

**Legal Law**

Student's Name

Institution Affiliation

Course

Professor's Name

Date

### Short Questions

**1. Both a mutual mistake and a unilateral mistake regarding a basic assumption of a contract can result in that contract being voidable by the party adversely affected by the mistake. There are risks in allowing a party to a contract to escape his/her obligations because of a unilateral mistake that party made though. How do courts balance this risk -- that is, the risk of giving one unilaterally-mistaken party too much power to avoid a properly executed contract -- on the one hand with the reality that under certain circumstances it is fair to allow the mistaken party to avoid a contract on the other? Put differently, to get out of his or her contractual obligations, what must a unilaterally-mistaken party prove in addition to the basic elements of a mutual mistake? (2 points)**

In balancing the risk, the courts look at whether the mistake is fundamental or essential. If it is, the contract is declared void. On the other hand, if it is proved that the mistaken party has merely mistaken the quality of the contract, such will not suffice to make the mistake operative, and the alleged mistake will not have an effect on the contract (Barnes et al., 2015)

To get out of the contractual obligations, the unilaterally mistaken party must prove the following. The party must prove that he or she was genuinely mistaken over a material detail such that if the truth had been revealed to him, he or she would not have entered into the contract on the terms stated (Barnes et al., 2015). The mistaken party must also prove that the other party ought to have known of the mistake, and lastly, the mistaken party was not at fault in any other way.

Broadly speaking, why do we impose this additional burden of proof on a unilaterally-mistaken party who wishes to get out of contractual obligations?

This is to preserve and maintain the sanctity of contracts where every party is obligated to keep the agreement (Barnes et al., 2015). The claimant must prove his claim to be relieved of some duties.

**2. Question 1 is about the circumstances under which a mutual/unilateral mistake might result in a court declining to enforce a contract. Discuss one of the other three doctrines from Chapter 13 under which a contract might be deemed unenforceable because the consent of one of the parties was not "real" under the circumstances. What are the elements that must be proven for an individual to successfully argue that one of those three "defenses to contract formation" applies under the circumstances?**

A contract may be deemed unenforceable where a common mistake is proven. This is where there is a misperception about the facts made by both parties at the time of contracting. There is consensus between the parties in such instances, but both are mistaken about the facts (Barnes et al., 2015). It occurs in three main forms, all of which must be proved in court: where there is non-existent of the subject matter (Res extincta), where there is a mistake as to title (Res Sua), and where there is a mistake regarding the quality of the bargain.

**3. One of the elements of misrepresentation is an untrue assertion of a fact. This typically refers to making an untrue verbal statements (i.e., lying about something). Describe a situation where a party's conduct (acts, not words) might amount to "active concealment" of a fact, which courts have held is equivalent to making an untrue assertion of fact. Does this doctrine make sense? Why or why not?**

Active concealment refers to the situation where a contracting party conceals any information which they have a duty to disclose. For instance, in the sale of residential property, the seller has a duty to disclose dangerous conditions or defects to the buyer. The seller can

breach this duty through ways such as plastering over defective pipes to conceal the defect. Such a seller is responsible for any costs that may arise for the costs of repairing such defects that were actively concealed (Barnes et al., 2015). This doctrine makes clear sense due to the existence of the doctrine of "caveat emptor," which means that the buyer must beware hence placing the risk on the buyer to buy the property as it is and not entitled to recover from any defect that would render the property unfit.

**4. Why are contracts entered into by minors, mentally impaired individuals, and (rarely) intoxicated individuals voidable by those individuals? What is the rationale behind allowing agreements (offer + acceptance) supported by consideration to be undone at the election of one of the parties in these situations?**

Such agreements are voidable by those individuals if they are contracts for necessities or/and contracts for the individual's benefit (Barnes et al., 2015). The rationale behind undoing the agreements at the election of one of the parties is that the seller bears the risk of losing everything if he does not prove the conditions as mentioned earlier were satisfied.

**5. What is one situation discussed in Chapter 14 that results in a contract being void -- i.e., completely unenforceable regardless of whether the party lacking capacity to contract wants to enforce the agreement?**

When an incorporated body acts ultra vires (Barnes et al., 2015). That is, the corporation goes beyond its capacity to act in making transactions as provided for in the Memorandum of association.

**6. One of the cases from Chapter 15 shows a situation where enforcing an illegal contract actually supported the overall legislative purpose of the law implicated by the**

**illegal contract. What case was it and (briefly) what was the court's logic behind enforcing a contract that violated federal law?**

In *Lewis & Queen v N.M. Ball Sons* (1957), the plaintiff sued for damages for breach of equipment rental agreements and for the reasonable rental value of equipment alleged to have been held beyond the agreed time. The defendant argued that the equipment had been furnished under the written rental agreements and denied any breach. The defendant didn't plead the defense of illegality (Barnes et al., 2015). The trial court found that the plaintiff had agreed to act and had acted as an unlicensed contractor and s. 7031 of the Business and Professions Code prohibited him from maintaining any action for compensation. The plaintiff filed an appeal. The court held that when the legislature enacts a law barring certain conduct to protect a certain class of persons from the activities of another, an individual from the protected class may maintain an action even though he has shared in the illegal transaction (Barnes et al., 2015). It further stipulated that the protective purpose of the legislation is realized by allowing the plaintiff to maintain his action against a defendant within the deterred class.

7. True or False: Contracts of adhesion are inherently unconscionable and courts will never enforce them.

False. A contract of adhesion is one in which one party imposes a ready-made form of contract on the other. Such a contract is as binding as an ordinary one (Barnes et al., 2015). The rationale behind this assertion is that the party which adheres to such a contract is free to reject it entirely if he so wishes.

**8. Under certain circumstances, a satisfaction clause in a contract will allow one party to the contract (A) to escape his/her obligations under the contract if the other party's (B's) performance does not meet his/her (A's) personal satisfaction. At first glance,**

**this sounds like an illusory contract which lacks mutuality of obligation. What sort of limitations on the dissatisfied party's (A's) power to escape his/her contractual obligations do courts impose to ensure the satisfaction clause does not allow one party (A) to treat the other party (B) unfairly?**

The courts must be satisfied that the dissatisfied party is acting in utmost good faith and that he is genuinely unhappy with the work done or services rendered. Such must be construed by objectively analyzing the language used in the contract (Barnes et al., 2015). If the dissatisfied party fails to prove such, the courts will not hesitate to declare the satisfaction clause as unenforceable.

**9. Briefly describe a hypothetical transaction where a court would be likely to enforce a satisfaction clause.**

Where a client hires an artist and the artist agrees to paint a portrait of a client or one of his family members as in the given sample, such as a photograph, he must do so to the client's satisfaction. In such a scenario, the court will enforce the satisfaction clause (Barnes et al., 2015). The court will hold that the client must be satisfied as to the judge of the artist's work.

**10. Chapter 16 introduces the statute of frauds. The original English statute was enacted to prevent unproven, alleged agreements from being the subject of legal arguments before judges of the time. The types of contracts that are "covered by" the statute of frauds were seen as situations which were especially susceptible to individuals fabricating untrue allegations and testimony, or situations where the evidence for the agreement may be outdated due to the passage of time. To prevent courts from having to deal with these situations -- where there is no good evidence of the agreement and the parties are making conflicting claims about the agreement -- contracts that are covered by the statute of frauds**

**must be memorialized in writing and signed by the party against whom the contract is being enforced. If such a contract is not memorialized in a writing that satisfies the statute of frauds, a court will dismiss a lawsuit based on that alleged contract. Chapter 16 mentions several exceptions to the statute of frauds / alternative means of satisfying the statute of frauds. Why do those exceptions exist? What is the rationale behind them?**

The exceptions to the statute of frauds exist because each situation provides an additional level of proof regarding the existence of a contract. The rationale behind this is that it reduces the need for writing to prove that a contract and its terms exist (Barnes et al., 2015). For instance, where a party admits under oath that an oral contract was made, such a contract is enforceable, and it is not necessary for it to meet the requirements of the statute of frauds since the existence of a contract has been proved.

**11. What is "parol evidence"?**

Parol evidence is a principle in law that provides that if a contract is written, the writing is the whole contract. Any oral or other evidence cannot be used to vary, add or contradict the terms of the written agreement (Barnes et al., 2015).

**12. What is a "merger clause" in the context of the parol evidence rule? What is the effect of a merger clause in a contract?**

This is a clause in an agreement that provides that the contract is a purely written agreement to which the parol evidence rule applies such that no extrinsic evidence should be adduced (Barnes et al., 2015). The merger clause prevents a party from claiming that a written document does not contain the entire agreement.

**13. Describe three examples of contracts that would be covered by the statute of frauds. Don't just list categories of contracts covered by the statute of frauds -- rather,**

**describe hypothetical contractual situations? (You don't need to include lots of details... the point is, don't simply list the categories.)**

A contract for supplying all construction material of a skyscraper needs to be in writing because it cannot be completed within a year (Barnes et al., 2015). The contracting party will have referencing material if a dispute arises afterward because the human mind is subject to forgetting details over time.

Where Party A intends to sell his parcel of land to B, the agreement must be put in writing (Barnes et al., 2015). This is because it is a lengthy process, and it is risky for there to lack a reference material if a dispute arises.

Where a contract involves the sale of goods above £500, such should be in writing. This prevents unscrupulous parties from getting away with what they had not bargained for and injuring the other party (Barnes et al., 2015).

**14. Briefly explain the two different definitions of "intent" in the context of tort law.**

One definition provides that the defendant acts deliberately with a view to infringe on the plaintiff's protected interest. The other one provides that the defendant must intend to do the act but need not intend harm (Barnes et al., 2015).

**15. What are two types of damages that a plaintiff can recover from a defendant when the cause of action is a civil wrong other than breach of contract (i.e., a "tort")? What purpose do these two categories of damages serve?**

A plaintiff can recover compensatory or/punitive damages. Compensatory damages are meant to make good the harm suffered, while punitive damages are meant to cater for the losses caused by the conduct of the defendant (Barnes et al., 2015). These damages restore the plaintiff to their conditions prior to their injuries.

**16. Briefly explain why the United States Supreme Court decided to require certain plaintiffs in defamation lawsuits to prove "actual malice" by clear and convincing evidence.**

Public figures or public officials must prove that a defendant in a defamation case acted with actual malice to recover. Public figures' activities are always in the limelight, and any information about them will greatly affect their reputation, either positively or negatively (Barnes et al., 2015). One must sufficiently prove that he or she is a public figure and any defamatory statements will cause him more harm and thus requires a high award of damages for the injury suffered.

**17. Why can publishers of defamatory statements be liable for defamation, but not mere distributors of defamatory statements? What is the rationale behind this distinction?**

One of the elements in proving defamation is that the statement in question must be published to a person other than the plaintiff. The publisher is in control of what content is to be published and hence liable to the content he/she publish as far as defamation is concerned. A distributor is merely a person who distributes the published content to a larger audience for, including, but not limited to, profit-making purposes. For instance, a distributor selling the newspaper to the public. The rationale behind the distinction is the apportionment of liability (Barnes et al., 2015). It is ineffable and/or illogical to expect a distributor to be liable for a defamatory statement, whereas they were not in any position to postulate and/or control the content to be published, unlike the publisher.

**18. Why is the libel-slander distinction less important and relevant today than it was when common law defamation doctrines were first developing?**

The distinction between libel and slander in the original common law doctrines revolved around the concept of permanency of the defamatory. Slander was used to describe defamatory statements that were audible or passed through visibility, i.e., speech or gestures. The duration of these statements was quite short, i.e.; it ceased to exist immediately the statements had been made. On the other hand, libel was used when describing defamatory information that was in some format that could be referenced at another date, e.g., books or pictures (Barnes et al., 2015). Thus the duration of such messages was much longer compared to slander. In modern times, however, there has been the introduction of new technologies such as cameras that can capture and preserve slander statements for future reference like libel statement, thus diluting the relevance of the distinction i.e., permanence

**19. The first element a plaintiff must prove to win a negligence lawsuit is the existence of a duty owed to the plaintiff by the defendant. What are some of the important factors courts use to determine whether or not a defendant owes a duty to the plaintiff?**

The test of foreseeability must be satisfied. The plaintiff must prove that the defendant's actions ought to show that injury will be suffered by the plaintiff (Barnes et al., 2015). Physical closeness does not connote foreseeability. The plaintiff need not even be present at the time of the negligent act as long as the injury was foreseeable.

**20. We first learned about the negligence per se doctrine back during our discussion of landlord-tenant law. Hopefully after learning about the elements of negligence, the idea of negligence per se makes even more sense now.**

When does negligence per se apply and how does it function in a case? In other words, what must a plaintiff show to establish that negligence per se applies, and if it does apply, what effect does it have on the plaintiff's burden of proof?

For a plaintiff to establish that negligence per se applies, he or she must establish that the defendant violated a law enacted for safety reasons. The violation of such caused the injury to the plaintiff (Barnes et al., 2015). The plaintiff's burden of proof is eased since one is only required to establish that the defendant acted unreasonably and his conduct violates the applicable law.

**21. What is an "intervening cause"? What effect does an intervening cause have on a defendant's liability for harm caused to the plaintiff in part by the defendant's conduct?**

An intervening cause is an event that occurs after a tortfeasor's initial act of negligence and causes injury to a victim (Barnes et al., 2015). Generally, an intervening cause absolves the defendant's liability for the victim's injury, provided the event is deemed as a superseding cause. A tortfeasor is still liable for the victim's injury if a foreseeable intervening cause typically does not break the chain of causation.

**22. Briefly explain the fundamental differences between intentional torts (such as defamation, invasion of privacy, assault, etc.) and negligence.**

The major difference between the two is intent. For intentional torts, the defendant is alleged to harm the victim on purpose. In negligence, the defendant is alleged to injure the victim by being careless. To establish an intentional tort, a plaintiff must prove that a defendant intentionally acted in a way that made the plaintiff suffer injury. To establish a negligence claim, the plaintiff must show that the defendant owed him a duty to reasonable care; the defendant breached that duty, and this caused the plaintiff to suffer harm (Barnes et al., 2015). Lastly, some intentional torts such as assault are both civil and criminal in nature, while negligence claims are entirely civil in nature.

**23. How does the doctrine of strict liability work? In other words, in a case where a court determines strict liability applies, what effect does it have?**

In strict liability claims, the defendant is held liable merely for doing what is considered under the law to be injurious in nature without necessarily being at fault (Barnes et al., 2015).

Additionally, what is the purpose of strict liability? What policy goal underlies the doctrine? Strict liability operates to make an individual, as the creator of a risk, bear the consequences. It is more of an incentive than a fault to taking adequate precaution (Barnes et al., 2015). The goal behind this is making one liable for personal injury or property damage arising as a result of his actions or omissions without necessarily requiring the claimant to show fault.

**24. Describe the differences between contributory negligence and comparative negligence, two negligence defenses discussed in Chapter 7.**

The primary difference between these defenses is that comparative negligence seeks to compensate the injured party at least for some part of his or her injuries, while contributory negligence is a total bar to any damage award to the plaintiff (Barnes et al., 2015). Another difference is that contributory negligence emerged from common law, while comparative negligence is a product of statutory creation in jurisdictions that abolished the antiquated common law predecessor.

**25. Describe two different hypothetical situations where an express warranty exists. (That is, two factual scenarios where a seller's conduct, words, descriptions, etc. create an express warranty that the good(s) being sold will be as described.)**

Express warranty is an agreement by a seller to provide repairs or a replacement for a faulty product, component, or service within a specified period of time after purchase (Barnes et al., 2015). When buying furniture, the seller guarantees the buyer against defects in construction

for one year. In the six month after purchase, the buyer recognizes that a chair is faulty. Such a buyer can notify the seller who is mandated to repair or replace it.

An online store states that all its products are professionally made. A consumer buys a jacket only to recognize that it has no buttons and cannot be used in official duties. The buyer is entitled to a refund or replacement. Any additional costs such as transportation to and from the seller will be catered by the seller (Barnes et al., 2015).

**26. Compare and contrast the implied warranty of merchantability and the implied warranty of fitness for a particular purpose. What are the similarities or areas where the two warranties might overlap? What are the major differences?**

Implied warranty of merchantability means that the goods are merchantable and conform strictly to a reasonable buyer's expectations. It makes the assumption that a good, whether new or second-hand, works for its intended purpose (Barnes et al., 2015). On the other hand, the implied warranty of fitness means a good is guaranteed for a specific purpose. It is implied through a salesperson's recommendation or assurance of a good for a specific purpose. Both of them work to protect consumers of products and services offered by a firm.

### **Multiple choose**

Which of the following is an example of a unilateral contract?



Greg offers to insure Hector's car for \$80/month.



Albert offers to pay Bernie \$400 to purchase Bernie's latest painting.



Edgar offers to purchase Frank's truck for \$4,500.



Carolyn offers to pay Darcie \$200 if Darcie swims across the English Channel.

### Question 2

In contract law, "consideration" means which of the following?



The offeree's acceptance of the offeror's proposed contract terms.



The requirement that certain contracts must be written down in order to be enforceable.



A legal benefit or a legal detriment that one party receives or gives up in a contractual exchange.



The act of signing the parties' written contract.

### Question 3

What is the "statute of frauds"?



The doctrine that certain contracts are so inherently unfair that courts will not enforce the terms of those contracts, even if they were properly formed and executed.



The idea that a term preventing fraud is implied into all contracts whether such a term is actually included in the contract language or not.



A common law doctrine which states that contracts entered into on the basis of fraud or other procedural or substantive defects are unenforceable.



A law requiring certain contracts to be in a writing signed by the party against whom the contract is being enforced.

#### Question 4

Which of the following accurately states the "mailbox rule"?



A revocation of an offer is effective at the moment the offeror mails the revocation to the offeree.



Offers cannot be revoked until the offeree has been given a reasonable amount of time to perform the requested act.



Offers cannot be accepted via email or other electronic means.



An acceptance of an offer is valid and legally binding as soon as it is dispatched/posted.

#### Question 5

Which of the following types of contracts is **not** governed by the common law?



A contract for the sale of goods.



A contract for the provision of services.



A contract for employment.



A contract for the sale of real estate.

### Question 6

Parol evidence is generally not allowed to be given as evidence in court when the terms of a contract are in dispute. Which of the following is an exception to the parol evidence rule (in other words, which is a situation where a party is allowed to present parol evidence to a court when the contract terms are in dispute)?

When one party modified the terms of the contract at the time of negotiation but did not include the modifications in the written contract.

When the parol evidence is being presented simply to clarify or explain the meaning of the written terms of the contract.

When the parol evidence is part of a contract that is required to be in writing under that statute of frauds.

When one of the parties to the contract is a merchant.

### Question 7

Which of the following is a contract that is "within" or "subject to" the statute of frauds?

A contract in which a technology company agrees to provide software and maintenance support to a small business for a term of six months.

A contract for the sale of goods worth \$750.

A contract requiring a roofing service to install a new roof on a home within the next 30 days.

A contract for the rental of certain equipment for a day at a cost of \$55.

### Question 8

Robert wishes to purchase Stan's boat. With that in mind, Robert writes up a contract providing that Robert will purchase Stan's boat for \$1,000. Robert walks over to Stan's house one morning, puts the contract in front of Stan, and asks Stan if he will sign the contract and sell him his (Stan's) boat. Stan reads the contract terms, which are clear and detailed. After reading the contract, Stan looks up at Robert and sees that Robert has a gun on his belt and is pointing toward it. Robert smiles at Stan and says, "You want to sign this contract, don't you? I'd hate for anything bad to happen to you..."

Stan signs the contract, accepts \$1,000 from Robert, and gives Robert the keys to the boat. Based solely on the facts presented above, if Stan later wishes to get out of the contract, what is his *best* argument?

That the terms of Robert's contract are unfair.

That the contract is void because it fails to satisfy the statute of frauds.

That he (Stan) entered into the contract under duress, and the contract is therefore unenforceable.

That Stan's acceptance of the offer was invalid because he did not subjectively intend to enter into the contract that he signed.

### Question 9

Craig is walking by Drake's house one day and sees Drake in his garage. Craig points to Drake's garage where four different lawn mowers are being stored and says to Drake, "I'll buy your lawn mower from you." Drake says "I accept your offer." As of the moment Drake finishes this statement, and based solely on the facts presented, do Craig and Drake have an enforceable contract? Why or why not?

Yes, because the UCC does not require the parties to specify the quality or quantity of goods being sold.

No, because the terms of the offer were not sufficiently specific and definite.



Yes, because Drake accepted Craig's valid offer.



No, because this sort of contract must be in writing.

### Question 10

Robby offers to sell Sarah his business law textbook for \$80. New copies of the book normally sell for about \$120. After hearing Robby's offer, Sarah asks Robby, "Will you accept \$70 for the textbook? I'd be willing to pay that much." Robby turns around and starts to walk away. Sarah decides she is willing to pay \$80 and says, "Wait, I accept your offer to sell the book for \$80!!" As of the moment Sarah finishes this statement, do Robby and Sarah have a valid contract for the sale of the book for \$80?



No, because Sarah's counter-offer operated as a rejection of the initial offer, which terminated it.



Yes, because Sarah accepted Robby's offer before it had been terminated by the passage of a reasonable amount of time.



Yes, because Sarah indicated a willingness to accept the terms of Robby's initial offer.



No, because Robby failed to specify whether his copy of the book was new or not.

### Question 11

Addie sees an advertisement in the newspaper which says the following: "Last year's models must go! Three brand new 2019 Toyota Camry XLE Hybrids for sale for just \$15,999! Featuring a 2.5-liter, four cylinder, 200 horsepower engine that gets up to 43 miles per gallon! Only three available in midnight blue. Each has less than 3,000 miles. The three cars will be sold on a first come, first served basis to the first three customers in line when Toyota of Springfield opens at 10:00 a.m. on Saturday, February 23, 2019. Buyers must pay at least \$1,000 down with 60-month financing at 4% APR through Toyota of Springfield. Terms of sale are non-negotiable. Don't miss out on this chance of a lifetime!"

Addie, who has been in need of a newer, more reliable car to get to campus every day, decides that she would like to purchase one of the cars mentioned in Toyota of Springfield's advertisement. At 6:00 a.m. on Saturday, February 23, Addie gets in line at Toyota of Springfield's main door with a \$1,000 cashier's check from her bank. It turns out that she is the third person in line. When the store opens at 10:00 a.m., have Addie and Toyota of Springfield entered into an enforceable contract?

Yes, because Addie accepted the offer by being one of the first three individuals in line and prepared to pay the required down payment.

No, because this offer was not communicated to a specific offeree.

Yes, because Toyota of Springfield is a merchant whose advertisements are therefore treated as offers.

No, because advertisements are not formal offers, but are merely invitations to negotiate or to make an offer.

### Question 12

Midwest Customs, a manufacturer of custom-made motorcycle wheels, sends a purchase order to AlumiCo, an aluminum manufacturing plant. The purchase form says the following:

“10 tons of grade AA aluminum at \$2,000 per ton. Shipping costs payable by Midwest Customs. Delivery within 30 days after purchase date. Full purchase price payable by Midwest Customs within 90 days of delivery.”

AlumiCo receives the purchase order and immediately faxes an invoice acknowledging the order. The invoice form contains the following terms:

“Total cost: \$20,850 (10 tons Grade AA at \$2,000/ton + 850 shipping costs). Payment by Midwest Customs to be made within 45 days after delivery. A cancellation fee of 15% of the purchase price will be charged if the order is cancelled after fulfillment has begun.”

Midwest Customs ends up cancelling its order. Neither party ever objected to any terms of either the purchase form or the invoice/acknowledgment within a reasonable time. Based solely on the facts presented here, is the cancellation fee clause (the “additional term”) contained in AlumiCo's acceptance part of the agreement between the parties (i.e., is it one of the terms of their contract)? Why or why not?

Yes, if the cancellation fee clause does not materially alter the parties' agreement.

No, if AlumiCo can prove that all of its contracts contain the same cancellation clause.

No, because acceptance of the offer was explicitly limited to the terms of the offer itself.

Yes, because the mirror image rule does not apply to this contract.

### Question 13

On February 1, Arne makes a written offer to Bella for the sale to Bella of Arne's stamp collection. The offer contains all the essential terms. Arne does not make any assurances that the offer will be kept open for a certain amount of time. On February 2, Arne mails a letter to Bella expressly revoking his (Arne's) offer. On February 3, Arne telephones Bella. She answers the phone, and Arne tells Bella that he has decided to revoke the offer. On February 4, Bella finds out from a reputable source that Arne has sold his entire stamp collection to Carlos. On February 5, Arne's revocation letter (dated February 2) finally gets to Bella's mailbox, and Bella reads the letter. On which date was Arne's February 1 offer terminated?

February 5.

February 2.

February 3.

February 4.

### Question 14

On February 8, Saoirse Ronan is interested buying a one-of-a-kind, \$22,000, floral Chanel dress designed by the legendary Karl Lagerfeld to wear to the Academy Awards on

Sunday, February 24. However, Saoirse is not quite sure whether this particular Chanel dress fits the look she is going for, so she wants to wait and think about whether or not to buy the Chanel dress. Karl Lagerfeld himself, who works at the Chanel store as a merchant when he's not designing dresses, tells Saoirse to take her time and think about it. He grabs a piece of Chanel stationery and writes down, "Chanel will hold this dress for Saoirse until February 22 at a price of \$22,000." Karl then signs his name on the note and gives it to Saoirse. He puts the dress, along with a copy of the note he gave to Saoirse, in the back of the store so that it will not be sold. On February 20, Emma Stone is shopping in the Chanel store for a dress to wear to the Academy Awards. She happens to see the floral dress in the back of the store and asks to try it on. After trying it on, Emma loves the dress and says, "I'll take it!" Karl informs her that, regrettably, it is not for sale. Emma says she will pay \$40,000 for the dress, and Karl sells it to her immediately. A few hours after the dress was sold, Saoirse walks into the Chanel store. Before she can say anything, Karl informs her that the Chanel store is revoking its offer to sell the floral dress to her for \$22,000. Saoirse reminds him that he promised to keep the offer open and says she accepts the offer and wants to buy the dress. When she finds out that the dress has been sold, Saoirse sues Chanel for breach of contract. Who will win?



Chanel, because it was free to revoke its offer at any time since Saoirse did not pay anything in exchange for the option to purchase the dress.



Saoirse, because Chanel's firm offer was irrevocable until February 22.



Saoirse, because she attempted to accept the offer immediately after it was revoked.



Chanel, because the offer was revoked as soon as the dress was sold to another purchaser.

### Question 15

Sam's Club enters into a contract with Bee Mine Apiary, a small honeybee farm in central Illinois. The detailed contract provides, among other things, that Sam's Club agrees to purchase "all of Bee Mine Apiary's honey output for as long as this contract remains in full force and effect." The following provision shows up near the end of the contract: "Sam's Club shall have the right to terminate the contractual relationship set forth herein at any time and for any reason, but to exercise this right, Sam's Club must provide Bee Mine Apiary with at least 60 days' written notice of its decision to terminate this contract." Is the agreement that Sam's Club and Bee Mine Apiary entered into enforceable?



No, because the agreement between the parties contains no set quantity of honey that Bee Mine Apiary must provide to Sam's Club.

Yes, because the common law will impose an obligation to exercise good faith and fair dealing whenever illusory promises are made.

No, because there is no mutuality of obligation since Sam's Club is not actually bound in any way.

Yes, because both of the parties are bound in some way by the terms of the contract and the UCC will impose a duty to act in good faith..

#### **Question 16**

Jay is planning a huge party at his house for the 4th of July. He enters into a contract with ABC Pyrotechnics, LLC ("ABC"), a company that plans and executes fireworks displays. The contract contains the following language: "ABC shall provide consulting services and advice, display design/programming, and all necessary fireworks to execute the agreed-upon display." Because Jay wants to be in control of every detail of the event, he has at least 10 meetings with ABC staff regarding the fireworks show he plans to put on. Once the show had been planned, ABC presented Jay with a price quote breaking down how much it would cost to pull off the display. The price quote showed the following costs: consulting and advice – \$5,750; designing/programming the display – \$4,400; fireworks, ignition wire, and other supplies necessary for display – \$3,779. The fireworks show ends up taking place and is a huge success. However, Jay refuses to pay the full amount shown on the invoice that he receives from ABC even though it is equal to the price quote ABC provided to him. ABC sues Jay for breach of contract. What body of law governs the contract between Jay and ABC?

The UCC, because the predominant purpose of the contract was the sale of fireworks.

The common law, because the predominant purpose of the contract was the provision of consulting and other services.

The common law, because this contract included the provision of services.



The UCC, because this contract included the sale of goods.

### Question 17

After Chicago gets 14 inches of snow in early February, Stanley, an elderly man, is snowed in and cannot get out of his driveway. Stanley calls his neighbor, Phil, and tells him that he will pay Phil \$80 if he shovels the snow off of his (Stanley's) driveway. Phil says, "Okay, okay, I get it." A few hours later, Phil starts clearing the snow off of Stanley's driveway. Once the driveway is about 90% cleared, Stanley walks onto his front porch and shouts to Phil, "I revoke! I revoke my offer! The deal is off!" Is Stanley's revocation effective?



Yes, because as the master of the offer, Stanley was free to revoke at any time.



No, because this sort of offer became irrevocable for a reasonable amount of time after Phil began shoveling.



No, because Stanley must communicate his revocation to Phil in the same manner as the offer.



Yes, because Phil never clearly communicated his acceptance of Stanley's offer.

### Question 18

Jim sends a letter to Pam offering to sell his collection of rare coins to her for \$14,000. Pam mails an acceptance letter to Jim within a reasonable amount of time after the offer was made. A couple days after Pam's acceptance letter is mailed, but before Jim actually receives the acceptance letter, Jim calls Pam on the phone and tells her that he is revoking his offer. As of the moment this phone call ends, is there a contract between Pam and Jim?



No, because Jim revoked his offer prior to Pam's acceptance being communicated to him.



No, because the mailbox rule does not apply under the UCC.



Yes, because Jim was required to revoke his offer in writing.



Yes, because Pam's acceptance was effective at the moment it was mailed.

### Question 19

Susan lists her home for sale through Realty One, a real estate brokerage firm. The home is listed for \$98,900 and is described in great detail on Realty One's website. Barnaby is interested in buying a house. He sees Susan's house on Realty One's website and decides he would like to purchase it. On February 15, 2020, Barnaby mails a contract that he has signed to Susan. The contract provides that Barnaby will pay \$94,000 for the home, and that closing will take place on March 31, 2020. It also lists the parties, the subject matter of the contract, and all other material terms. Susan crosses out the March 31, 2020, closing date and hand writes "May 15, 2020" in its place on the contract. Susan then writes her initials next to the change, signs the contract, and mails it back to Barnaby. As of the moment Susan mails the contract back to Barnaby, is there a contract between the two parties?



No, because Susan did not accept the exact terms of Barnaby's offer.



No, because Susan's modification of the contract was not supported by consideration.



Yes, because moving the closing date by 45 days does not materially alter the agreement.



Yes, because Barnaby's acceptance was effective as soon as it was mailed on Feb. 15.

### Question 20

Lumber Milling, Inc. produces milled lumber for use in home construction. A byproduct of this process is pine wood shavings. Lumber Milling, Inc. has in the past packaged the wood shavings for resale as bedding for everything from horses to hedgehogs. However, the profits from packaging the wood shavings and selling them are slight in comparison to Lumber Milling, Inc.'s profits from selling lumber for use in home construction. For that reason, the business wishes to cease packaging and selling the wood shavings produced as a byproduct of its main business and needs to find some way to get rid of the wood shavings.

Steven, who owns a Christmas tree farm near Lumber Milling, Inc., hears that Lumber Milling, Inc. is looking for a way to get rid of tons of wood shavings. Steven offers to allow Lumber Milling, Inc. to enter his farm until December 31, 2022, to dump unlimited amounts of wood shavings on his (Steven's) property, where he will use it as mulch on his Christmas tree farm. Lumber Milling, Inc. agrees to this deal, and Steven gives the company access to his property so that they can deposit all of the wood shavings they produce. Assume that the parties write their agreement down, include all essential terms, and sign the contract. Do Lumber Milling, Inc. and Steven have an enforceable contract?

Hint: This is a question about consideration. Think about the definition and the role of consideration, and refer to the textbook if you need to review the sort of exchange necessary to constitute consideration.

Yes, because the parties have each received something of legal value in a bargained for exchange.

Yes, because the parties intended to contract even though there is no consideration.

No, because Steven is not providing adequate consideration in exchange for the wood shavings he will receive.

No, because nothing is actually being exchanged between the parties.

## References

Barnes, A. J., Bowers, L. T., Mallor, J., & Langvardt, A. (2015). *Business Law*. McGraw-Hill Higher Education.