

Commercial Law II -- Final Exam
Capital University Law School -- Spring 1990
Professor Ferriell B Sections A & M
3 Hours

INSTRUCTIONS

READ THESE INSTRUCTIONS -- BUT DO NOT READ BEYOND THE INSTRUCTIONS UNTIL SPECIFICALLY INSTRUCTED TO DO SO. FAILURE TO FOLLOW THIS OR ANY OTHER INSTRUCTION WILL LEAD ME TO QUESTION YOUR ABILITY TO FOLLOW STATUTORY RULES AND MAY RESULT IN AN ADVERSE IMPACT UPON YOUR GRADE.

1. This is a three (3) hour exam consisting of thirty (30) multiple choice questions and two (2) essay questions.

2. The multiple choice questions are worth 3.3 points each for a total of 99 possible points. Essay question 1 is worth 100 possible points. Essay question 2 is worth 100 possible points.

3. Your grade for the course will be determined by your performance on this final exam, except as adjusted, as indicated in the course syllabus, due to your attendance or quiz performance.

4. I strongly encourage you to spend 1 hour (60 minutes) on the Multiple Choice Questions and 1 hour (60 minutes) on each of the two essay questions.

5. **ESSAY QUESTIONS.** On the essay questions, limit your answers to a maximum of four (4) pages for each question. A "page" according to Webster, is "one side of a leaf in a book." Leave the customary margins and do not write more lines than the number of lines printed on the page. I will not read and you will not receive credit for anything written beyond these limits. Put your exam number on your bluebook.

6. **MULTIPLE CHOICE QUESTIONS.** Pick the best answer from among the four alternatives given for each question. Place your answers to multiple choice questions on the multiple choice answer sheet provide with the exam. **NOTE:** No additional time will be available, at the end of the exam, for you to place your answers an the multiple choice answer sheet. Therefore, you should mark your answers on the answer sheet as you work your way through the multiple choice questions.

Place your exam number on the multiple choice answer sheet -- NOW!

7. If you need to leave the room during the exam due to illness (including nicotine addiction) or incipient incontinence **YOU MUST LEAVE ALL OF YOUR EXAM MATERIALS IN THE ROOM IN WHICH YOU ARE TAKING THE EXAM.** Failure to follow this rule will

result in my collecting your bluebooks and multiple choice materials and basing your grade on your performance up to the time that I collected your materials.

PLEASE CONTINUE READING THE INSTRUCTIONS ON THE NEXT PAGE

8. You may have with you and may use during the exam your copy of the West's Selected Commercial Statutes. It may contain annotations made by you in the ordinary course of class preparation. Annotations made in your handwriting in the margins of code sections discussed in class, included on the syllabus, or mentioned in the text will be rebuttably presumed to have been included in the ordinary course of class preparation. Annotations made in the inside covers, on blank pages at the beginning or end, or on pages not originally included by the publisher, or not in your handwriting, will be rebuttably presumed to have been made outside the ordinary course of class preparation and may thus be in violation of this rule and of the honor code.

You must not have other written materials with you in the examination room.

9. When the time allocated for the exam is over, stop writing immediately! Failure to follow this instruction will result in a sanction of 30 points taken away from your score on the examination.

10. When the exam is over turn in all of your examination materials, including your bluebooks, your essay questions, your multiple choice answer sheet, your multiple choice questions, and any scrap paper you used during the exam in the appropriate box at the front of the room. Violation of this rule will be treated by me as a violation of the Honor Code.

11. You must not talk to anyone about the exam or your impressions of the exam until students in Section M have finished taking the exam at 9:30 p.m. on Wednesday, May 9, 1990. Even then you should take care not to discuss the exam within listening range of anyone who might have had to reschedule the exam due to a conflict.

12. Failure to follow any of these instructions will leave lie with the impression that you are unable to read and understand statutory material and therefore will reflect adversely on your grade on the exam.

13. I will not answer any questions about the exam once it has started. However, if you "freeze" or are otherwise unable to continue, please see me outside the exam room or in my office and I will do my best to calm you down and get you started. If you find a question ambiguous or difficult to answer because of what you believe is a typographical or other error on the exam itself, answer the question as best as you can. After the exam is over, notify me of the ambiguity or possible mistake in a way which will not reveal which exam is yours.

14. If you have not done so already, place your exam number on the multiple choice answer sheet and on the front cover of your bluebook.

15. Good Luck!

STOP HERE
DO NOT TURN THE PAGE UNTIL SPECIFICALLY INSTRUCTED TO DO SO

ESSAY I -- 100 POINTS

LIMIT YOUR ANSWER TO THREE (3) PAGES IN A BLUEBOOK

Sally Signer sent the following message to Ace Finance Company, whom she owed \$5,000, for delivery to her Uncle Mortimer:

Dear Uncle Mortimer: Please pay the \$5000 you owe me to Ace Finance Company, or its assigns, right away.

Your faithful niece,

/s/ Sally Signer

Upon receipt, Ace Finance contacted Sally by phone and indicated its refusal to deliver the message to Uncle Mortimer unless Sally got someone else to agree to sign along with Sally. Ace therefore returned the message to Sally. Sally then convinced her friend, Guy Gallahad, to sign under her name. Guy wasn't sure why Sally needed his signature on a message to her uncle, but because he was very much enamored of Sally and wanted to impress her with his courtesy, he signed, as Sally requested, immediately below Sally's signature. Sally then sent the message to Ace Finance Company a second time.

Upon receipt of the message, Ace Finance indorsed it "without recourse Ace Finance Co." and, in exchange for \$4,000, delivered Sally's message to Friendly Factor Company, a firm that specializes in buying odd forms of commercial paper at a substantial discount. Friendly wrote the words "pay to Friendly Factor Company" above Ace's indorsement.

Before Friendly Factor had the chance to deliver the message to Uncle Mortimer, however, Roy Robber broke into Friendly Factor's locked safe and stole all of its business papers, including Sally's message to Uncle Mortimer. Roy, who had once taken a course in commercial paper, immediately recognized the significance of Sally's message to her Uncle and wrote "pay to Roy Robber" on the back of the instrument before stamping it with the "Friendly Factor Co." signature stamp he also stole from Friendly's safe.

Roy subsequently managed to sell the message to Ivy Innocent for \$3500 when Roy told her that it was an investment bond that might eventually pay as much as its face amount of \$5,000. Ivy gave the message to her boyfriend, Ned Naive, who agreed to take the message to Uncle Mortimer and demand payment.

Uncle Mortimer called Sally, when Ned demanded payment, and after Sally confirmed that she wanted Mortimer to pay \$5,000 to whomever Ace had instructed, Mortimer complied and handed Ned the \$5,000 in cash. Ned later gave the money to Ivy.

DRAFT A MEMO ANALYZING THE RIGHTS, IF ANY, OF UNCLE MORTIMER AND FRIENDLY FACTOR COMPANY.

ESSAY II -- 100 POINTS
LIMIT YOUR ANSWER TO THREE (3) PAGES IN A BLUEBOOK

Believing she had won \$3,000,000 in the May 2, Ohio State Lottery drawing, Lilly Lotto went on a shopping spree in her home town, Columbus, to celebrate.

She first went to "Travel Unlimited" and purchased a new set of luggage for \$1000, paying for the luggage by check. Because Lilly was unsure whether she liked the color of the luggage, though, Lilly postdated the check to May 5.

She also purchased a new sofa and living room chair, from Capital Department Store, located in Columbus, Ohio, for \$2000, paying for the furniture with her Citywide Department Store credit card.

Lilly then went to "Stereo Heaven" and bought a new stereo, with wall size speakers, for \$5,000, paying for the purchase by check. She post dated this check to May 15, because she was afraid she wouldn't receive any of her lottery winnings for ten days.

Her next purchase was at the Pop-Funk Record Store where she used her First Bank "Convenient Shopping" card to pay for \$300 worth of CD's through the point of sale electronic fund transfer terminal at the store.

When she arrived home Lilly logged onto her computer and used the electronic shopping service sponsored by First Bank, to order a new large screen television from 120th Street Appliance Store in New York City, paying the \$1500 price with her First Bank credit card.

After she finished hooking up her new stereo Lilly re-examined her lottery ticket and discovered, to her dismay, that she had misread the ticket. Because she missed one of the six "big bucks" lottery numbers her winnings would amount only to \$2,000.

Lilly quickly called First Bank, where she kept her checking account and attempted to stop payment on her checks to Travel Unlimited and Stereo Heaven, giving the Bank all of the information about the check that it requested.

She also wrote a letter to First Bank purporting to refuse payment for the records, and the large screen TV. Finally she called Citywide Department Store and told them she didn't want the furniture anymore.

When she finished this flurry of activity she decided to at least try out the stereo and new CD's. She enjoyed the music so much that she fell asleep until, after only a few hours of music, the

stereo blew up, causing \$1,000 damage to her home and destroying the 10 CD's that were in the stereo system's CD player at the time of the mishap.

Unfortunately the assistant bank manager who took Lilly's phone call when she tried to stop payment was rushed to the hospital with a heart attack immediately after hanging up on the phone with Lilly. In all of the confusion, Lilly's stop order was never properly recorded in the bank's computer and when Lilly's checks were presented on May 4, they were both paid.

Neither First Bank, Citywide, nor any of the other merchants Lilly dealt with are interested in rescinding the transactions with Lilly or giving her any of her money back.

DISCUSS LILLY'S RIGHTS AND LIABILITIES REGARDING EACH OF HER PURCHASES.

IF YOU HAVE NOT DONE SO ALREADY, PLACE YOUR EXAM NUMBER ON YOUR BLUEBOOK

MULTIPLE CHOICE QUESTIONS BEGIN ON THE NEXT PAGE