CONTRACTS Fall, 1995 Professor Turack Evening Division

INSTRUCTIONS

- 1. You are NOT to use any notes or books including a copy of the U.C.C. during the course of the examination.
- 2. Study and analyze each question with care before you write. Irrelevant prolixity is undesirable.
- 3. If additional facts appear to be necessary in answering a question, state your assumptions and answer the question both with and without the assumptions.
- 4. Write legibly in pen. Number each of the questions in your blue book. Answer the questions in any order.
 - 5. The value of each question is in the left margin.
- 6. When you are giving a reference to the U.C.C. state the section by number, e.g., 2-2091(1) and paraphrase or describe only the portion of that section which you think is relevant. Do not give me a section number alone. Do no write out the entire section unless you intend to describe it entirely as being relevant.
 - 7. Time: You have 3 hours to answer these questions.
- 8. You may use the back of your examination questionnaire to plan your answers, Keep the questionnaire.

GOOD LUCK!

Question # 1:

Romeo Montague married Juliet and they lived happily for a year until he was struck by a car. The doctors told Juliet that it was unlikely he would recover and that he would probably live for a few days at best. That night, worried, Juliet searched through their family papers and discovered that her father-in-law, Vern Montague, was still named as beneficiary in Romeo's will. The next morning, she obtained a change-of-beneficiary form from the insurance agent and took it to the hospital, hoping to catch Romeo in a lucid moment and have him sign it. Outside of Romeo's

hospital room, Juliet ran into Vern Montague, and she told him about her plan. He was horrified, saying that bothering Romeo about death benefits at this moment would certainly hasten his end. Vern added that if she would forget changing the beneficiary, he would pay the insurance money over to her when he received it. Relieved, she agreed. Ten minutes later, Romeo died. When Vern received the insurance money, he told Juliet that he had never liked her and that he was particularly upset that she would extort a promise out of him by using the ugly threat of killing his son. He refused to give her the money and she sued. How should this come out? Why?

Question #2:

When his car broke down the night before he had to drive 80 miles to the big game, Coach Pigskin of Football University was frantic. He phoned his next door neighbor, Al, who owned a repair shop and who always performed the coach's repair work, and asked Al if he could do an emergency repair, "for a friend in need who must get to the football game." Al agreed to try to help, and after working on the car for four hours, he put it in running condition. Coach Pigskin's team won the game, and when he returned home, he told Al that he would pay him \$400 for his work done the night before. The two friends had never discussed payment at the time of the repair, though Al had always charged the coach for previous repair work. Al agreed to the \$400 figure, and they shook hands on the deal. Later, Coach Pigskin decided the work was worth only \$100, and he refused to pay more. If Al sues, what amount, if any, can he recover? Why?

Question #3:

Rio Grande Pickle Company is a corporation engaged in the business of raising and selling cucumbers for the pickling industry. It sent Moto a written offer in April, 1994, to act as supervisor of the planting and growing operations. In order to encourage Moto to work with zeal and not to leave the company's employ, the company orally agreed to pay Moto a salary of \$250 per week plus a bonus of 10% of the company's annual profits. Moto told the president of Rio Grande that she wanted the agreement in writing, and the president replied, "I will prepare one and send you a contract in writing."

Under the terms of the unsigned contractual documents, sent to Moto in April, 1994, it called for Moto to devote her best efforts to Rio Grande and promised in return that the company would pay her a bonus amounting to 10% of the company's net profits for each fiscal year. Moto was to agree to return half of her bonus to the company as an investment in company stock. Moto signed the contractual documents and put them into her bedroom desk drawer, Moto worked for the Rio Grande Pickle Company until October, 1995, during which time she did not express dissatisfaction with her compensation. She left the Company without any bonus and now claims that the Company owes her the bonus. Fully advise the president of the Rio Grande Pickle Company about the Company's and Moto s rights.

Question #4:

George Murphy was in the state interviewing prospective management personnel for his Chevrolet-Oldsmobile dealership in Hawaii. He interviewed M'Intosh twice during his stay, in April 1994, M'Intosh received a call from the general manager of Murphy Motors informing him of possible employment within thirty days if he was still available. M Intosh indicated that his interest continued and informed the manager that he would be available.

Later in April 1994, M'Intosh sent Murphy a telegram to the effect that he would arrive in Honolulu on Sunday, May 1, 1994. Murphy then telephoned M Intosh on Saturday, April 30, 1994 to notify him that the job of assistant sales manager was open and work would begin on Monday, May 2, 1994. At that time, M Intosh expressed surprise at the change in job title from sales manager to assistant sales manager but reconfirmed the fact that he was arriving in Honolulu the next day, Sunday. M Intosh arrived on Sunday and began work on May 2, 1994.

As a consequence of his decision to work for Murphy, M`Intosh moved some of his belongings from the mainland to Hawaii, sold other possessions, leased an apartment in Honolulu and obviously forwent any other employment opportunities. In short, M Intosh did all those things which were incidental to changing ones residence permanently from the state on the mainland to Honolulu, a distance of approximately 3,500 miles.

M'Intosh continued to work for Murphy until July 16, 1994, at which time he was discharged on the grounds that he was unable to close deals with prospective customers and could not train the sales ladies.

M'Intosh tells you that the contract was for one year while in George Murphy's deposition, he states that the contract was employment-at-will.

What will each party argue? What result? Why?