

Professor Matthews Exam. Number _____

Spring 2000

CONTRACTS FINAL EXAMINATION

Instructions:

1. You have 3 hours and 15 minutes to complete this exam. Your answers will be collected in the room in which the exam is handed out at 4:45 p.m. Late bluebooks will be appropriately penalized.
2. All answers must be written in bluebooks (except if typed as provided in #3). **MATERIAL WRITTEN ON THE TEST ITSELF WILL NOT BE CONSIDERED.** Please consecutively number your bluebooks. Write on only one side of a page, but you do not need to double space. Number your answers to correspond to the question and subpart you are answering, but you need not answer in any particular order.
3. This exam may be typed using a manual typewriter, but no computers or memory typewriters are permitted. The exam shall be typed on paper provided by the law school.
4. This final is closed book. You are NOT permitted to use any casebook, statutory supplement, or any other materials. Any review materials in your possession should be placed at the front of the room before the exam begins.
5. Assume that current Arkansas law applies to the transaction, including the Arkansas version of the Uniform Commercial Code if applicable, unless otherwise indicated.
6. Please turn in the copy of the test along with your answers, and label both with your exam identification number.
7. If any ambiguity or typographical error appears in any question, state the ambiguity, make your assumption, and proceed accordingly.
8. This exam consists of the following parts, divided into subparts as indicated. Please budget your time carefully. You should apportion it approximately as follows:

Question Points Time (Approx)

I 25 45 min.

II 25 45 min.

III 16 30 min.

IV 16 30 min

III. Short Answer 18 30 min.

TOTAL 100 180 min.

Question I. (45 minutes, 25 points)

On May 1, 2000 Mabel Murphy (who was 81 years old) signed a retail installment contract to purchase a refrigerator from Nelson, who owned an appliance store. Nelson was a long time friend of the Murphy family, and Mabel had provided child care services for Nelson as a child. Mabel had told Nelson that she would rely on him to pick a refrigerator suitable for her needs. She lived alone in a small apartment. The refrigerator she contracted for was a \$5000 subzero refrigerator. Mabel paid \$500 down, and the balance of \$4500 was to be paid off in one year together with interest at 16% per annum. The refrigerator has not yet been delivered.

Mabel's son Michael Murphy comes to see you. Michael indicates that he had been appointed Mabel's guardian by court order of April 1, 2000. The court order was silent on her ability to contract. Michael indicates that Mabel's lucid intervals come and go. He further informs you that the subzero refrigerator could be purchased elsewhere for \$2500, that it is too large to fit into Mabel's apartment, and completely unsuited to her needs. He also tells you that Mabel was so distressed with Nelson's conduct that she suffered an anxiety attack and has been hospitalized.

Advise Mabel as to her legal rights and obligations in regard to this contract, addressing separately any potential alternatives. Also evaluate any potential damages based on the principles discussed in this course. You need NOT discuss interest, attorneys fees, or punitive damages.

Question II. (45 minutes, 25 points)

Under the terms of an installment note and mortgage held by First National Bank, Reynolds was required to keep her home insured against loss. In January of 2000, Reynolds therefore purchased a one-year property insurance policy from Ace Insurance, Inc. for \$100,000 worth of coverage. The premium was \$2800, which Reynolds paid in advance. Although not required by the terms of the note and mortgage, First National Bank was designated as a "loss payee" under the terms of the policy. That is, the policy provided that in case of loss, any insurance would first be paid to the Bank to pay off any existing debt. At the request of Ace, the Bank signed a form consenting to the insurance coverage.

Reynolds home was destroyed by fire on April 1, 2000. Reynolds contacted Ace on April 4, 2000 to demand payment of the proceeds, but Ace denied the claim on the basis of a clause in the policy conditioning payment on notice to Ace within 24 hours of loss.

Reynolds is livid. Reynolds believes she is entitled to recover the entire proceeds from Ace, and further, that she is entitled to pay off the balance of \$30,000 owing to First National Bank only as the note payments become due in the future.

Advise Reynolds as to her legal rights and obligations in regard to this contract, addressing separately any potential alternatives. Also evaluate any potential damages including interest, attorneys fees, and punitive damages. You need NOT discuss damages for mental distress.

Question III. (30 minutes, 16 points)

Evans signed an agreement to purchase a lot and home from Franklin for \$150,000. The closing is to take place next week. Evans read in the newspaper this morning that a Master Street Plan has just been approved by the city which will result in the widening of the street in front of the home to eliminate 90% of the front yard and increase the traffic enormously. The Plan has been in the the planning stages for years, and public announcements and hearings have been held in regard to it but Evans never paid any attention before. Franklin is an out-of- state owner, and Evans is not sure whether Franklin was aware of the Plan or not. Evans estimates the value of the property at this point at \$75,000, so he intends to simply fail to show up at the closing.

Advise Evans as to his legal rights and obligations in regard to this contract, addressing separately any potential alternatives. Also evaluate any potential damages. You need NOT discuss interest, attorneys fees, punitive damages or damages for mental distress.

Question IV. (30 minutes, 16 points)

Davis was hired by Merchants Savings & Loan as a loan officer at a salary of \$50,000 per year. Although no definite duration of employment was set, Merchants informed Davis that it considered the job to be "permanent". Davis therefore moved his family from Florida at a cost of \$2000 to take the position. After the local newspaper published a letter to the Editor written by Davis which criticized Merchant's minority hiring policies, Davis was discharged. It has now been three months since he was fired, and Davis has located a position as an assistant loan officer at a salary of \$30,000. However, Davis would prefer to be reinstated at his prior position or keep searching for a job at the same level as his prior position.

Advise Davis as to his rights and obligations in regard to this contract, separately addressing any potential alternatives. Also evaluate any potential damages, including punitive damages, based on the principles discussed in this course. You need NOT discuss interest, attorneys fees, or damages for mental distress.

Part II. Short Answer (30 minutes, 18 points)

EXPLAIN your answer to each of the following based on the principles discussed in this course.

A. Patrick sold his landscaping business, located in Fayetteville, Arkansas, to Quigley for \$75,000. The agreement provided that Patrick could not engage in landscaping work in competition with Quigley anywhere in Washington County for a period of 10 years. Patrick seeks a declaratory judgment that the clause is invalid. What is your legal opinion? Explain. (4 points)

B. Turner contracted to design and install a billing program for

Dr. Unger's dental practice for a flat fee of \$2000. When Turner discovered that Dr. Unger's existing equipment was even less compatible than Turner had anticipated, Turner informed Dr. Unger that she could not complete the work for less than \$3000. Dr. Unger agreed to the increase, but upon completion of the work refused to pay Turner more than \$2000. Is Turner entitled to the remaining \$1000? (4 points)

C. Fillmore hired Granger to install a septic system in Fillmore's back yard for \$1000. Granger was overbooked, so he transferred the job to Harrison. Granger telephoned Fillmore to tell Fillmore that Harrison had "taken over." Harrison completed the work, except for spreading fill dirt over the completed lateral lines (which cost Fillmore \$100 to finish). Fillmore thereafter paid \$900 to Granger, who has disappeared. Harrison seeks to recover \$1000 from Fillmore. What will be the result? Explain. (4 points)

D. Define/explain the following in light of their usage in contract law as discussed in this course: (6 points)

1. Tacit agreement test
2. Liquidated damages
3. Void v. voidable contracts
4. Delegation
5. A "necessary"
6. Cover