

BUSINESS LAW 265

Fall 1999

Exam #2

Oct. 6, 1999

1. Annette entered into a contract with a local truck dealer to have a new truck delivered to her daughter, Sue, as a graduation present. In this contract, Sue is:
 - a. an incidental beneficiary.
 - b. an intended beneficiary.
 - c. an assignee.
 - d. an assignor.

2. Eric Engineer assigns his rights under a contract with Xerox Corporation to his son, Tim. The contract calls for Eric to design microchips in return for stock in the corporation. Tim decides he would rather have Swiss francs than Xerox stock, so he demands that the stock be converted to Swiss francs and deposited in his numbered account in Zurich.
 - a. Xerox has no choice but to honor Tim's request.
 - b. Xerox can refuse Tim's demand, because it increases Xerox's burden.
 - c. Xerox can revoke the contract with Eric.
 - d. Such an assignment of future income is invalid.

3. Harold Homemaker hired Blake Painters to paint his house. Blake decides it has too many jobs and delegates the duties to the Andrews Company. Andrews does a poor job, and drips paint on Harold's flowers and windows.
 - a. Harold can sue both Blake and Andrews.
 - b. Harold can sue Blake, but he cannot sue Andrews.
 - c. Harold can sue Andrews, but he cannot sue Blake.
 - d. Harold cannot sue, because he has accepted the benefits of the assignment.

4. Carl Contractor and Lyle Landowner have a contract whereby Carl is to perform routine construction services according to the blueprints which Lyle has provided. Carl assigns the entire contract to David Developer. As a result of this assignment:
 - a. Lyle can only sue David if the work is not done properly.
 - b. Carl has no more rights or responsibilities with regard to the contract.
 - c. Carl no longer has any rights under the contract, but he remains responsible for the duties he agreed to perform.
 - d. Two of the above are correct.

5. Under the parol evidence rule, which of the following types of evidence may be used to vary or contradict the written agreement?
- Prior oral or written agreements.
 - Contemporaneous oral or written agreements.
 - Subsequent oral or written agreements modifying the original agreement.
 - Two of the above, a and b.
6. Which of the following would *not* be subject to the writing requirements of Article 2 of the UCC?
- An unborn puppy whose mother is an AKC Champion.
 - Trees that will be cut from a ten-acre tree farm.
 - Food served in the banquet room of a Florida resort.
 - Medical care received in a hospital.
7. The UCC Article 2 Statute of Frauds provision applies to the sale of goods for the price of _____ or more.
- \$50
 - \$100
 - \$500
 - \$1,000
8. Which of the following need NOT be contained in a memorandum which satisfies the Common Law Statute of Frauds writing requirement?
- The names of the parties to the contract.
 - The signature of the party being sued.
 - The signature of the party suing.
 - The subject matter and essential terms of the unperformed promises.
9. On March 1, Sara Student received a telephone call from Big Bucks, Inc. offering her a job for one year beginning on June 15, after completion of the school year. According to the personnel manager, she will have to move to California and be ready to start work at 8:00 a.m. on June 15. Should Sara ask for a letter confirming the telephone conversation if she accepts the offer immediately?
- Yes, because the job offer is a collateral promise.
 - Yes, because the job offer is covered by the parol evidence rule.
 - Yes, because the contract would be for longer than one year from March 1.
 - No, because the job offer is for one year from June 15.

10. Barry's Sport Shop telephones Champion Tee Shirt Company to order 200 designer tee shirts at \$2 per shirt. The next day, Barry decides he can easily sell 100 more. Before the order is filled, he calls to change the order to 300 tee shirts. Champion sends 200. Can Barry force Champion to send the additional 100?
- No, because there is no consideration for the extra 100 shirts.
 - No, because Barry does not have a writing signed by Champion Tee Shirts.
 - Yes, because this is a subsequent modification of the original contract.
 - Yes, because Champion Tee Shirts is a merchant within the meaning of Article 2 of the UCC.
11. Sam Shopkeeper dies unexpectedly at the age of 46. His lifelong business associate, Paul Partner, is appointed the administrator of the estate. Sam had a personal debt of \$8,000 which he owed to Art's Appliance Store. Paul says to Art, "If there isn't enough money in the estate, I'll personally see that the bill is paid." Which of the following is correct?
- The oral statement is enforceable because Paul is the administrator.
 - The Statute of Frauds requires Paul's promise to Art to be in writing.
 - The Statute of Frauds does not require Paul's promise to Art to be in writing.
 - The promise is enforceable because it is a collateral promise.
12. Claudia sells her highly successful hair salon to Carl. In the sales contract, Claudia agrees never to open a hair salon in the state. Which of the following best describes this contract clause?
- Unenforceable because it violates the Statute of Frauds.
 - Valid as a reasonable restraint of trade.
 - Unenforceable restraint of trade.
 - This is a "non-compete" clause, which the law always regards as legal.
13. William recently sold his successful business to Janice. The contract for the sale contained a restriction that did not allow William to open a similar business for fifteen years. The courts would, in this instance,
- delete the unreasonable portion of the sale contract.
 - require the parties to draft a new contract.
 - enforce the contract as it is written.
 - make the entire contract voidable by William.
14. John operates a small repair business and is in desperate need of a certain type of building material. He obtains the material from a large corporation, but is charged a grossly unreasonable price and is forced to buy other material he does not need. In view of the buyer's unequal bargaining power and unreasonable terms of the contract, this may be a case of:

- a. *in para delicto*.
 - b. illegality.
 - c. unconscionability.
 - d. negligence.
15. Andrew owns a store in Polk County. His trade extends throughout River City, but not beyond the county limits. He sells his store to Betty and as part of the transaction agrees not to engage in the same business anywhere within the State for a period of three years.
- a. The agreement is reasonable.
 - b. The agreement is unreasonable.
 - c. The agreement unduly interferes with the interests of the public.
 - d. Two of the above, b and c.
16. Which of the following would generally be considered to be a revenue-raising licensing law?
- a. A statute requiring doctors to be licensed.
 - b. A statute requiring salesmen to be licensed, but not establishing educational or training requirements.
 - c. A statute requiring public school teachers to be licensed.
 - d. A statute that requires insurance agents to pass a test before selling insurance in a state.
17. Anna is 88 years old and under the legal guardianship (a form of adjudication) of her daughter. One day Anna receives a telephone call from a health insurance salesman and purchases a \$400 a month Medicare-gap insurance policy.
- a. This contract is valid and enforceable.
 - b. This contract is voidable.
 - c. This contract is void.
 - d. This contract is valid but unenforceable.
18. Tim, who is a minor, enters into a contract with Violet, who is an adult. Which of the following is correct?
- a. Violet may not disaffirm the contract.
 - b. Violet may disaffirm the contract at any time.
 - c. Violet may disaffirm the contract when Tim becomes an adult.
 - d. Tim may ratify the contract at any time during his minority.

19. Don, a minor, contracts to sell 100 acres of land to Jerry who is also a minor. Don reaches the age of 21 as does Jerry. Don takes no action to avoid the contract. Which of the following most accurately describes the status?
- Don has ratified the contract.
 - Don has not ratified the contract.
 - The contract remains executory.
 - There is no contract, so there is no legal obligation owed by either party.
20. Which of the following is least classifiable as a necessity for which a minor will be held liable on a contract?
- Cassette tapes.
 - School supplies.
 - Clothing.
 - A used automobile.
21. James threatens to hit Kenneth on the head with a baseball bat unless Kenneth signs a contract agreeing to pay James \$300 for his latest painting. Because of the threat, Kenneth signs the contract.
- This contract is voidable at James' option.
 - This contract is voidable at Kenneth's option.
 - This is an example of economic duress.
 - Two of the above.
22. Sam wants to sell his golden retriever dog to Al. Sam tells Al that the dog is three years old and that he will point, back, and retrieve. Although the dog is three years old and will point at birds, he will not back (honor another dog's point). Al relies on these statements and purchases the bird dog. The buyer has most probably been a victim of:
- duress.
 - undue influence.
 - fraud in the inducement.
 - fraud in the execution.
23. Arthur wants to buy a six-passenger car. The salesman tells him that the two-seat sports car Arthur sees on the car lot would be just perfect for six people. Arthur test drives the car and then buys it.
- Arthur has a valid cause of action for fraud.
 - Arthur was not justified in relying upon the salesman's representation that the car would seat six people.
 - The element of scienter is missing in this fact situation.
 - The salesman is a fiduciary.

24. Ralph sold a motel to Steve by stating that he had paid \$250,000 for it and that his net average annual profit from the business has been \$40,000. In reality he paid \$100,000 for the motel and has earned a net average annual profit of only \$30,000. Steve made no attempt to verify the statements until after the transaction was completed.
- Ralph has committed fraudulent misrepresentation.
 - Steve is bound by the contract, because he failed to verify the statements which were made to him.
 - The contract is voidable at Steve's option.
 - Two of the above.
25. Which of the following would be considered to be a misrepresentation of a material fact for purposes of establishing fraud in the inducement?
- A statement of value, such as "This is the best car in town for the money."
 - This style of jacket is going to be the most popular style next year.
 - This car has a new radiator.
 - In my opinion, this is the best buy for the money.
26. Harold purchased 400 pairs of gloves from Isaac at a contract price of \$800. Fifty of the gloves were defective and a dispute arose as to the amount due and owing under the contract. Harold refuses to pay the \$800 and Isaac is threatening to sue. Which of the following is correct regarding this transaction?
- If Isaac agrees to accept \$600 to settle the dispute and Harold agrees to pay that amount, the unpaid \$200 will be excused.
 - If Isaac agrees to accept \$600 to settle the dispute and Harold pays that amount, Isaac can still sue for the balance of \$200 and will win the lawsuit.
 - Harold must pay the \$800 because those were the terms of the original contract, which is enforceable.
 - Two of the above.
27. Marilyn contracted with Bravo Builders to build an addition to her house for \$15,000. After digging the foundation, Bravo realizes that it will take more work and more concrete than it had originally thought and that it will need to charge an additional \$5,000 for the job. Assuming Marilyn agrees, which of the following is correct?
- Marilyn will have to pay \$20,000.
 - This is a contract under seal which is enforceable.
 - This is a modification of a preexisting contract, which under common law must be supported by additional consideration on the part of Bravo Builders.
 - This is the settlement of a disputed debt that requires no additional consideration on the part of Bravo Builders.

28. The Statute of Frauds requires a writing in some cases in order to
- Permit the contract to be recorded
 - Make sure that neither party has made any fraudulent misrepresentations
 - Provide some corroboration for the existence of the oral contract
 - Ensure fairness in the contracting process.
29. A bank robbery has occurred, and the banker's association has offered a \$1,000 reward for information leading to the arrest and conviction of the robber. Several people are claiming to be entitled to the money. Which of them is eligible?
- The employees of the bank.
 - An on-duty sheriff's deputy in the county where the arrest occurred.
 - An off-duty deputy sheriff from a county other than the one where the arrest occurred.
 - None of the above are eligible.
30. Which of the following would NOT be a merchant under Article 2 of the UCC?
- The owner of a hardware store which sells paint.
 - A car mechanic who fixes used cars and sells them in his spare time.
 - A person who inherits three speedboats and wants to sell them to buy a car.
 - Two of the above.
31. Michelle's Boutique places an ad in the Sunday paper for beautiful, top of the line designer suits for \$3.00. Alice Customer sees the ad in the paper and goes to the store to stock up on business suits for her new job. Michelle apologizes for the misprint. Alice has just finished a class in contract law and insists that the store sell her 5 suits for \$15.00. Alice threatens to sue Michelle for breach of contract.
- This is a valid contract and Alice will win if she sues.
 - The ad in the newspaper is an offer to sell, Alice accepted the offer, therefore there is an enforceable contract.
 - The ad in the newspaper is a solicitation seeking offers, but is not an offer to sell. therefore, Alice will not be able to successfully sue for breach of contract.
 - Alice has not communicated her acceptance properly, therefore no contract results.

32. Arthur has offered to take Bob into his accounting firm as a partner upon payment of \$5,000 cash. In response, Bob says, "I'll give you \$3,000 cash now and I will pay you the remainder in two months after I see whether things are working out as a partnership."
- Bob has made a counteroffer and hence there is no contract.
 - Bob has rejected the terms of the original offer, but there is still a contract.
 - Under Article 2 of the UCC, Arthur is a merchant making a firm offer. Hence there is a contract.
 - Any indefinite provisions in the contract between Arthur and Bob will be supplied by Article 2 of the UCC.
33. Marilyn read an ad in the school newspaper offering a thousand dollar swimming scholarship to anyone who could swim 500 laps in the school pool. Marilyn called the advertiser and began swimming. She has reached lap number 460; she feels great and is sure she can make it all the way.
- The advertiser may revoke the offer since there has not yet been an acceptance.
 - The advertiser may not revoke the offer since Marilyn has already accepted it.
 - The advertiser must permit Marilyn the opportunity to accept by finishing her attempt to swim the 500 laps.
 - The advertiser must pay Marilyn \$920, because she has performed 92% of the offer.
34. George has been declared incompetent by a court. George is very charming but he lives in a fantasy world. The manager of the local civic center enters into a contract with George to rent the 30,000 seat civic center for George's birthday party. George's contract with the civic center can best be described as:
- a void contract.
 - a quasi contract.
 - a voidable contract.
 - an enforceable contract.
35. Able, a computer engineer, offered to sell his car to Baker for \$5,000. Able's offer included the statement "this offer will remain open and not be revoked for 10 days beginning Oct. 1, 1999." On Oct. 5, 1999 Able changed his mind and delivered a note to Baker which said "my offer of Oct. 1, 1999 is hereby revoked". On Oct. 6, 1999 Baker delivered a note to Able which said "I accept your offer of Oct. 1, 1999 for the purchase of your car." Has a contract been formed?
- Yes, because Able's offer was in writing and therefore not revocable .
 - Yes, because his/her offer was a "firm offer".
 - No, because Able has effectively revoked his/her offer.
 - No, because Able is a "merchant" under the UCC.

36. Dorothy mailed a contract offer to Ben on Oct. 1. Ben received the offer on Oct. 4. He mailed an acceptance on Oct. 5, which was received by Dorothy on Oct. 9. On Oct. 7 Ben changed his mind and he sent a rejection to Dorothy on that day. The rejection was received on Oct. 11. Based on these facts,
- A contract was formed on Oct. 5
 - A contract was formed on Oct. 9
 - No contract was formed because the rejection was effective when sent: the "mailbox rule".
 - No contract was formed because Ben sent conflicting responses to Dorothy's offer.
37. On Oct. 1 Sandra and Tom entered into a contract in which Sandra would sell to Tom her home in exchange for \$150,000. The closing date for this contract, on which Sandra would deliver a deed and Tom would pay the purchase price, was set at Nov. 15, to allow the parties to prepare for the closing. On Oct. 15, this contract would be described as:
- Unilateral and executed
 - Unilateral and executory
 - Bilateral and executed
 - Bilateral and executory
38. The presumption of lack of mental capacity in a minor
- Can not be rebutted even if the adult can prove beyond a reasonable doubt that the minor does in fact have mental capacity.
 - Can be rebutted if the adult can prove beyond a reasonable doubt that the minor does in fact have mental capacity.
 - Places the burden of proof regarding mental capacity on the minor
 - Was created in order to protect unsuspecting adults from unscrupulous minors.
39. Bill agreed to sell to Sara a 20 acre parcel of land for \$10,000. They had a written contract that Bill signed but Sara never got around to signing. Before closing on the transaction, Tom offered to buy the land from Bill for \$20,000, and Bill sold it to Tom. Sara sues Bill and he defends on the grounds that the contract with Sara was unenforceable because it violated the Statute of Frauds in that it was never signed by both parties.
- Bill is correct and he has a good defense.
 - Bill is not correct because signatures are not required, as long as a written document exists
 - Bill is not correct because one signature of either party is enough to satisfy the Statute of Frauds.
 - Bill is not correct because only the signature of the party to be charged is required to satisfy the Statute of Frauds.

40. FREE QUESTION. You will receive free credit for this question *IF* you have correctly entered your student ID # on the Scantron answer form, *AND* placed your form in the pile for the section **IN WHICH YOU ARE REGISTERED**, even if you regularly attend class in the other section. On exam #1 3% of the class failed to do this correctly. Why not double check? Also, remember that erasures may appear to the optical scanner as a double entry. If you need to erase, I will be happy to give you a new Scantron form to fill out.

Common Scantron errors:

- Correct ID# but wrong box darkened
- No boxes darkened
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- Wrong section.

