

**CONTRACT LAW FOR PARALEGALS
TRADITIONAL AND E-CONTRACTS
First edition**

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TEST ITEM FILE

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CHAPTER 1
NATURE OF TRADITIONAL AND ONLINE CONTRACTS

TRUE/FALSE QUESTIONS

Definition of a Contract

1. The person who makes an offer to enter into a contract is the “offeree.”
F [easy]
2. The fact that a contract is legally enforceable means that the police can be called to make the other party live up to the terms of the contract.
F [easy]
3. There must be at least three parties in order for a contract to be valid.
F [easy]
4. In order for an offer to be valid, an offeror must promise to undertake some affirmative action.
F [moderate]
5. Two of the four basic contract requirements are agreement and signatures of the parties.
F [easy]
6. In the early days of our nation’s history, contracting was largely left up to the individual parties with little government regulation or oversight.
T [moderate]
7. A contract may be enforceable by a court of law or equity.
T [easy]

Sources of Contract Law

8. The federal common law of contracts is the most important common law source, with state common law relative to contracts filling in gaps in the federal common law.
F [moderate]
9. There is some variation in contract law from state to state.
T [easy]
10. The Uniform Commercial Code is a source of contract law that has been adopted by only a minority of the states.
F [easy]

11. The Restatement of the Law of Contracts is the highest priority source of contract law.
F [easy]
12. The Uniform Information Transactions Act was passed by Congress in 1999.
F [moderate]
13. Under the modern law of contracts, there is substantial government regulation of the right to contract.
T [moderate]

Classifications of Contracts

14. Offers for both bilateral and unilateral contracts involve a promise by the offeror.
T [moderate]
15. An offer for a unilateral contract cannot be accepted by a mere promise to perform.
T [easy]
16. An offer for a unilateral contract can always be revoked at any time prior to the offeree's completion of the requested act.
F [moderate]
17. One requirement of an express contract is that it be in writing.
F [moderate]
18. An implied-in-fact contract is one based on the conduct of the parties.
T [moderate]
19. The objective theory of contracts is judged by the reasonable person standard.
T [easy]
20. Quasi-contracts and implied-in-law contracts are two terms for the same situation.
T [easy]
21. Quasi-contract law attempts to prevent unjust enrichment where no contract actually existed.
T [easy]
22. A contract is created regardless of the offer being accepted or not.
F [moderate]

23. A 1-year lease for an apartment that is 12 pages long, printed, covers all details of the parties' obligations, and contains the dated signature of each party is a formal contract.

F [moderate]

24. A voidable contract is one that neither party can perform.

F [moderate]

25. A contract remains executory as long as any party to the contract has not fully performed.

T [moderate]

Equity

26. Equity courts, whether separate or merged into law courts, can decide contract disputes.

T [easy]

27. The United Nations Convention on Contracts for the International Sale of Goods applies to any contract that involves a buyer and seller in different nations.

F [easy]

MULTIPLE CHOICE QUESTIONS—LEGAL CONCEPTS

Definition of a Contract

28. Which of the following is an equitable doctrine designed to prevent unjust enrichment and unjust detriment where no contract exists?

- a. An express contract.
- b. The doctrine of formal contracts.
- c. Implied-in-law contract.
- d. Quantum meruit.

C [easy]

29. Which of the following is **not** characteristic of a valid contract?

- a. It can be viewed as private law between the parties.
- b. The parties must have the contract's terms approved by the appropriate court.
- c. A court will enforce its terms if the parties do not voluntarily perform.
- d. It will have at least two parties.

B [moderate]

30. Every contract has both:

- a. A buyer and seller.
- b. An offeror and offeree.
- c. A breaching party and a nonbreaching party.
- d. An initiator and a responder.

B [easy]

31. To create an enforceable contract, which of the following is(are) needed?

- a. Agreement.
- b. Agreement and consideration.
- c. Agreement, consideration, and contractual capacity.
- d. Agreement, consideration, contractual capacity, and a lawful objective.

D [moderate]

32. Which of the following is **not** needed in order to have a valid contract?

- a. Contractual capacity.
- b. An agreement.
- c. A signed written document.
- d. Consideration.
- e. A legal object.

C [easy]

33. Which of the following are valid informal contracts?

- a. Leases.
- b. Sales contracts.
- c. Service contracts.
- d. All of these are correct.

D [moderate]

34. How has the government role in contract regulation changed since the founding of the United States?

- a. There is greater state and federal government involvement today than in the past.
- b. There is less state and federal government involvement today than in the past.
- c. There is approximately the same degree of state and federal government involvement today as in the past.
- d. There is less state, but more federal involvement today than in the past.
- e. There is less federal, but more state involvement today than in the past.

A [easy]

Sources of Contract Law

35. Common law as a source of law for contracts:

- a. Comes primarily from federal law.
- b. Comes exclusively from state law.
- c. Comes exclusively from federal law.

- d. Comes primarily from state law.
 - e. Comes equally from state and federal law.
- D** [easy]
36. The Uniform Commercial Code was first drafted in:
- a. 1910.
 - b. 1933.
 - c. 1945.
 - d. 1952.
 - e. 1976.
- D** [easy]
37. The Uniform Commercial Code has been adopted by:
- a. Fewer than half of the states.
 - b. Most, but not all, states.
 - c. At least in part by all states.
 - d. In its entirety by all states.
- C** [easy]
38. The original source of the Uniform Commercial Code was:
- a. The U.S. Constitution.
 - b. Congress.
 - c. The state legislature of Delaware.
 - d. The United Nations.
 - e. The National Conference of Commissioners on Uniform State Laws.
- E** [easy]
39. Which of the following best describes the Restatement of the Law of Contracts?
- a. It is the supreme legal authority for contract law.
 - b. A law which has been adopted, at least in part, by every state.
 - c. A summary of the constitutional provisions affecting contract law.
 - d. A compilation of contract law that is not itself contract law, but is often referred to by judges.
- D** [easy]
40. What is the name of the act recently drafted by the National Conference of Commissioners on Uniform State Laws in response to the growth in business conducted over the Internet?
- a. The Uniform Computer Information Transactions Act.
 - b. The Standard Internet Commerce Act.
 - c. The Uniform Computer Transaction Code.
 - d. The New Millennium E-Commerce Act.
- A** [moderate]
41. What is the purpose of the Uniform Computer Information Transactions Act?
- a. To ensure that credit card companies process transactions promptly.

- b. To establish uniform rules for the formation and enforcement of electronic contracts and licenses.
- c. To convert existing contract law so that all contracts are interpreted as if they were negotiated over the Internet.
- d. To provide consumers certain rights in their contracts with Internet service providers.

B [easy]

Classifications of Contracts

42. Which of the following is true in a unilateral contract?

- a. The offeror requests an act as acceptance of his offer.
- b. The offeror cannot revoke the offer once the offeree has begun performance or has substantially completed performance.
- c. The offeror will treat either a promise to perform or the actual performance of the act as acceptance of his offer.
- d. A and B only.
- e. B and C only.

D [moderate]

43. The terms “bilateral” and “unilateral” as applied to contracts are based on:

- a. The number of parties in a contract.
- b. The number of attempts made to form a contract.
- c. The number of parties who make a promise in the formation of a contract.
- d. The number of promises that are made in connection with a contract.
- e. The number of attempts it took for a contract to be successfully performed.

C [difficult]

44. An offeree can form a contract by making a promise if the offer to form the contract is:

- a. Bilateral.
- b. Unilateral.
- c. Trilateral.
- d. Either A or B.

e. Neither A, B, nor C.

A [moderate]

45. A contract is formed by the performance of the requested act in what kind(s) of contract?

a. Bilateral.

b. Unilateral.

c. Both A and B.

d. Neither A nor B.

B [moderate]

46. When can an offer to form a unilateral contract be revoked?

a. Before the offeree begins performance.

b. After the offeree begins performance, but before the performance is completed.

c. After completion of performance.

d. Both A and B.

e. A, B, and C.

A [moderate]

47. What is the common name for an agreement to protect one from having others disclose confidential information or ideas?

a. A proprietary secrecy agreement.

b. A silence or be-penalized agreement.

c. A mute thoughts agreement.

d. A hold-information-close agreement.

e. A nondisclosure agreement.

E [easy]

48. What is required for a contract to be an express contract?

a. It is stated in words.

b. It is written.

c. It is written and signed.

- d. It is performed immediately after formation.
- e. It is performed for mutual benefit.

A [moderate]

49. What kind of contract is based on the conduct of the parties?

- a. Express.
- b. Action-oriented.
- c. Implied-in-fact.
- d. Implied-in-law.
- e. Quasi-contract.

C [moderate]

50. Which of the following is **not** a basic requirement to be an enforceable contract?

- a. There must be an agreement between the parties.
- b. The promise must be supported by a bargained-for exchange.
- c. The parties must have contractual capacity.
- d. The parties need not have assent.
- e. The object of the contract must be lawful.

D [moderate]

51. Which of the following does **not** need to be proven by a plaintiff who is claiming that an implied-in-fact contract exists?

- a. The plaintiff provided property or services to the defendant.
- b. The plaintiff and defendant communicated with each other about the property or services.
- c. The plaintiff expected to be paid by the defendant for the property or services and did not intend to provide the property or services gratuitously.
- d. The defendant was given an opportunity to reject the property or services provided by the plaintiff but failed to do so.

B [difficult]

52. In the case in the text where an author discussed an idea for a book on strategy for the board game *Scrabble*, what was the outcome of the case?

- a. Because there was no express contract, there was no basis for the author to recover.
- b. The court found that an **implied-in-fact** contract existed, so the author won the suit.
- c. The court found that an **implied-in-law** contract existed, so the author won the suit.
- d. Because the offer was for a unilateral contract, there was no contract until the book was completed.

B [difficult]

53. A bail bond is an example of what type of formal contract?

- a. Letters of credit.
- b. Contracts under seal.
- c. Negotiable instrument.
- d. Recognizances.
- e. Simple contract.

D [moderate]

54. The reasonable person standard is used to decide whether an express contract exists under the:

- a. Quasi-contract rules.
- b. Objective theory of contracts.
- c. Standard offer requirements.
- d. Contract existence standard guidelines.
- e. Nondisclosure rules.

B [moderate]

55. Under the objective theory of contracts, a contract could result from an offer made:

- a. In jest.
- b. In anger.
- c. Due to a need to sell an item quickly.
- d. Due to undue excitement.

C [moderate]

56. In the case in the text where someone purchased a used safe at an auction for \$50, but was later found by the buyers to contain more than \$30,000 in cash, how did the court rule?

- a. There was no contract because the buyer was unjustly enriched.
- b. There was no contract because the act of opening the safe was not completed before the buyers took the safe.
- c. This was an implied-in-fact contract and the buyers were required to pay the fair value for the safe and its contents.
- d. There was objective intent that the parties intended that the safe, and whatever might be in it, be sold for a price of \$50.

D [moderate]

57. The doctrine that applies when one person confers a benefit on another who retains the benefit in a situation where it would be unjust to allow the recipient to retain the benefit without paying for it, is known as:

- a. Quasi-contract.
- b. Pseudo-contract.
- c. Unjust contract.
- d. Unilateral contract.

A [easy]

58. Which of the following are two terms for concept or situation?

- a. Implied-in-law contract and implied-in-fact contract.
- b. Implied-in-law contract and quasi-contract.
- c. Implied-in-fact contract and quasi-contract.
- d. Unilateral contract and informal contract.
- e. Formal contract and implied-in-law contract.

B [moderate]

59. Which of the following is needed to impose a quasi-contract?

- a. A benefit having been conferred and injustice if the benefit were not paid for.
- b. Actions implying a contract and an agreement as to the price.

- c. A promise asking for action and the requested action having been completed.
- d. A benefit having been conferred and objective intent that it be conferred.

A **[moderate]**

60. What is the distinguishing characteristic that makes a contract a formal contract?

- a. A signature by both parties.
- b. The contract being in writing.
- c. A legal requirement that the contract be in a specific form.
- d. All possible scenarios are addressed in the contract terms.

C **[easy]**

61. Which of the following is **not** a formal contract?

- a. Contract under seal.
- b. Recognizance.
- c. Negotiable instrument.
- d. Letter of credit.
- e. New car purchase contract.

E **[moderate]**

62. Which of the following is true regarding contract validity?

- a. A void contract is one where a party has the option to avoid his/her contractual liability.
- b. A voidable contract is one in which a party may avoid his/her obligation under that contract.
- c. A voidable contract is one that has no legal effect because one of the essential elements is missing.
- d. An executory contract is also unenforceable.
- e. A unilateral contract is unenforceable.

B **[difficult]**

63. Over time, most contracts are:

- a. Executory at one time and executed at another.
- b. Bilateral at one time and unilateral at another.

- c. Valid at one time and void at another.
- d. Implied at one time and express at another.

A **[difficult]**

MULTIPLE CHOICE QUESTIONS—FACTUAL APPLICATION

Classifications of Contracts

64. Otto approaches Edie and says, “If you pick up my new suit for me at the mall tomorrow, I’ll pay you \$20.” Edie replies, “I don’t know if I’ll have time to get it, but I’ll see if I get a chance.” As a result of this conversation:

- a. Otto and Edie have formed a bilateral contract.
- b. Edie has a legal obligation to use her best efforts to pick up the suit.
- c. A contract will be formed only if Edie picks up the suit.
- d. The contract which they have formed is voidable because Edie did not obligate herself.

C **[moderate]**

65. Jean says to Joan, “If you’ll promise to feed my dog each day while I am out of town next week, I’ll pay you \$100.” Joan replies, “I’ll absolutely do that. I hope you have a nice trip.” Joan then feeds the dog, after which Jean pays her. At

what point did a contract come into existence?

- a. When Jean made the offer to Joan.
- b. When Joan said that she would feed Jean's dog.
- c. When Joan started feeding Jean's dog.
- d. When Joan completed the final feeding of Jean's dog.
- e. When Jean paid the \$100 to Joan.

B [moderate]

66. Frank says to Mary, "If you wash every window in my house today, I'll pay you \$200. I don't care if you do it, but there is \$200 in it for you if you do."

Mary washes 12 of the 20 windows in Frank's house by 2:00 p.m. At this point:

- a. Frank can revoke his offer to pay Mary the \$200 for washing the windows.
- b. Mary is obligated to finish washing the windows.
- c. Mary has formed a contract by beginning to wash the windows.
- d. There is no contract yet in this situation.

D [difficult pp. 194-195]

67. Janet pulls her car into a line for a car wash. Janet says nothing and her car is washed by the employees there. Janet then refuses to pay for the car wash, stating that there is no contract. What would the results be in a lawsuit over this situation?

- a. Janet wins; because she said nothing, there can be no contract.
- b. Car wash wins; this is an express, unilateral contract that has been accepted.
- c. Janet wins; because the car wash made no promise to wash her car, there is no contract.
- d. Car wash wins; this is an implied-in-fact contract that has been accepted.

D

[moderate]

68. Lori just purchased a brand new lawnmower for \$500. When she got home and tried to use it, it would not work. She became angry and shouted, "I'd sell this thing for \$50." Her neighbor heard her and said, "I'll take it," and offered Lori the \$50 in cash. Which of the following best describes this situation?

- a. This is an enforceable bilateral contract.
- b. This is an express contract.

c. If Lori sells the lawnmower for \$50, it would be a case of unjust enrichment.

d. This situation does not result in the creation of a contract.

D

[moderate]

69. Mr. Smith awakens one morning to the sound of construction in his back yard. When he looks out the window, he sees Ajax Construction Co. apparently erecting a garage on his property. He had not spoken or contracted with Ajax for this service. However, Mr. Smith really wanted a new garage, so he let them continue. Later, it was discovered that the garage was intended to go next door. Ajax sues Mr. Smith for the value of the garage. What is the probable result?

a. Ajax wins; this is a case of a contract implied-in-fact, and Mr. Smith implicitly agreed to pay for the garage.

b. Smith wins; there was no contract upon which Ajax could recover, and people are not liable for benefits that are thrust upon them.

c. Ajax wins; although there is no real contract, this is a case of unjust enrichment, and because Mr. Smith accepted the garage, he must pay for it.

d. Smith wins; unjust enrichment does not

apply here because Mr. Smith had no duty to tell Ajax that it had the wrong house.

C **[difficult]**

70. Mike and Ike agreed orally that Mike would tutor Ike in geology for \$10 per hour for 3 hours. After Mike has done the 3 hours of tutoring, but before Ike pays him next week, this contract is:

- a. Executed.
- b. Implied-in-fact.
- c. Executory.
- d. Performed.
- e. Quasi-executed.

C **[moderate]**

71. Jana and Annie enter into a written agreement whereby Jana promises to sell and Annie promises to buy a certain parcel of land for \$5,000. There is adequate consideration, the contract is legal, and both parties have contractual capacity. The contract is fully performed by both parties on January 1. Which of the following best describes this contract as of January 2?

- a. Bilateral, express, executed, valid.
- b. Unilateral, express, executed, valid.

c. Unilateral, express, executory, valid.

d. Unilateral, implied, executory, valid.

A [difficult]

ESSAY QUESTIONS—ETHICS AND POLICY

72.. Which type of contract, bilateral or unilateral, is more common in business? Why? Under what circumstance would someone prefer one or the other? What are the advantages of each type for the offeror? For the offeree?

Bilateral contracts are more common in business because of the certainty that they provide regarding the other party's performance. An offer for a unilateral contract gives the offeree the option to perform the act or not, while an offer for a bilateral contract will allow the offeror to know, once the return promise has been made, that the offeree is obligated to perform the act.

[moderate]

73. Under the objective theory of contracts it is possible that one can be in a contract against his/her will. What are the advantages of the objective theory of contract formation?

The objective theory of contract formation prevents a party from being able to make it appear that he/she has entered a contract yet be able to say that he/she was not serious, was simply joking, etc. If one could avoid a contract on the basis of subjective intent, no one would ever truly be bound to a contract.

[difficult]

ESSAY QUESTIONS—FACTUAL APPLICATION

Classifications of Contracts

74. Hilda Homeowner said to her neighbor, Paulette Painter, "If you paint my house, I'll pay you \$1,500. All you must do is finish by the end of the next month. My price assumes that you will pay for all of the paint and any needed supplies." Paulette decided to paint the house. She purchased some supplies as well as enough custom-colored paint to complete the job. On the morning that Paulette was about to begin painting, Hilda told her that she had changed her mind and would not pay Paulette to paint the house. Discuss the rights of the parties in this situation.

This is a unilateral contract because Hilda seeks the act of having her house painted, not a promise that it will be painted. The contract is not formed until Paulette has completed the painting, but Hilda loses any right to revoke her offer once Paulette has begun to perform, including steps in preparation.
[difficult]

75. Ron took his car to the muffler shop to have the left muffler of his dual exhaust system replaced. From the waiting room he sees that the worker is preparing to remove the right muffler. Ron says nothing, hoping that he'll get a free muffler for the right side. Discuss this situation.

Because Ron could have avoided the mistake, he will be liable, under the doctrine of quasi-contract, for any benefit he received.
[moderate]

CHAPTER 2 AGREEMENT

TRUE/FALSE QUESTIONS

Agreement

1. With mutual assent between the parties, there is no contract.
F [easy]
2. The offeree has the power to create a contract by accepting the offer.
T [moderate]
3. The making of an offer occurs prior to the formation of a contract.
T [easy]

Offer

4. Objective intent refers to the actual intent of a particular person.
F [moderate]
5. An offer made in jest, where a reasonable person would conclude that it was made in jest, cannot result in a contract.
T [moderate]
6. An offer made in anger, where a reasonable person would not have known that it was made in anger, cannot result in a contract.
F [moderate]
7. The effectiveness of an offer is partially dependent upon whether or not it has been communicated to the offeree.
T [easy]

Definiteness of Terms

8. Where the terms of an offer are indefinite, the court can supply a missing term if a reasonable term can be implied.
T [moderate]
9. Under modern law, the court can supply a missing contract term if a reasonable term can be implied.
T [easy]

Communication

10. An offer is considered communicated to the offeree so long as it has been communicated to the offeree in some way by someone.
F [moderate]
11. The communication of an offer can be made by the offeror or the offeror's agent.
T [moderate]

Special Offer Situations

12. Generally, advertisements, catalogs, price lists, etc. are not treated as offers.
T [easy]
13. An advertisement reading, "Our last Trailconquerer XL100 mountain bike, stock number T990234, will be sold to the first buyer with \$700," would not be treated as an offer.
F [moderate]
14. Reward offers are offers to enter into a unilateral contract.
T [easy]
15. To be entitled to collect on a reward offer, a person need only perform the requested act.
F [easy]
16. In an auction without reserve, the seller is the offeror.
T [moderate]
17. In an auction without reserve, the seller must accept the highest bid and cannot withdraw the goods from sale.
T [moderate]

Termination of the Offer by the Action of the Parties

18. Revocation refers to the offeree communicating to the offeror that the offeree does not want to accept the offer.
F [difficult]
19. A rejection of an offer is generally not effective until it is received by the offeror.
T [moderate]
20. A counteroffer is treated as both a revocation and a new offer.
F [moderate]

Termination of the Offer by Operation of Law

21. Death of the offeror terminates an offer even if the offer could still be carried out by the estate of the offeror, such as the sale of property of the offeror.

T [moderate]

22. If the object of an offer becomes illegal after the offer was made, but before it is accepted, the offer remains valid because it was legal when made.

F [moderate]

23. If nothing is stated about how long an offer is to remain open, it remains open until it is revoked by the offeror.

F [moderate]

Acceptance

24. Generally, an offeror can specify the manner in which he/she wants his/her offer to be accepted.

T [easy]

25. If no mode of acceptance is stated in the offer, then any mode which is reasonable in the circumstances may be used.

T [easy]

26. In certain circumstances, silence can operate as acceptance.

T [easy]

Revocation

27. Revocation of an offer may be done anytime prior to acceptance by the offeror.

F [moderate]

28. Offers made to the public may be revoked by communicating the revocation by the same means used to make the offer.

T [easy]

Rejection

29. A rejection is effective upon dispatch.

F [moderate]

30. If an offeree rejects an offer and then attempts to accept that same offer, the offer is now construed as a new offer that the original offeror is free to accept or reject.

T [moderate]

MULTIPLE CHOICE QUESTIONS—LEGAL CONCEPTS

Agreement

31. The basic concept that both parties to a contract should have agreed to the same terms is referred to as:
- a. Bilateral agreement.
 - b. Mutual assent.
 - c. Co-agreement.
 - d. Common intent.
- B** [easy]

Requirements of an Offer

32. Which of the following are necessary to meet the requirements of a definite offer?
- a. Identification of the parties, subject matter, and quantity.
 - b. Consideration to be paid.
 - c. Time of performance.
 - d. A, B, and C.
 - e. A and B only.
- D** [moderate]
33. In order for an offer to be valid, the following must be met **except**:
- a. There is an objective intent by the offeror to enter into a contract.
 - b. The offer must be in writing and signed by the offeror.
 - c. The offer must be communicated to the offeree.
 - d. The offer must be certain enough that most people can figure out what is being offered.
- B** [moderate]
34. The objective theory of contracts is based on the premise that:
- a. Even offers made in obvious jest can be the basis of a contract.
 - b. Every contract must have a central object to it.
 - c. Every contract must have consideration given by both parties.
 - d. Whether the intent is present is based on how a reasonable person would view the parties' actions rather than on the actual intentions of the parties.
 - e. The intent to be bound is determined after the parties have had a chance to perform the contract.
- D** [moderate]
35. The concept of objective intent with respect to contract law means that:
- a. When forming a contract, each party must expressly state an intent to be obligated under the terms of an agreement.
 - b. The parties must each intend to be bound by the terms of an agreement based on each party's true intent, whether or not that intent is known by the other party.
 - c. The parties' intent to be bound by the terms of a contract is based on whether an outsider observing the parties' words and conduct would reasonably conclude that the parties have the needed intent.
 - d. So long as one party intends to be bound by the terms of an agreement, the objective

intent requirement will be met.

C

[moderate]

36. In general, who can effectively accept an offer for a unilateral contract?
- Any person who performs the action requested in the offer, which can occur either before or after learning of the offer.
 - Any person who performs the action requested in the offer, so long as the offer had been communicated to that person prior to the performance of the act.
 - Any person who promises to perform the action requested in the offer, which can occur either before or after learning of the offer.
 - Any person who promises to perform the action requested in the offer, so long as the offer had been communicated to that person prior to the making of the return promise.

B

[moderate]

37. If a contract omitted some terms, which of the following terms could be implied by the court?
- Quantity.
 - Time for performance.
 - Price, if a reasonable price can be determined.
 - A, B, and C.
 - B and C only.

E

[difficult]

38. In order to collect a reward, the person must:
- Perform the requested act.
 - Have knowledge of the reward before performing the act.
 - Have knowledge of the reward before collecting the reward.
 - A and B only.
 - A and C only.

D

[moderate]

39. The communication of an offer can be made by:
- The offeror only.
 - The offeror or an agent of the offeror.
 - The agent of the offeror only.
 - The offeror, the offeror's agent, or any other party who learns of an offer.

B

[moderate]

Special Offer Situations

40. Advertisements are usually considered to be:
- Offers that can be accepted only by those who have seen the advertisement.
 - Invitations to deal.

- c. Offers that can be accepted by anyone attempting to purchase the item whether or not that person has seen the actual advertisement.
- d. Counteroffers to any previous advertisements.

B [moderate]

41. In an auction when the highest bid has been made and no higher bids are forthcoming, the highest bid is treated as an acceptance in:

- a. Auctions with reserve, but not in auctions without reserve.
- b. Auctions without reserve, but not in auctions with reserve.
- c. In both of these kinds of auctions.
- d. In neither of these kinds of auctions.

B [moderate]

42. What is the legal effect of an auction being with reserve?

- a. The seller has the right to reject all of the bids.
- b. Certain bidders have reserved bids of specified amounts in advance.
- c. The bidders must be given an opportunity to inspect the items prior to the bidding.
- d. Bidders must make a cash deposit in advance to show the financial ability to carry through with the purchase of any item for which they are the highest bidder.

A [moderate]

Termination of the Offer by the Action of the Parties

43. What does an offeree use to simply indicate that he/she is not interested in an offer?

- a. Revocation.
- b. Rejection.
- c. Counteroffer.
- d. Promissory estoppel.
- e. Option.

B [easy]

44. If an offeree gives a rejection to the offeror, which of the following is true at this point?

- a. The offeree is still able to accept the original offer until its original expiration time.
- b. The offeree has made a counteroffer.
- c. The offeree cannot later enter into a contract on the terms of the rejected offer.
- d. The offeree can now transfer the rejected offer to a different party who becomes the new offeree.
- e. The offeree has lost the ability to accept the original offer.

E

[difficult]

45. The rejection of an offer:

- a. Is effective when received by the offeror, and prevents the offeree from later accepting that offer.
- b. Is effective when sent to the offeror, and prevents the offeree from later accepting that offer.
- c. Is effective when received by the offeror, but does not prevent the offeree from later accepting that offer.
- d. Is effective when sent to the offeror, but does not prevent the offeree from later accepting that offer.

A

[moderate]

46. Which of the following is correct regarding a “counteroffer?”

- a. It is no different from any other offer.
- b. It is not really an offer, but operates as the revocation of an offer.
- c. It operates as both an offer and an acceptance.
- d. It is treated as both a rejection of an offer and a new offer.
- e. It is treated as a new offer, but does not terminate the original offer.

D

[moderate]

47. Which of the following would terminate an offer?

- a. Revocation by the offeror.
- b. Rejection by the offeree.
- c. Counteroffer by the offeree.
- d. A, B, and C.
- e. A and B only.

D

[easy]

48. The circumstance where an offer cannot be withdrawn under promissory estoppel

is also known as:

- a. Irrevocable offers.
- b. The doctrine of detrimental reliance.
- c. The doctrine of renewable offers.
- d. The strict counteroffer rule.

B

[moderate]

Termination of the Offer by Operation of Law

49. Which of the following will not generally automatically terminate an open offer?
- a. Death of the offeror.
 - b. Death of the offeree.
 - c. Changed economic circumstances.
 - d. Destruction of the subject matter of the contract.
 - e. Supervening illegality of the object of the contract.

C [moderate]

50. Supervening illegality of the object of a contract occurs in which of the following circumstances?
- a. The illegality existed when the offer was made.
 - b. The object of the contract is illegal where made, but would be legal in another location.
 - c. The object of the contract is illegal to be performed by the offeree, but could be legally performed by a different party.
 - d. The object of the contract was legal when the offer was made, but has subsequently become illegal.
 - e. The offeror had an honest and reasonable belief that the object of the contract was legal when the offer was made, but later learned that the offer was illegal.

D [moderate]

51. An offer lapses upon the following except:
- a. Counteroffer.
 - b. Rejection.
 - c. Detrimental reliance.
 - d. Expiration of reasonable time.
 - e. Death of offeror.

C [moderate]

Acceptance

52. Which of the following statements is true regarding acceptances?
- a. If an offer is made to Mary in front of a group of people, any of the group may accept the offer.
 - b. If an auction is “without reserve,” the item must be sold to the highest bidder.
 - c. Generally, an acceptance may contain new terms.
 - d. Generally, silence operates as an acceptance.

B [moderate]

53. The requirement that the terms of the acceptance be the same as those of the offer is the:

- a. Mirror image rule.
- b. Identical terms rule.
- c. Counteroffer equals rejection rule.
- d. Doctrine against offer modifications.
- e. Promissory estoppel doctrine.

A [easy]

54. Silence will operate as acceptance in the following circumstances **except**:
- a. When the offeree indicates that silence will operate as acceptance.
 - b. When the offeror indicates that silence will operate as acceptance.
 - c. When prior dealings between the parties indicate that silence is acceptance.
 - d. When the offeree signs an agreement that future shipments would be accepted until further notification.

B [moderate]

55. The mailbox rule means that:
- a. Offers and acceptances must be communicated through the mail in order to be effective.
 - b. Offers and acceptances are effective when placed in the mail.
 - c. A properly dispatched acceptance is effective even if the offeror never receives it.
 - d. A revocation is effective when sent.

C [moderate]

MULTIPLE CHOICE QUESTIONS—FACTUAL APPLICATION

Requirements of an Offer

56. Which of the following would be a valid offer?
- a. Bob's brand new riding lawn mower will not start, so Bob yells, "I'd sell this thing for \$10."
 - b. Jane is a real estate agent, and while looking at a house she says, "I think we can get \$50,000 for this place."
 - c. Mary goes to a garage sale, sees a dresser she wants, and says, "Would you take \$25 for this dresser?"
 - d. John tells Rhoda, "I'll give you \$500 for your motorcycle."

D [moderate]

57. Sally owns a very expensive fur coat that Mary would like to buy. During the course of conversation, Mary asks how much Sally would take for the coat. Sally replies, "I am not sure I want to sell the coat, but I think it is worth about \$3,000." Mary says, "That is a little more than I wanted to spend." Several days later, Mary calls Sally on the telephone and says, "I'll bring over the \$3,000 today." Sally refuses to sell the coat, and Mary sues. What results?

- a. Mary wins; a valid contract was created.
- b. Sally wins; there was never any offer for Mary to accept.
- c. Sally wins; when Mary said \$3,000 was too much to pay, Mary rejected the offer.
- d. Sally wins; Mary did not accept the offer in a reasonable manner.
- e. Sally wins; Sally's offer expired due to the passing of a reasonable time.

B [moderate]

58. Mary, the seller, and Jane contract for the sale of 500 sweaters. They agree on color and style, but not on price or time of delivery. Mary refuses to deliver the sweaters, and Jane sues. What results?

- a. Mary wins; because all these terms were omitted from the agreement, the contract is not definite enough to be valid.
- b. Jane wins; the courts will fill in all the above-mentioned missing terms.
- c. Mary wins; the courts will fill in many missing terms, but never price.
- d. Mary wins; the courts will fill in many missing terms, but never time of delivery.

B [moderate]

59. An offeror says, "If you'll agree to do my taxes this year, I'll pay you \$100 after you finish." This is an offer for which kind of contract?

- a. Executed.
- b. Implied-in-fact.
- c. Unilateral.
- d. Bilateral.
- e. Promissory.

D [difficult]

60. Jess says to a friend, "I'll sell you my 2-year-old Toyota Camry for \$4,000." The friend says, "I'll take it," and they sign a short agreement to that effect. The friend didn't know this, but Jess intended the offer as a joke. There will be a contract if:

- a. The approximate fair value of the car is \$4,000.
- b. A reasonable person would have concluded that Jess was serious when making the offer.
- c. Jess failed to disaffirm the contract within a reasonable time after the offer was accepted.
- d. The written agreement spells out all provisions of the contract.

B [moderate]

Special Offer Situations

61. Pam offers a reward for the return of the pet snake that escaped from her purse while she was having dinner at a restaurant. Fred finds the snake and returns it to her. Which of the following is relevant in deciding whether Pam must pay the reward?

- a. Whether Fred is a minor.
- b. Whether Fred knew about the reward when he returned the snake.
- c. Whether Fred intended to get the reward.
- d. Whether the offer for the reward was in writing.

B [moderate]

62. Sandy notices a dog tied to a chain behind a fence and recognizes it as belonging to an acquaintance who lives a couple of blocks away. Sandy goes to the acquaintance's house and says, "Your dog is tied up in someone's yard, and for \$100 I will tell you where. The dog's owner says, "No way! I can't believe you won't simply tell me where the dog is!" The dog's owner drives around the neighborhood and finds the dog and retrieves it. The next day Sandy notices an advertisement in the paper where the owner offered a reward of \$200 for information leading to the return of her dog. Sandy is:
- a. Entitled to \$100 because she made a counteroffer to the \$200 reward offer, thereby lowering the amount she can claim.
 - b. Entitled to \$200 solely because she gave the dog's owner information leading to the return of the dog.
 - c. Entitled to the \$200 because she offered to pay money and the reward offer was outstanding.
 - d. Not entitled to any money because she rejected the original offer and the dog's owner did not accept Sandy's counteroffer.
 - e. Not entitled to any money because there was no offer that was accepted.

E [difficult]

63. David decides to sell his coin collection at an auction that is advertised as being "without reserve." Can David change his mind and withdraw the collection from the auction?
- a. He can withdraw the collection at anytime before the auctioneer announces that it has been sold.
 - b. He can withdraw the collection at anytime before the items in the collection are delivered to the buyers.
 - c. He can withdraw the collection only if the bids are extremely low.
 - d. He can withdraw the collection only before the auction begins.
 - e. He cannot withdraw the collection once the auction has been advertised.

D [difficult]

64. Marilyn decides to sell the diamond broach she inherited from her grandmother at an auction "with reserve." Can she withdraw the broach from sale?
- a. She can withdraw the broach any time before the auction announces it has been sold.
 - b. She can withdraw the broach any time before it is delivered to the buyers.
 - c. She can withdraw the broach only if the bids are extremely low.
 - d. She can withdraw the broach only before the auction begins.
 - e. She cannot withdraw the broach once the auction has been advertised.

A [difficult]

65. Seasonal Selections, Inc. sends a copy of its catalog to William along with a personalized computer-generated letter inviting him to purchase any two items in the catalog at the advertised price. Has Seasonal Selections made an offer?
- a. Yes, the letter is an offer.
 - b. It is an offer only if William is already a customer.
 - c. The catalog and letter are an offer, because there is no room to negotiate a price.
 - d. Seasonal Selections has not made an offer. The catalog is a solicitation of an offer by William.
 - e. None of these are correct.
- D** [difficult]

Termination of the Offer by Action of the Parties

66. Kristin offers to sell land to Ian for \$5,000. Ian says that \$5,000 is too much, but he will pay \$4,000. Kristin says no. Two days later, Ian accepts Kristin's original offer. Which of the following best describes this situation?
- a. There is now a valid contract between Kristin and Ian.
 - b. Ian made a counteroffer, that terminated Kristin's offer.
 - c. Kristin may now accept Ian's counteroffer.
 - d. Ian made a counteroffer, but Kristin's offer may still be accepted.
- B** [difficult]

67. Fred's beautiful photograph of the Washington Monument is hanging in a Washington Gallery. Jed is looking at it and Fred tells Jed he can have it for \$1,000. Jed says, "No way, man! I won't pay that!" The next day, Jed reconsiders and goes to the gallery and tells Fred he'll take it for \$1,000. Which is true at this point?
- a. Fred can tell Jed that the price is now \$1,200.
 - b. Jed can't force Fred to take the \$1,000 because of the prior day's revocation.
 - c. If they can't agree, a court would set the price at \$1,100.
 - d. Jed's acceptance of the \$1,000 offer is effective only if Fred has not yet revoked his offer.
- A** [difficult]

68. On Monday, Cindy says to Ruth, "I will sell you my car for \$10,000. You have until Friday to decide." As of Wednesday, Ruth has paid nothing to Cindy and has not indicated if she is interested in buying the car. At this point, which is true?
- a. Cindy can revoke the offer on Wednesday.
 - b. Ruth must reject Cindy's offer by Friday, or else she has bought the car.
 - c. Cindy cannot revoke the offer on Wednesday.
 - d. Ruth could send \$250 to Cindy, which would make the offer irrevocable.
- A** [moderate]

69. Sam receives an offer that states: “I will sell you my car for \$8,500, you have 10 days to accept.” On Day 4, Sam tells the seller that he will give him \$8,000, but the seller rejects this. Which of the following is true?
- If Sam tells the seller within 6 days that he’ll pay the \$8,500, a contract is formed.
 - Sam’s only alternative is to pay the asking price for the car.
 - If the seller changes his mind within 6 days, he can make Sam buy the car for \$8,000.
 - There is no open offer.
 - If the seller does not want to sell his car to Sam for \$8,500, he must revoke his offer.

D [difficult]

70. Susan offered to sell her couch to Martin for \$200. Martin said that \$200 was too much, but that he would give her \$125. Susan said no. Then, Martin said that he would pay Susan the entire \$200.
- Martin has accepted Susan’s original offer.
 - Martin’s statement that he would give Susan \$125 was a rejection of Susan’s original offer.
 - Martin’s statement that he would give Susan \$125 was an offer by Martin.
 - A and C only.
 - B and C only.

E [moderate]

71. Offeror says, “I will sell you my dog for \$100. You have a week to decide.” Two days later she tells the offeree, “I’ve changed my mind. I’m keeping the dog.” This last statement is:
- An effective revocation.
 - An effective rejection.
 - Ineffective in terminating the offer.
 - A counteroffer.

A [moderate]

72. Erin receives an offer in the mail from Susan on July 14 that says, “I will sell you my vacation home for \$80,000. You may accept this offer by signing the bottom of this letter and placing it in the mail so that it is postmarked by July 31.” Which is true?
- Susan will be liable for breach of contract if she sells that home to anyone else prior to July 31.
 - If Erin accepts the offer on July 20 by meeting the terms of the offer, she (Erin) can change her mind up until July 31 so long as Susan is notified by that date.
 - Assuming Erin has not paid Susan for an option contract, Susan may revoke the offer at any time so long as she does so before Erin accepts.
 - If Erin counteroffers with a price of \$75,000, and Susan rejects, Erin can create a contract by accepting the original offer by July 31.

IV. C [difficult]

Termination of the Offer by Operation of Law

73. Anita offered to sell her condo to Bill. Before Bill could accept, one of the parties was killed in a car accident. The remaining party wishes to go through with the contract. Which of the following best describes this situation?
- a. The death of either party terminated the offer.
 - b. If Anita died, Bill can still accept the offer; Anita's estate will be liable for the contract.
 - c. If Bill died, Bill's heirs can still accept the offer.
 - d. If Anita died, the offer is terminated; if Bill died, Bill's heirs can still accept the offer.

A [moderate]

74. John offered to sell Jane his 1959 Thunderbird automobile. Before Jane could accept the offer, lightning struck the car, and it was totally destroyed. Which of the following is true?
- a. Jane can still accept the offer and John must find a 1959 Thunderbird to sell.
 - b. The offer is terminated by operation of law.
 - c. John can still revoke his offer, if he does so before Jane accepts.
 - d. Jane can still accept the offer; she will be entitled to the insurance proceeds.

B [moderate]

Acceptance

75. Offeror says, "I'll sell you my car for \$10,000." Offeree says, "I accept your offer but will pay \$9,700." As a result, at this point:
- a. There are two open offers.
 - b. This was a conditional acceptance.
 - c. Offeror must sell car to offeree if offeree gives offeror \$10,000.
 - d. The only open offer is for \$9,700.

D [moderate]

ESSAY QUESTIONS—EHTICS AND POLICY

76. Under the mailbox rule there is a period of time when the offeror may be in a contract and not be aware of it. If the rule were changed such that acceptances were effective upon receipt, would this eliminate the problem of someone being in a contract without being aware of it? Is there any rule or set of rules that will eliminate the problem of one party or the other having a period of uncertainty, if all correspondence is conducted through the mail? If either the offeree or offeror must go through a period of uncertainty, which should it be? Why? What can the

offeror do to avoid this uncertainty? Is the mailbox becoming more important or less important?

When the acceptance is effective at the time of receipt, the offeree has a period of uncertainty. Where there is a time lag in sending and receiving communications, any rule will result in one party experiencing a period of uncertainty. As the master of the offer, the offeror can determine whether it will be the offeror or the offeree. Instantaneous communications are making the mailbox rule less important.

[moderate]

77. Should the rules of offer and acceptance be changed to reflect the increasing use of instantaneous communications such as fax machines and online commercial transactions? How does doing business in this environment differ from in the past? What changes, if any, should a business make in the terms or manner of offers and acceptances?

Even instantaneous communications can be lost in transit. One way to reduce uncertainty is to set up the communications so that the sender receives confirmation that the communication has been received, as is typically done with fax transmissions.

[moderate]

78. What problems in connection with offer and acceptance might arise in an online auction situation? Are there any rules that could address these?

Where used merchandise is sold, there might be a problem with definiteness of the offer if the item is not described sufficiently. There might be a failure to indicate whether the auction is conducted with or without reserve. If a bidder suspects that in an auction without reserve he/she had the highest bid, but the seller improperly refused to sell to him/her, it is more difficult to get the information to determine if that is, in fact, the case.

[moderate]

ESSAY QUESTIONS—FACTUAL APPLICATION

Requirements of an Offer

79. Lefty's Surplus Store placed an advertisement in the newspaper offering one new bath tub, regularly priced at \$500, for sale for only \$10, to the first person who came to the store the next day. Judy was the first person to appear the next day and she demanded the bath tub for \$10. Lefty's refused to sell to her. Judy sued. What is the likely outcome?

Due to the specific nature of the advertisement, it was an offer for a unilateral contract. Judy accepted the offer and formed a contract by being first at the store with \$10.

[moderate]

Termination of the Offer by Action of the Parties

80. Sam places an advertisement in the newspaper for his Dodge Viper which states, "I hate to sell it, but high insurance costs force me to sell my 1999 Dodge Viper. The first \$45,000 cash takes it." Betty goes to look at the car and says to Sam, "I'll give you \$42,000 for it." Sam then says, "That's not the deal." Betty says nothing and leaves. A couple of weeks later Betty notices that the ad is still in the paper, so she takes \$45,000 cash over to Sam's house. He hasn't sold the car, but says to Betty, "You rejected my offer of \$45,000, so I don't have to sell it to you for that. You can have it for \$47,000." Is Sam obligated to sell the car to Betty for \$45,000? Give all possible arguments for each party.

The original ad was probably an offer for a unilateral contract because it was specific and there would be no over-acceptance problem. Betty's \$42,000 offer could be viewed as a separate offer and not intending to be a rejection of the ability to be first with the \$45,000. Even if viewed as a rejection, Sam's statement, "that's not the deal" might be a renewal of the original offer, and even if that was not a renewal, the continuing ad would be.

[difficult]

81. Roberta offers to sell certain land to Emily for \$10,000. This offer is made by a letter, signed by Roberta and mailed on March 1, 1990. The letter also stated that the offer would be kept open until July 1, 1990. About two weeks later, Roberta sent Emily another letter in which she revoked her offer. On June 15, after she had received both letters, Emily wrote to Roberta accepting her offer of March 1. Discuss in detail whether there is a valid contract between Roberta and Emily. **There was no option contract, thus Emily's receipt of the revocation letter killed the offer before the acceptance was dispatched.**

[moderate]

82. Wilbur, who has had difficulty making up his mind for most of his 29 years, was sitting around on Sunday with some of his friends. At one point, he says, "I'm going to try to sell my car, and if I get an offer close to \$9,000 I'm going to take it." Andy, one of the friends, thinks to himself that this might be a good deal. The following events occur later that same week:

Monday: Wilbur arranges with the local newspaper for an advertisement to run beginning on Saturday which will say, "1999 Honda Prelude, excellent, 1st \$8,000 takes it. See it at 1902 Maple Street."

Thursday: Andy delivers a note to Wilbur, which Wilbur reads later on Tuesday. The note says, "I'll take your car for \$9,000" and is signed by Andy.

Friday: Wilbur thinks he may have under-priced the car and calls the paper to cancel. It is too late to make changes for Saturday so the ad runs. A new ad will start Sunday that does not mention a price but he expects that the car should bring close to \$10,000.

Saturday: Bob shows up with \$8,000 in hand to buy the car. Wilbur refuses to sell the car to Bob.

Andy and Bob each separately sue Wilbur wanting to force him to sell the car claiming that a contract has been formed. Discuss separately each case and how it might come out, including the arguments the parties would most likely raise.

Wilbur's statement on Sunday is not an offer, so the note from Andy is an offer that Wilbur is free to accept or reject. Bob had most likely received an offer for a unilateral contract, and it probably had not yet been revoked, either by Wilbur to Bob, individually or by publication.

[difficult]

Termination of the Offer by Operation of Law

83. Tom lives in Michigan in a neighborhood with many elderly persons. Tom's next door neighbor, Thelma, is a retired CPA. In early February of 2002, Tom and Thelma discussed Thelma possibly doing Tom's personal income tax return. Tom told Thelma that he would pay her \$300 to do his income tax return for 2001. Thelma said she would probably be able to, but that she could not commit and would let him know. She said she was going to Arizona to look for a home because she hoped that this would be her last winter in Michigan. Tom had always liked Thelma's house and asked what she was planning to do with it. She said she would be putting it on the market as soon as she found a place she liked in Arizona. Tom then told Thelma that he might be interested in the house. Thelma said, "I'll sell you my house for \$240,000. You can think about it because I won't be doing anything else about selling it until I find my new place in Arizona. A real estate agent told me it could bring \$270,000, but my price is \$240,000 for you." Thelma left a week later and went to Arizona, with nothing further said about the taxes or the house. In late March, Thelma sent Tom a fax that she had found a new house and restated the offer's terms and asked Tom if he wanted the house. Tom sent a return fax stating that he thought he wanted it, but he needed to check on his finances before committing. Before there were any further communications, Thelma died the next day. Two days later, not knowing that Thelma had died, Tom sent her another fax in Arizona that he wanted the house at her price of \$240,000. Tom did not learn of her death until April 12. Tom then had to find someone at the last minute to prepare his income tax return at a cost of \$500. Tom also notified the executor that he wanted to proceed with his contract to buy the house even though Thelma had died. The executor refused, leading Tom to sue for damages from the tax return and house sale. Discuss the issues and outcome.

The general rule is that the death of either the offeror or the offeree terminates an offer. Thelma was the offeree in the case of the tax return, and the offeror in the case of the house sale. If no contract had been formed by

the time of Thelma's death, any offer terminates. This is true even though it is possible for the executor to sell the house to Tom. If Tom's first fax had indicated an unequivocal acceptance, there would have already been a contract at the time of Thelma's death. Note that whether or not Tom was aware of Thelma's death is irrelevant.

[moderate]

84. Wildland Amusements has just received an offer to install video games in the cafeterias of local high schools and split the revenues with the school system. This promises to be a very lucrative contract, and Wildland has 30 days within which to accept the offer. Wildland purchases a number of video games to place in the schools. Within the 30 days and on the day before Wildland plans to send its written acceptance to the School Board, the local city council passes an ordinance outlawing all video games in schools. Can Wildland recover damages from the school?

The supervening illegality terminated the offer. Wildland has no basis to recover. This could not be a situation allowing for recovery under promissory estoppel because it was not the school system that terminated the offer.

[moderate]

85. Cody offered to sell certain land to Daniel for \$50,000, by a letter, which was signed by Cody. The letter specified that the deal was to be closed by Nov. 1, 2001, and that the entire payment was to be in cash. Daniel sent a letter saying that he accepted the offer, but his letter also stated that payment was to be made one-half at closing and one-half 30 days later. As of March 2002, Cody had not responded. Discuss in detail whether there is a valid contract between Cody and Daniel.

The change in payment terms was material enough to result in terminating the original offer. Daniel's letter was thus a counteroffer, which has lapsed, assuming that a reasonable time has passed. Any further communication at this point would, at most, be a new offer.

[moderate]