

Empire College School of Law
Professor Illsley
Contracts – Fall 2010 Midterm

QUESTION 1

Student #:

Points:

Issue/Analysis

Common Law (service)

9/1vm from P: Offer? (prob not)

9/2 vm from B: Acceptance? (can't be if no offer from P)

9/2 fax from B: Offer? (specific enough?- details "to be agreed")

9/20 rumor: Indirect revocation of offer (if one was made)?

9/20 fax from P: Acceptance of 9/2 offer? (Only if 9/2 was an offer and 9/20 was not indirect revocation). If not acceptance, is this fax the offer (incorporating the arbitration clause)?

9/21 fax from P: If already acceptance, this is offer for modification—preexisting duty rule problem? If not, this offer supersedes prior offer – but no consideration to keep open for 72 hours. Revoked by P's 9/22 fax.

9/22 fax from P: If already acceptance, this is threatened breach. If not already acceptance, is this enough for duress?

WRITING STYLE & ORGANIZATION

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QUESTION 2

Student #:

Points: Issue/Analysis

UCC. Priscilla deemed merchant through Becky

Oral contract on telephone.

WS faxes confirming memo – 2207. Does NOT contain expressly conditional language- contract formed.

Statute of Frauds defense for Priscilla? No -- merchant's confirming memo without objection within 10 days. Alternate argument – liable for extent of goods actually delivered.

Is the 11/10 delivery date part of contract? Parol evidence rule. Integration clause part of contract under 2207? Even if yes, would court still say this was completed integrated? Oral agreement offered to supplement, not contradict, writing.

Trade usage available to supplement agreement even if completed integrated.

If the 11/10 delivery date is part of the contract, was clause allowing WineSnob to change it part of contract? Clause part of contract between merchants unless (a) material alteration? (not if truly a customary clause (b) notification of objection within reasonable time (yes)

WRITING STYLE & ORGANIZATION