acceptance

An acceptance is an unequivocal willingness of assent to be bounded to the terms of the offer.

When Dave called John of the phone and told him "we have a deal", that would constitute an acceptance of the offer. Although he did not specify the other material terms, the UCC does not end a contract or offer only because there are terms missing, but allows for terms to be later agreed upon.

Counteroffer

John's estate (Niles) might argue that when Dave had asked John if he would be interested in selling the painting to John for $4,500,000, that would constitute as a counteroffer, although Dave had already orally agreed to the original price of $5,000,000. A counteroffer would only be valid if the offeree had manifested a rejection of the counter offer, and if there are both non merchants. However, Dave asking if he would consider the reduced price does not manifest a rejection but a mere inquiry.

Consideration

A consideration is a bargain for exchange of legal detriment. The promise must induce the detriment, and the detriment must induce the promise.

John's promise was to sell the painting to Dave and Dave's detriment would be the funds in which he had to liquidate in a fast manner in order to accept the offer. This would be a valid consideration, however, the sale of goods must be in writing in order to have a validly formed contract.

Statute of Frauds

The statute of frauds requires certain contracts to be in writing in order to ensure the existence of the contract or any future issues. This would also include the the sale of goods contracts which are of exceed the amount of $500.

Although there was a validity formed contract which was oral, John's estate may argue that there was no formal contract since this contract was only oral and therefore was not enforceable. Both John and Dave had agreed that they would have an attorney draft up the final contract of the sale of the painting at a later time. Though an exception to the SOF would *promissory estoppel* in which the promisee detrimentally relied on the contract and the promise induced action or forbearance, which was in fact induced. Dave might argue that he detrimentally relied on the contract when he accepted it and then had to liquidate his funds.

Therefore, the exception of statute of frauds might be enforceable and be an exception to it being in writing.

Parol Evidence

Parol evidence bars any additional information from entering into a contract that is fully integrated or has a merger clause. This also bars information from entering of contracts that are partially integrated as well. However, the exception to parol evidence that is most fitting in this case is the existence of a contract.

Dave might argue to the court that the oral conversation should be admitted due to the fact that John's estate might argue that there was no written contract or no contract at all. The oral conversation that both parties had

on several different occasions like when Dave accepted the offer, would prove that there was a formal contract that is valid.

Therefore, Dave and John did have a validity formed contract and Dave should be entitled to the painting. ✓

Art

Contract

see rule above for contract.

Governing Law

This would be governed under the common law because instead of there being a selling of goods, John is requesting performance or a service which is governed under the common law. This would also be considered a unilateral contract because John is requesting performance from Art.

Contract Formation

Since John had contracted Art to be an exclusive agent in selling John Picasso for the highest price attainable of 5,000,000, he was an at will employer and therefore, did not need to have a reasonable termination.

Art might argue that he was entitled to the 10 percent commission that he was contractually ordered to receive in the selling of the painting, however, since John obtained the buyer of the painting on his own, he is not contractually obligated to pay him any money since the agent himself, did not aid in the selling, nor found the seller.

Art might argue that he did aid in the selling of the painting to Bill but Dave and John had already had a validity formed contract before without Art's aid. But was it necessary that Art obtain the deal?

Therefore, Art would not be entitled to the 10% revenue.

Bill

Contract

See rule mentioned above for contract.

Governing Law

The governing law would be the UCC because it governs the sale of goods which John is selling the painting (a good), to another.

Offer

See rule above for offer.

Bill had made an offer to John when he called John and informed him that he is interested in buying the painting for the price of $6,000,000, only because he knew Art was selling it. In which John responded that he would consider it. This would show that there was a validly formed offer because it had the essential terms of an offer which would be the painting and its price. However, John already was contractually obligated to sell it to Dave but Bill is not aware of that contract.

Acceptance

See rule above for acceptance.

When Bill made the offer, John responded back with the fact that he would consider it. Which after Bill responded by stating that he would mail a written contract. John had later signed the contract and placed an in the mailbox with a proper stamp.

Therefore there was a valid form of an acceptance. ✓

Though there was a valid acceptance by the signature, since there was a validity formed contract and oral agreement with Dave, there would be no strong offer.

NO.
The fact there may have been an agreement with Dave would not Prevent a contract with Bill from taking Place.

2)

Bill v. Al

Contract

A contract is a promise or set of promises for which the breach the law provides a remedy and performance is recognized as a duty. In order to have a valid contract, there must be an (1) offer, (2) acceptance, (3) consideration, and (4) there must be no defenses.

Governing Law

The governing law in this case would be common law because Bill is requesting that Al paint his car in order to have it ready for a competition he was going to join. This would be viewed as a service rather than the sell of goods.

Predominant Purpose test.

Offer

An offer is a communication to an identified party which manifest an objective intent to be bounded to the terms by law.

Bill needed to find somebody to repair the damages to his vehicle in which he went to Al due to his reputation and offered if Al would be interested in painting his car. This would manifest an offer under the objective standard.

Acceptance

An acceptance is an unequivocal willingness of assent to be bounded to the terms of the offer.

When Al was informed of the painting job and its purpose, Al responded back that he could handle the job only after doing research of the car and the painting formulation.

There was therefore, a valid acceptance of the offer.

Consideration

Consideration is a bargain for exchange of legal detriment. Where the promise must induce the detriment and the detriment must induce the promise.

Bill promised to pay Al the sum of $25,000 and Al promised to due the painting job before the start of the competition.

There was therefore valid consideration. ✓ GOOD

Breach of Contract

A party may argue that there was a breach of contract when the other party does not hold up the end of their bargain for which was contracted for.

Bill will argue that Al breached the contract because Bill had entered into the contract for the paint job and expressed the main purpose of the painting job and what was to be expected. He went to Al due to his stellar reputation and expressed his reliance.

Bill will argue that Al breached because the paint did not harden correctly and Bill's car did not place at all in the competition. ✓ ok.

Warranty

Implied Fitness Warranty

Fitness warranty is when the merchant gives assurance that the good or performance he is offering, would fit for the particular purpose that the buyer informed the seller about.

Bill might argue that he informed Al of the special purpose in which he would be using his car and why he needed an exceptional job to be done. Al repsonded by stating that he would be able to do the job only after he did research on the paint. This would show that Al knew the special purpose of the paint job, and therefore, Bill relied on him to do the job.

Implied Merchantability

Implied merchantability shows that the merchant who is selling the good or performance, is recognizable and trusting to be in that form of business.

Al was recognized for his paint jobs before, which is why Bill went to him with his vehicle. Therefore, this warranty is guaranteed.

Therefore, Bill would prevail in a suit against Al. ✓

Al v. Carl

Contract

A contract is a promise or set of promises for which the breach the law provides a remedy and performance is recognized as a duty. In order to have a valid contract, there must be an (1) offer, (2) acceptance, (3) consideration, and (4) there must be no defenses.

Governing Law

The governing law in this case would be the UCC because Carl is selling goods which would be the paint formula.

Offer

see rule above for offer.

AND THE TYPE OF PAINT

Al had requested to buy the paint for $2,500 which would be seen as an offer because it shows the material terms and by when the paint was needed. ✓

Acceptance

See rule above for acceptance.

Carl responded back with its standard acknowledgement form and that the paint would be in before the date specified of February 20. This would be an acceptance because Carl acknowledged the offer and stated that he would have the paint arrived before the date needed.

ADDED TERMS UCC 2-207

Consideration

See rule above for consideration.

The bargain for exchange was the paint and for which it was needed to be arrived by. Al's detriment would be the funds and Carls promise would be the mailing of the funds. ✓

Therefore, there was a valid contract

Defenses

Mistake THIS APPLIES TO FORMATION NOT PERFORMANCE..

A unilateral mistake is one which is of basic assumption of the contract, materially alters the terms, and one party should have assumed the risk.

Al might argue that Carl sold him the paint which resulted in Carl sending the wrong paint and consequentially delayed the finishing of the painting of the car. Al might also argue that Carl should have known of this mistake which was the material term of the contract. The correction of the mistake was also not done prior to the due date of the paint and therefore was in breach.

Carl will likely argue that it was a mistake in which he could not have possibly foreseen. Carl might also argue that he could not have foreseen the mistake and fixed it by sending the correct paint. ?

Breach of Contract

See rule above for breach of contract.

Al will argue that Carl breached the contract when Carl had sent the wrong paint originally. Al stated that he needed the paint by Febuarary 20th and was therefore in breach of the contract.

Carl will argue that they sent the original paint after they seen Al's email and was the correct paint. However, they were in breach since the original contract specified a date for which the performance needed to be finished. ✓ Good

Warranty

Since the acknowledgment formed stated that Carl's company disclaimed all implied warranties prior to the mailing of the paint, the disclaimer warranty would be effective. Because? Added terms UCC2-207.

Damages

Al may still recover for reliance damages because he relied on the promise that Carl would send the paint before the time in which was stated in the offer. How about recovering the extra he pd to PAUL?

Carl V. AL

Breach of Contract

Assuming the contract formation matches the above mentioned contract, Carl would argue that Al was in breach because he did not pay Carl for his paint. The contract was for the paint and Al acknowledged the role of Carl.

However, Al might argue that he was not in breach of the contract because Carl breached the contract first ✓ when he did not send the proper paint for which the agreed upon during the formation of the contract. Therefore, Al is not obligated to perform his end of the bargain. Good

Damages

Since Al did not use the paint for the car, Al would be obligated to return the paint the Carl sent after the time specified and receive no additional damages.

Al v. Paul

Contract

See rule above for contract.

Governing Law

See rule above for governing law for Al v Carl.

Offer

See rule above for offer.

Al had informed Paul of the incident with Carl and how he was fearful that he might be sued, he offered to buy the paint from Paul for the amount $8,000. This would manifest an offer because it shows all the material terms and the intent.

Acceptance

See rule above for acceptance.

Paul understood the offer that Al was making and Paul agreed to ship the paint, therefore there was valid acceptance.

Consideration

See rule above for consideration.

Al was relying on Paul to send to proper paint for money and in return Paul would send the paint and receive the money.

There was therefore, valid consideration.

Breach of Contract

See rule above for breach of contract.

Al might argue that Paul was in breach of the contract because the paint did not properly dry and therefore breached. Al told Paul the special purpose for which he needed the paint and Paul agreed which would manifest the acknowledgment and assurance of its purpose. ✓

However, Paul did not expressly guarantee the paint would dry but only agreed to ship the proper paint, it would be implied since he is a merchant and must act in good faith. ✓

Therefore, Paul was in breach of the contract. ✓ Discuss Damages?

Warranty

Implied Fitness

Fitness warranty is when the merchant gives assurance that the good or performance he is offering, would fit for the particular purpose that the buyer informed the seller about.

Al informed Paul of the special purpose in which he needed the paint as well as the actions he would face if he did not complete his job. Paul had then agreed to sell him the paint and therefore guaranteed the special purpose of the paint. ✓

Implied Merchantability

See rule above for implied merchantability.

Paul is a merchant of the paint, therefore he has the warranty that the paint would work for its purpose.

Therefore, Paul was in breach of the contract and Al would recover damages. ✓

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3)

Dave v Ed

Contract

A contract is a promise or set of promises for which the breach the law provides a remedy and performance is recognized as a duty.

Governing Law

The governing law would be common law because it is a contract for service which is Ed to remodel Daves property before Thanksgiving.

Offer

An offer is a communication to an identified party which manifest an objective intent to be bounded to the terms by law.

Dave had offered to Dave to do the service of remodeling his cabin before Thanksgiving. This would therefore be a valid offer because the essential terms were included and manifest the intent to be bound to the identified party. Dave had also specified that he wished that he start with the floors and cabinets and he should receive the material from Alice.

There was therefore a valid offer.

Acceptance

An acceptance is an unequivocal willingness of assent to be bounded to the terms of the offer.

Ed had accepted to the terms of completing the remodeling before Thanksgiving and also agreed to receive the materials he needed from Alice. Although, the written agreement only specified the date in which the job needed to be completed by and the amount Ed would receive if he completed.

There was therefore valid acceptance.

Consideration

Consideration is a bargain for exchange of legal detriment. Where the promise must induce the detriment and the detriment must induce the promise.

Ed had agreed to complete the job before Thanks giving, which his action would constitute as being the performance and Dave's forbearance would be the payment.

There was therefore valid consideration. ✓

Ed's Argument

Parol Evidence Good!

Parol evidence bars any additional information from entering into a contract that is fully integrated or has a merger clause. This also bars information from entering of contracts that are partially integrated as well. However, the exception to parol evidence that is most fitting in this case the oral agreement for Ed to purchase the material from Alice.

The written contract that Ed and Dave had was a fully integrated agreement in which all the terms of the contracts would be in the written form. Parole evidence would therefore bar the oral agreement that Ed and Dave made prior to the writing of the final integration. In the written agreement it stated that the written contract contains the fill statement of their agreement and any changes would require additional consideration and for it to be written and agreed upon. The oral agreement that Ed and Dave had was after the formation of the contract which was not written and only insisted upon.

Therefore, Ed did not breach the contract since it was not in writing. ✓

Ed will likely argue that he should therefore, be entitled to the sum of $225,000 since he completed his job which was written into the contract. ✓

Dave's Argument

Dave will likely argue that since the contract states that any additional terms or modification must be written and agreed upon, the additional $25,000 dollars that he gave as a bonus are not legally obligated to give to Ed.

Pre-existing Legal Duty ✓ Good!

Dave and Ed had a legally formed contract in which Ed was required to remodel the cabiin for the agreed upon price of $200,000. The additional bonus was therefore not enforceable because it was not in writing since it is considered a modification and Ed was already under a legal obligation to perform the job at the original agreed upon price. New consideration would also be needed but there would be no new consideration between the two since Dave is still paying Ed for doing the same job within the same time and Ed is not altering or asked to do any additional work.

Therefore, Ed would only receive the $200,000 dollars and he was not in breach of the original written contract.

Alice

Contract/governing law

see rule above, with the exception that this contract would be governed under the UCC since Alice is shipping goods which are the material for the flooring and cabinets.

Offer

see rule above for offer.

Ed had ordered the material in which he needed from Alice with the specified date in which he needed the material. The would manifest an offer because it contains all material terms and manifest an objective intent to be bounded to the terms.

Acceptance

see rule above for acceptance.

Silence Acceptance

There was no valid form of acceptance because silence does not constitute acceptance. In this case, Ed had sent an order form in which he requested the amount of material he needed within the specified time in which it needed to be delivered. Alice's company did not respond to the offer and therefore Ed did not receive the material. In cases where silence would constitute as acceptance is if the party which need oral acceptance from, receives benefit from the performance or silence is seen as a costumed form of acceptance.

Ed would therefore not have any rights against Alice.

END OF EXAM