

FINAL EXAMINATION
CONTRACTS I
PROFESSOR SYLVESTER
FALL 2006

1. You will have **two and one-half hours** (2 1/2) to complete both parts of this examination. It is suggested that you do the parts of this examination in the order in which they are presented, and that you allocate no more than 60-75 minutes to Part One, and the remainder of your time to Part Two.
2. This is a **closed** book exam.
3. There are two parts to this exam:

Part One consists of 30 multiple choice questions scored at one point each. Part One is worth a possible total of **30 points**. Answer each multiple-choice question by indicating the letter corresponding to the response you believe to be most correct. Correct multiple choice answers are to be marked on the separate ParSCORE test form using pen or pencil and following the instructions on that form. If you change your answer, place a clear **X** through the wrong answer and mark the correct answer. A machine will score the exam and any ambiguities will be counted as wrong answers.

Part Two consists of one essay question worth a possible total of **50 points**. In grading the essay, points will be awarded for organization and clarity, so take time to organize a succinct but comprehensive response.
4. Write your exam number on your exam envelope. Write your correct class section and student exam number at the top of this page, each page of questions, each blue book, and the ParSCORE test form. **Do not** use your name, student ID number or Social Security Number on any exam materials.
5. Please write clearly. Write on every other line and every other page to permit instructor comments.
6. At the conclusion of the exam, return all exam materials to the exam envelope and submit it to the proctor. Do not seal the envelope. **Failure to return this exam with all its pages intact will result in a failing grade.**

GOOD LUCK!

PART TWO

Alice invented a device that combined the functions of a cell phone and a satellite radio receiver. She called the device Cellulite. Anxious to bring Cellulite to market in time for holiday sales, Alice contacted Manufacturer. During October, the two discussed an arrangement that would give Manufacturer the exclusive right to produce Cellulite. In exchange, Alice would receive a percentage of the profits from Manufacturer's Cellulite sales. Manufacturer proposed that Alice receive 30 percent of the profits; Alice thought she should receive 50 percent.

On November 1, Manufacturer received the following e-mail message from Alice: I am willing to consider a compromise. If we could agree on, say, 40 percent, you could begin producing Cellulite immediately. Let me know what you think. Manufacturer immediately replied with the following e-mail message: Done!

The next day, Manufacturer began producing Cellulite. Also on November 2, Manufacturer contacted its Lessor to discuss leasing the additional space that Manufacturer would need to produce Cellulite in substantially greater quantities (Manufacturer was hoping to start turning out 100 units per day within about two weeks). Lessor sent a fax stating that it would lease the space Manufacturer needed at a monthly price based on the prevailing rate per square foot within the industrial park. Manufacturer called Lessor and left a voice mail message stating, OK. Let's do it.

The same day (November 2), Manufacturer received a purchase order from Retailer, with whom it had had preliminary discussions about marketing and selling Cellulite to the public in Retailer's chain of stores. Retailer's purchase order stated, in pertinent part, Please ship us all the Cellulite units you can produce in the next 90 days, at the previously discussed price of \$50 per unit. Immediately upon receipt of the purchase order, manufacturer called Retailer and promised to ship the units as they were produced which Manufacturer said would take less than 30 days. On November 3, Retailer sent Manufacturer written confirmation of the deal.

Next, Retailer called Promoter about advertising Cellulite. Retailer had worked with Promoter on several similar jobs in the past, so when Promoter did not answer Retailer's call, Retailer left the following voice mail message:

I am sending by messenger a prototype and specifications for a new device call Cellulite. I have decided to sell Cellulite in my stores, and I want you to handle the promotion just like you have for our last few new products. Give me a call so we can discuss or just go ahead and get started if you prefer; I do not want to waste any time.

Promoter immediately started work on the advertising campaign for Cellulite.

Unfortunately, Manufacturer's November 1 e-mail message was lost in transit and never reached Alice. More unfortunately still, Alice died that night (November 1). Meanwhile, the federal government has discovered that Cellulite has tremendous potential value to the national security effort, and wants to buy the exclusive rights to Cellulite from Alice's estate for a price ten times what Alice might have made from her deal with Manufacturer. On November 10, Alice's estate announced its withdrawal from negotiations with Manufacturer.

On November 11, Manufacturer tells Lessor and Retailer that the deal is off; Retailer tells Promoter the same thing. The following events ensue.

1. Manufacturer sues Alice's estate.
2. Lessor sues Manufacturer.
3. Retailer sues manufacturer.
4. Promoter sues Retailer.

Identify and analyze the relevant legal issues in each law suit. What arguments will be made by each party and with what likely result?

Note: This examination is intended to test only material covered in our fall semester Contracts course, principally: contract formation, defenses to enforcement, and basic remedial principles. Do not waste time discussing matters we have not addressed, including contract interpretation, performance, and breach.

End of examination. Congratulations!