

SAN LUIS OBISPO COLLEGE OF LAW

CONTRACTS

MID-TERM EXAMINATION

FALL 2025

PROF. K. PEARSON

Instructions:

Answer two (2) Essay Questions

Answer 30 Multiple Choice Questions: Please answer the multiple-choice questions in Exemplify. To select the answer you believe is correct, click on that answer. Use the 'Next' and 'Previous' buttons to navigate between questions. Read each question carefully and choose the best answer. Review your answers for accuracy before you finish.

Time Allowed: 3 Hours

Question One

Baker is a renowned pastry chef. Café, a sole proprietorship, is a well-known restaurant in need of hiring a pastry chef. Baker and Café's Owner had extensive conversations regarding Baker coming to work at Café. On May 1, a week after those conversations occurred, Baker sent Café a signed letter dated May 1 stating: "I will work for Café as a head pastry chef for two years for an annual salary of \$100,000."

On the morning of May 7, Café's Owner telephoned Baker and said: "The \$100,000 is pretty stiff. Could you possibly consider working for less?" Baker replied: "I am a renowned pastry chef. I will not work for any less!"

Later that morning, Café's Owner sent Baker a signed letter by regular mail stating: "You obviously think you are too good for my restaurant. I am no longer interested in hiring you to work at Café."

Later that afternoon, Café's Owner had a change of heart and sent Baker a registered, express-mailed signed letter stating: "Okay, if you really won't work for less, I agree to pay you the \$100,000 a year you demand to work as head pastry chef at Café for two years."

On May 10, the registered, express-mail letter was delivered to Baker's office. The regular-mail letter containing the rejection was still on its way. Baker accepted delivery of the registered, express-mail letter from the postal carrier and placed it on his desk without opening it.

On May 11, before Baker read the registered, express-mail letter on his desk, he accepted an offer to work at Restaurant. As a courtesy, Baker called the Café's Owner and said, "Sorry, I just took a job at Restaurant. Too bad you couldn't afford me." Café's Owner responded, "You can't work for Restaurant, I already accepted your offer to work for Café for \$100,000 a year."

Does Café have an enforceable contract with Baker? Explain.

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Fall 2025
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Question Two

Dealer operates an antique shop. While traveling, she buys a Union cavalry officer's handgun for \$1,500 from Seller. Dealer takes several photos of the handgun and Seller agrees to ship it to Dealer's shop. When Dealer arrives home, she immediately shows the photos of the handgun to Buyer. The parties shake hands on a deal to sell the handgun to Buyer for \$2,000, payment upon delivery.

The next day, Buyer regrets agreeing to the deal without first having an opportunity to actually examine the handgun. Buyer tells Dealer that he will not pay the \$2,000 unless she first allows him to have the handgun examined by an expert appraiser. Dealer becomes angry and tells Buyer, "A deal's a deal. I'll expect my money when the handgun is delivered to you."

When the handgun arrives at Dealer's shop, she does some internet research and discovers that the handgun was issued to a general who played a prominent role at the Battle of Gettysburg, which increases the value of the handgun by a factor of ten. The next day, Dealer receives a letter from Buyer stating, "Sorry. You're right. A deal's a deal." The envelope contains a check for \$2,000. Dealer sends the check back to Buyer with a note stating, "Buyer: Because you backed out of our deal, I will not sell you the handgun. //Signed// Dealer."

A few weeks later, Buyer learns that Dealer is offering the handgun for sale at her shop for \$20,000 because of its connection to the Civil War general. Buyer brings suit against Dealer for breach of contract, requesting specific performance.

Is Buyer likely to prevail against Dealer in his suit for breach of contract? Discuss.

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Contracts 1—Final Exam Essay 2

Score _____

Stated: directly stated in your response

Implied: alluded to in your response but not directly expressed, or only partly stated

Blank: missing in your response

<i>Stated</i>	<i>Implied</i>	<i>Validity of contract</i>
_____	_____	What is the applicable law? The law that applies for a contract involving the sale of goods is the UCC.
_____	_____	Rule: The Uniform Commercial Code ("U.C.C.") governs contracts for the sale of goods -- tangible personal property not affixed to real property -- while the common law governs all other contracts, including those for personal services.
_____	_____	Application: Here, the facts indicate that the deal in question is a handgun in exchange for money. A handgun is tangible and there is no indication that the handgun in question was permanently affixed to real estate.
_____	_____	Conclusion: The UCC will apply here because the contract concerns the sale of a good, the gun.
_____	_____	Was contract formed? A contract is a promise or set of promises for which the law will provide a remedy for its breach. A contract is formed when there is mutual assent, consideration, and no defenses to its enforcement. Mutual assent is where there is a valid offer that is accepted.
_____	_____	Rule: Offer is a commitment of intent to be bound by the promisor that contains the material terms of the offer, that is communicated to an identified offeree, that invites acceptance. The UCC states that the quantity is the only material term needed for an offer.
_____	_____	Application: Here we have Dealer showing pictures of a Union cavalry officer's handgun to Buyer directly, and offering to sell it to him for \$2000. This is a valid offer.
_____	_____	Rule: Acceptance is a commitment from the promisee to be bound to the terms of the offer that is communicated back by either promise or performance of promise.
_____	_____	Application: Here, the buyer promises to purchase the gun, and they shake hands in apparent agreement. This offer was accepted.
_____	_____	Conclusion: Valid mutual assent exists between the parties.
_____	_____	Rule: Consideration – a bargained-for exchange between the parties that produces a legal detriment. The bargained-for exchange is where the parties are each bargaining for something that they would like. The legal detriment occurs when the party either promises to do something that

they are not already legally obligated to do, or when they refrain from doing something that they are legally entitled to do.

_____ _____
Application: Here, Dealer is bargaining to give the gun to Buyer in exchange for a payment of \$2000. Dealer giving the gun to Buyer and Buyer paying the \$2000 is good legal detriment.

_____ _____
Conclusion: This is good consideration

Are There Any Defenses?

_____ _____
Defenses to enforcement: if the party can show a defense that is valid the Court will not enforce the contract.

_____ _____
Statute of Frauds – the statute of frauds requires tangible evidence that a contract exists to make it enforceable for some of the more easily imagined types of contracts. One of these types is a contract for the sale of goods for \$500 or more. The tangible evidence needed is a writing signed by the party to be charged, a partial performance on the contract, or a reasonable foreseeable detrimental reliance (promissory estoppel) on the contract. The writing must evidence the material terms of the contract and be signed by the party to be charged.

_____ _____
Application: Our tangible evidence in this case, would be the letter that was signed by the Dealer that states “Buyer: Because you backed out of our deal, I will not sell you the handgun.” This writing states that they did have a deal.

_____ _____
Conclusion: This would suffice to remove this contract from the statute of frauds and this would not succeed as a defense.

_____ _____
Anticipatory Repudiation – when one party unequivocally states that they will not perform their duties under a contract before performance is due that is an anticipatory breach.

_____ _____
Application: The issue here is whether Buyer was absolutely refusing to perform. He is just stating that he wants the gun examined by an appraiser first. He is not in definite terms stating he will not pay the money.

_____ _____
Conclusion: This is not definite enough language to be construed as an unequivocal refusal to perform.

_____ _____
Modification: a modification is when a party seeks to change the terms of an existing contract. The UCC treats a modification with new terms as a separate term that can either be accepted or rejected by the other party.

_____ _____
Application: Here, the buyer wants to add in a condition that the gun is examined before he will pay. When the Dealer becomes angry and says “A deal is a deal. I’ll expect my money when the handgun is delivered to you,” she is refusing outright to accept these terms.

_____ _____
Conclusion: Had the modification been accepted, if it was deemed to be out of good faith it would not require new consideration, but it was not

accepted so terms stay as is.

_____ Discharge of duties – when the party due to perform claims that they cannot because of an unforeseen event that has occurred.

Impossibility is when the party states that it is impossible for them to perform. This impossibility must be objective, to where no one in the world could perform the duty.

Impracticability is when the party claims that performance would give them a substantial hardship.

_____ **Application:** There are no facts to support impossibility defense. Here, Dealer does not want to perform because she now knows how much the gun is actually worth, so selling it for the contract price would limit her profit by 10x what she could get. While this loss is substantial, the party in a sale assumes the risk of a profit loss due to making a bad deal. This argument would not work to discharge her duties. It is likely that when Dealer refused to sell the gun and Buyer tendered his payment of the \$2000 that she was in breach.

_____ Mistake: the last chance Dealer would have to avoid the contract would be that she was mistaken as to the true value of the gun.

A unilateral mistake where only one party is mistaken will have no effect unless the other party knew or should have known of the mistake.

Mutual mistake where both parties are mistaken as to a material term of contract can make the contract voidable by either party.

_____ **Application:** Here, Dealer was the one selling the gun and Buyer was just someone she showed pictures to. His reluctance to purchase without an appraisal shows he did not know and probably didn't have reason to. If Dealer could assert that they both were mistaken as to the value of the gun, this could have the effect of making it voidable.

_____ **Conclusion:** She will be deemed, as an antique dealer, to have assumed this risk and it won't be successful.

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1)

Does Cafe (P) have an enforceable contract with Baker (D)?

What is a contract?

✓
+1 A contract is a legally enforceable agreement between parties. In order to form a contract there needs to be offer, acceptance, consideration, and performance.

1 **Governing Laws**

+1 UCC governs the sale of goods while Common Law governs the transactions of services and land. Goods under the UCC are all tangible and movable items. Merchants are sellers of specific items and those with special skills regarding said items. If an agreement involves both sale of goods and services a predominate factor test applies to determine the governing law.

+1 Here the common law applies because the agreement is for a service. The service being the D's service of pastry baking because of this the predominate governing law is common law. Both parties here are knowledgeable and have skills regarding their craft and goods, D is a renowned pastry chef and P is the sole proprietorship of a well known cafe, meaning they are both merchants. Because they both deal with goods UCC may also apply. However the predominate issue revolves around the service of D.

1 Therefore, common law applies.

1 **Formation**

1 Offer

+1 Offer is an outward intent seeking mutual assent between parties where terms are negotiated. Common Law requires all terms be specified: quantity, time, identified parties, price, and subject matter.

Here, P and D had engaged in extensive talks with one another regarding D working for P, this shows P's intent to hire D for the position of pastry chef. D is the first to initiate an offer when D sent a letter laying out the terms: work for two years, as the head pastry chef, for the annual salary of \$100,000, and parties identified (P and D). The term missing is the quantity but this is implied as the two years in exchange for the annual salary or can also be the employment itself.

Acceptance

Acceptance is the outward intent agreeing to be bound to the terms set forth in the offer. Common law requires mirror image rule of acceptance meaning the acceptance must match the manner the offer is made, any additional terms would constitute a counter offer voiding the parties agreement. *May/buy*

Here, on May 7th, P made their outward intent known when P called D stating the price term was "stiff." Although this is not an expressed rejection it was an outward intent that can be implied as a rejection. However, because this agreement is governed by common law an acceptance must mirror the manner in which it was offered. Thus, when P mailed their acceptance this was a mirrored acceptance.

Silence

Under the common law silence is cannot constitute acceptable.

Here, since P expressed a dissatisfaction with D's terms this may be seen as a rejection or counteroffer to pay less as this did not follow the mirror-image rule. If treated as a counter offer D did not accept the counter offer when stating, "I will not work for any less!" This makes P actions of mailing their acceptance an offer rather than an acceptance. Thus, under common law silence does not constitute an acceptance.

2 Rejection

- 1 A rejection can be made prior to the forming of the agreement.

Here, P sent their rejection my mail, which matched the mirror image rule, when they mailed their rejection on May 7th later that same morning. When parties spoke May 11, neither party was aware of their intents until P expressed their intent to no longer contract.

1 Mailbox Rule

- 41 Under the mailbox rule acceptance is made upon dispatch and revocation is accepted upon receipt.

- 1 Here, P sent a rejection first when P mailed the rejection letter on May 7th. Because D did not read the acceptance nor the rejection letter P may argue that the acceptance was made upon dispatch. However, P's intent was made clear prior to this interaction on their call on morning of May 7th.

2 Consideration

- 1 Consideration is a bargained for exchange of legal detriment, material benefit, or induce performance.
- 1 Here, the parties where bargaining D's services in exchange for P's payment of the services and the benefit of having a renowned pastry chef.

~~Therefore, there was no formation.~~

Performance

Once parties begin performance an agreement cannot be voided.

Here, the parties had not begun performance.

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Defenses

No Assent

Because P and D could not agree upon terms their assent was not manifested.

Detrimental Reliance

Here D and P where in extensive talks for the possibility of working together. During that time P relied on the possibility to form an agreement. The facts do not show if P gave up their right to inquire with other potential employees which is a deterrent to their business.

Statute of frauds

1. All agreements that would take longer than a year to be completed would need to be in writing.

2. Here D may have a statute of frauds defense as the work cannot be completed with-in a year.

No, P does not have an enforceable contract with D.

END OF EXAM

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2)

Buyer v Dealer

1 Contract

1 A contract is a promise, or set of promises, for breach of which the law will apply a remedy and performance of which the law will deem there to be a duty. A contract requires an offer, acceptance, and consideration.

1 Does the UCC or common law apply in this case?

The UCC applies to contracts that deal in the sale of goods. Goods are movable objects identified at the time of formation. The common law applies to all other contracts including the sale of services and sale of real property.

7 In this case, the UCC would apply because the parties are dealing with the sale of a handgun which is a good.

1 The UCC would apply in this case.

1 Is there a valid offer between the buyer and dealer?

1 An offer is the manifestation of an intent to enter into an agreement with another party. An offer must be definite in its terms and must be communicated to the offeree. An offer is definite if it includes the following: quantity, time of performance, identities of the parties, price, or subject matter. Under the UCC, a quantity must be described in an offer.

1 Certain terms can be left out because the UCC can act as a gap-filler for them such as time of payment and price. An offer is bilateral if it invites a promise as acceptance. The offer is unilateral if it invites complete performance as acceptance.

1 Here, the offer was communicated to the buyer because the dealer showed the buyer pictures of the handgun and they shook hands for its sale. The offer was definite because it was for the sale of one handgun, a price was given (\$2,000,) and a time of payment was given. The offer is satisfactory under the UCC because the quantity of the item being sold was known which is for one handgun. The offer is bilateral because there is a promise to pay upon delivery of the handgun.

1 There was a valid offer between the buyer and dealer.

1 Was there a valid acceptance for the sale of the handgun?

1 Under the UCC, acceptance can be given in any reasonable method unless it is specified by the offeror. Contracts for the sale of goods between a merchant and non-merchant that include any modifications will treat those modifications as proposals that the non-merchant party can accept. Merchants are those that deal in the specific good being sold or, through their occupation, have skills or knowledge that are specific to the business of the specified good. Silence would not be a valid acceptance unless there was a prior history of dealings that shows silence is an acceptable method of acceptance. Acceptance can be given through the mailbox rule if it is reasonable to do so. Under the mailbox rule, an acceptance is valid upon dispatch and a rejection is valid on delivery.

1 The dealer is a merchant because they operate an antique shop and deal in antique goods which the Union cavalry officer's handgun would be considered. It is unclear if the buyer is a merchant or not but they are likely a non-merchant because their conduct in making a

1 deal for an antique handgun without inspecting is likely not something that a merchant would do. The buyer would argue that they accepted the dealer's offer when they shook hands. The dealer would argue that the buyer backed out of the deal and that the subsequent letter and payment to the dealer is not a valid acceptance because the dealer specified that payment would only be valid under delivery.

There is not a valid acceptance of the dealer's offer.

1 Was there valid consideration between the dealer and buyer?

Consideration is the bargained for exchange of something of value between the parties.

1 Consideration can constitute a detriment by the offeree in exchange for the offeror's promise. A forbearance of a offeree's legal right or limitation of their freedom can constitute consideration.

1 Here, there was a bargained for exchange of something of value between the parties because in exchange for the handgun, the buyer was willing to pay \$2,000.

1 There was valid consideration between the dealer and buyer.

1 Can the dealer claim a defense under the statute of frauds?

The statute of frauds was adopted by courts in order to limit fraud arising from contracts

1 by having certain types of contracts be in writing. The following types of contracts must be in writing: contracts with consideration of marriage, contracts that cannot be performed within one year, contracts for sale of land, executorships, sale of goods over

- ✓ \$500, and suretyships. An exception exists if a written memorandum that describes the deal is signed by the party being charged between merchants.

1 In this case, the sale of the pistol was for \$2,000 which exceeds the statute of frauds requirement of the sale of goods over \$500. The parties shook hands on the deal to sell the handgun to the buyer but there was no evidence of a written contract for the sale of the handgun. However, the buyer would argue that the dealer sending the signed letter to him talking about their deal in addition with his letter containing a check for \$2,000 is enough to prove that there was deal between them for the sale of the handgun. The dealer would argue that because the buyer is not a merchant, the written memorandum exception would not apply.

The dealer would likely be able to claim a defense under the statute of frauds.

- 1 Can the dealer claim a defense under unilateral mistake?

2 A unilateral mistake occurs when one party makes a mistake as to a material fact of a contract and the non-mistaken party has reason to know or should have reason to know about the mistake. The unilaterally mistaken party can void the contract if they do not have the burden the material fact.

1 Here, the dealer would argue that there was a unilateral mistake as to the worth of the handgun because at the time of the offer the true value of the handgun was not known and was actually believed to be \$2,000. The dealer would not be able to argue that the buyer should have known about the mistake because the buyer did not have any reason to know about the true value of the handgun from only looking at the photographs. The buyer would argue that the dealer bore the burden of the mistake because the dealer should have discovered the handgun's true value before offering it for sale to the buyer

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1 The dealer would likely not have a defense under unilateral mistake.

4 Does the dealer have a defense under mutual mistake?

1 Mutual mistake occurs if there is a mutual mistake as to a material fact of a contract that would affect its performance. A mutual mistake will render a contract voidable.

The adversely affected party can choose to void the contract.

The dealer would argue that both parties were mistaken because

Can the dealer claim a defense of unconscionability?

A contract can be voidable as a result of unconscionability if performance of the contract would put the adversely affected party in a worse condition than they were in before.

The dealer would argue that it would be unconscionable for a court to enforce performance of the dealer's original offer because the dealer would lose out on \$18,000 if they were forced to sell the handgun for \$2,000. The dealer would also argue that the buyer would be unjustly enriched because they would be able to have the handgun appraised for its true value of \$20,000 and be able to sell it for that amount at the detriment of the dealer.

The dealer would likely have a defense under unconscionability.

The buyer would likely not prevail against the dealer.

END OF EXAM
