

Question 1 – 50 Points

<p>Paula: Consideration is present; I would go to law school and Donald would pay tuition.</p> <p>Donald: It is true that I was trying to persuade her to go to law school but her going to law school was just a condition that had to be satisfied before I could make my gift – after all, you can't pay tuition for someone NOT going to school.</p>	6	
<p>Paula: Even if that was a gift, there was clearly bargained for consideration when you said you would provide a car if I could save \$2000 – you were seeking to induce me to save and I did so there was bargained for exchange.</p> <p>Donald: Again, just a gift on my part of all but the \$2000; the condition on the gift was that you save, but only because I was only willing to give a gift equal to \$2000 less than the cost of a new car.</p>	5	
<p>Donald: Even if the promise of a car is enforceable, the promise was modified when I said it would have to be a used car and you agreed to that modification.</p> <p>Paula: There was no consideration for that modification since you were going to do less and I would have to do the same (save \$2000); since modification requires consideration, the modification is not enforceable.</p>	4	
<p>Paula: Even if no consideration, when you offered to pay tuition you could reasonably foresee that I might rely upon it by undertaking to go to law school and justice requires that your promise be enforced.</p> <p>Donald: Even if the court would find that you were reasonably and foreseeably relying upon my promise of tuition, you knew, before you spent any money on law school tuition, that I was not going to pay your tuition, so you suffered no reliance damages that can be compensated on a theory of §90.</p>	6	
<p>Paula: Well I did rely on your promise of a new car – I gave up a lot of things that I would have liked to have to save up that money and that reliance was certainly foreseeable and justice requires that your promise be enforced.</p> <p>Donald: But you were benefited by your saving money, not hurt by it – it is only detrimental reliance that supports enforcement of a promise under §90 and you didn't suffer that kind of detrimental reliance when you saved money.</p>	5	
<p>Paula: Even if initial promise of a new car was an unenforceable gift, you promised me in May a used car in exchange for my saving \$2000 and you have breached that promise.</p> <p>Donald: But you had by then saved up the \$2000 so you were not making a promise to undertake any additional detriment – this was past consideration and doesn't support enforceability of my promise even if this wasn't a gift promise, which I think it was.</p>	5	
<p>Paula: If there is consideration supporting your promise of tuition, I am entitled to three years of tuition since that is a reasonable understanding of your promise and I am entitled to expectation.</p> <p>Donald: Principles of mitigation required that you not increase my damages after you knew I was breaching – so at most you are entitled to one year of tuition and expenses, assuming that you were obligated to pay that one year before I told you I was breaching.</p>	5	
<p>Donald: Assuming that my promise is enforceable only because of §90 reliance, at most you could be awarded one year of tuition, assuming that you were legally obligated to one year before I told you that I wasn't going to pay your tuition and expenses.</p> <p>Paula: Expectation is the appropriate remedy and three years of tuition and expenses are my expectation – going just one year would have represented a loss of one year of my life so completing my legal education is the appropriate course for me to take and mitigation does not require that I take any other course of action; I may be limited to out-of-pocket expenses if sole theory of enforceability if §90.</p>	5	
<p>Donald: If I breached an enforceable promise of a car, your damages are limited to value of a used car not a new car; since I never identified the kind of car, damages are too speculative to be awarded.</p> <p>Paula: The modification is not enforceable so I am entitled to value of a new car – I can introduce evidence of the kind of car you drove, the kind of car other parents give their kids, the average price of new cars, etc. to defeat your argument of speculativeness.</p>	4	
Miscellaneous Points	5	
Total Raw Score Question 1		50

Comments:

Question 2 – 50 Points

<i>If Seller Completes Manufacture</i>		
For Buyer: If Buyer buys memory (cover under 2-612) Buyer under 2-712 could sue for the difference between the cover price and the contract price – on these facts, the difference between \$15 per board and \$10 per board yielding damages of \$5 X 1000 or \$5000.	5	
For Seller: Common Law principle of mitigation embodied in rule that you can complete only if commercially reasonable should not allow for damages which involve completion of the computers after we told Buyer that we weren't going to perform since you had an "out" from your contract with LDC.	5	
For Seller: If completed computers would not be sellable in the market because of the older form of memory, it is not reasonable to complete manufacture.	5	
For Buyer: Our choice was to complete by paying \$5 more per board or losing \$25 per computer if we didn't complete and it was a commercially reasonable choice to complete.	5	
For Buyer: Principle of expectation embodied in 2-712 and stated in 1-106 says we should be put in position we would have been if contract had been performed. If we buy the memory at market but collect the cover/market damages from Seller, we end up with the profit we expected we would make.	5	
<i>If Seller Does Not Complete Manufacture</i>		
For Buyer: UCC 2-713 allows us to sue for the difference between market price when we learned of the breach (\$15) and the contract price(\$10) or \$5 X 1000 or \$5000; in addition we could sue for our lost profits as consequential damages under 2-715(2) (\$5000) since it was a reasonably foreseeable loss caused by the breach.	5	
For Seller: Yes, you could sue under UCC 2-713 but you couldn't get your consequential damages under 2-715(1) because they could have been avoided by cover.	5	
For Buyer: Even if I could not get consequential damages on the ground that the losses were avoidable by cover, I can collect my reliance losses of \$25 X 500 (difference between money spent for manufacture so far and the scrap value of the 500 computers) which is an additional \$12,500 in damages.	5	
For Seller: No, the UCC has no such damage theory; instead it gives you your damages under 2-713 and, if they had been available, your damages under 2-715. In any event, common law principle is that you shouldn't do better under a reliance theory than you would under an expectation theory.	5	
Miscellaneous Points	5	
Total Raw Score Question 2	50	

 Comments: