

RAW SCORE _____ EXAM GRADE _____ EXAM # _____

Contracts Examination Spring 2004 Grading Form

Question 1 – 40 points

•Sarah's Analysis which leads to enforceable contract for \$200		
Advertisement was an invitation to deal, not an offer	4 pt	
Rocks' e-mail was an offer in response to my invitation to deal	4 pt	
My call was a counteroffer because the terms were different than the offer	4 pt	
Rocks' OK was an acceptance of my offer of being paid for 4 hours with 3 continuous hours of music	4 pt	
Even if the ad was an offer, e-mail not an acceptance because not mirror so deal was made on telephone	4 pt	
•Rocks' analysis supporting no contract or, at most, contract for \$150 for 3 hours of music		
Our e-mail accepted the offer in ad – music at date of our choosing for hours of our choosing for \$50/hr	4 pt	
There was an attempted modification by Sarah of our contract during conversation – since not supported by consideration, not effective and contract remains 3 hours @ \$50/hr	4 pt	
Alternatively: our e-mail was offer and Sarah, in telephone call, accepted our offer and then wanted to modify our contract; again, no consideration for that modification.	2 pt	
Alternatively: Telephone call shows that we had made a mistake in our understanding – even if that is a unilateral mistake, there was no reliance on it by Sarah and therefore court should not enforce.	4 pt	
Alternatively: There was fraud in the inducement to enter the contract – ad was purposefully misleading	2 pt	
*Misc	4 pt	
Total (of 40)		

Question 2 – 40 points

UCC is applicable law because this contract involves a sale of goods	4 pt	
HiTrek argues S/F not satisfied but LLLC points to Nancy's e-mail with quantity as satisfying 2-201 for the 20 treadmills mentioned in it but LLLC must admit 2-201 bars enforcement of computer part of deal	4 pt	
LLC argues anticipatory breach in August 4 telephone call under 2-610	4 pt	
HiTrek argues 2-615 impossibility excuse and LLLC responds risk clearly assumed by HiTrek	4 pt	
HiTrek says LLLC covered for 10 at lower than contract cost so no damages for those 10	4 pt	
LLC says did not cover at all and HiTrek breached and damages are payable under 2-713	4 pt	
HiTrek says market price on August 4 was \$5,500, on August 15 was \$6,000. My breach was clear and LLLC should have covered on Aug 4 or, at least Aug 15 was end of reasonable time to wait for retraction so damages under 2-713 should be limited to \$500 or, at most, \$1,000 per machine	4 pt	
LLC argues that it was reasonable to wait until performance date so 2-713 damages of \$2,000 * 20	4 pt	
LLC argues for consequential damages under 2-715(2) measured by loss of expected profit; HiTrek argues (1) you should have covered so no consequential damages (2) no cause and effect can be proved and (3) damages are too speculative	4 pt	
•Misc	4 pt	
Total (of 40)		

Question 3 – 40 points

•Is the duty delegable from Subcontractor B to Subcontractor A		
Subcontractor A argues (1) agreement says it is (2) it is not personal service (3) no adverse effect on Jim	4 pt	
Jim argues that (1) agreement only means assignment of rights, not delegation of duties; (2) there is an adverse affect on his contract rights; (3) unjust to end up with lesser job for higher price	4 pt	
•If delegation is breach, suit against Subcontractor B		
Jim argues can sue Subcontractor B for nonperformance with damages measured by cost of using subcontractor C	4 pt	
Subcontractor B argues that this is not reasonable because not comparable substitute contract	4 pt	
•If delegation is not breach, what price contract?		
Jim argues appropriate contract price is the Subcontractor A bid	4 pt	
Subcontractor A says I get the same contract rights that Subcontractor B had	4pt	
•If Subcontractor A's performance is not "as good as B"?		
Jim argues that he is an intended third party beneficiary of A's promise of a job "as good as B"	4pt	
Subcontractor A argues that Jim is only entitled to a performance equal to industry standard	4 pt	
Jim argues he can still sue Subcontractor B if Subcontractor A's performance is not equal to B's expected performance (in addition to Jim's suit against A on a third party beneficiary theory).	4 pt	
•Misc	4 pt	
Total (of 40)		

COMMENTS: