**School of Law**

**University of Miami**

**Contracts**

Mr. Rosen

Spring 2017

This is a three and one-half hour open book exam. You may refer to all written materials you have brought to the exam.

You will be given 30 extra minutes in order to read the exam and organize yourself. Bluebooks are not to be distributed until 30 minutes into the exam. During these 30 minutes, you may write only in this booklet. Then you have 3 hours to write in Bluebooks or on the computer. Thus, the total time allotted is 210 minutes.

There are three questions of equal value. Budget your time accordingly. Plan your answers before writing. Be clear and brief. Credit will be given for organized and concise answers. Avoid repeating yourself. You may incorporate by reference answers previously given.

**If you are writing, please write legibly, on only one side of the page, skipping lines.**

You may refer to named parties by initials. If you feel you need to assume any additional facts, state them explicitly. You may assume without notice that all the transactions occur within the State of Euphoria, which has adopted the UCC, without revisions.

\_\_\_\_

I (1 hour)

After only one meeting with PeeWee Snot, Professor William Wise of the Euphoria Law School decided that he wouldn’t tutor him. Professor Wise had agreed to spend five months working with PeeWee to improve his LSAT scores. But, Professor Wise decided that PeeWee was a lost case because he not sufficiently motivated for the tutoring to work. He felt that working with PeeWee was beneath him and not the best use of his valuable time. Furthermore, never having met PeeWee before, Professor Wise did not know that PeeWee was nothing like his father, whose love of learning is legendary. Had he known how little he resembled his father, Professor Wise would not have agreed to become his tutor.

Professor Wise had been approached by his Dean, Sam Snot. The first time Dean Snot’s 21 year-old son, PeeWee, took the LSAT, he did not score as high as the Dean knew he was capable of doing. PeeWee had gone to Kaplan and had other tutors, but to no avail. Dean Snot knew that Professor Wise was a captivating lecturer who brought out the best in his students.

Professor Wise was reluctant to take on this assignment. The Dean, however, is a deal-maker. Finally, it was agreed that Professor Wise would be relieved of all his other teaching duties for the five months that we would be working with PeeWee. In effect, he would give Professor Wise the sabbatical for which Wise had applied. The Dean did not tell Professor Wise that but for some formalities, he had already been awarded the sabbatical. Nor did he tell Professor Wise that this would count as a sabbatical.

When Professor Wise told Dean Snot that it didn’t work out with PeeWee, it was too late to assign any classes to Professor Wise. Professor Wise told the Dean that he had a sabbatical coming to him, anyway, so he would take it that semester. The Dean correctly told him, “When you take the sabbatical is at my discretion.” The Dean then said, “I would not have let you take a sabbatical now, but for PeeWee’s needs.” The Dean asked Professor Wise, “What am I going to do now?” You are to assume that Professor Smith is paid $75,000/semester and is entitled to a one-semester sabbatical every 3-5 years. The Dean is very upset that Professor Wise is getting the sabbatical without tutoring PeeWee.

Another member of the Euphoria Law School faculty, Professor Golda Great, wanting to get on the Dean’s good side, offered to tutor PeeWee. Dean Snot said, “If you do, I’ll b e eternally grateful.” They hit it off and Pee Wee’s LSAT graders soared when he next took them. At the end of the school year, Dean Wise is planning to give Professor Great a salary bonus that will be $10,000 higher than normal. When Professor Wise heard about Professor Great’s expected bonus, he was livid. He might have been angrier had he known that part of Professor Great’s success is that she made PeeWee pay her $75/hour for the tutoring. Paying that out of his own pocket motivated him. Professor Great asked PeeWee to keep that payment confidential, including from his parents.

Advise the Dean.

II (1 hour)

Able rented a car from CarsRUs on a Friday, planning to return it the following Monday morning. Able knew that the rental location was closed on Sunday. Because his plans were fluid, he asked the agent, “What if a need to return it on Sunday?” The agent replied, “No problem. Park it outside and drop the key in the slot in the door.” As the neighborhood was not the best, Able was a little nervous. He asked the agent, “What if something happens to the car while it is parked outside?” The agent honestly said, “That’s not been a problem.” As there was snow on the ground, Able asked if the car had snow tires. The agent replied, “You don’t need them as the streets are plowed.”

Able signed a contract which had the following provisions, “CarRUs has no responsibility for consequential, punitive or special damages. . . . This is the entire contract. There are no representations other than those contained herein. . . . Customer assumes all responsibility for the rented vehicle from the time they take it from us until the time we accept the return. . . . We do not accept the return until after we have checked the fuel level and inspected the car for damage. . . . NO WARRANTIES UNLESS SPECIFICALLY STATED herein. CUSTOMER RESPONSIBLE FOR ALL DAMAGE TO THE CAR.”

While Able was driving the car, the car skidded a number of times on the iced streets. Once, the skid was so severe that the GPS, for which Able paid $5/day, fell out of its holder and broke. Further, Able’s 9 year-old daughter, Frida, in the back seat was frightened and hit her head on the car door. She had to get a few stiches, which cost $200 at the emergency room. After that, she cried whenever they drove in this car.

After Able dropped off the car, a severe hailstorm went through the area and the car was damaged. After the car was damaged by hail, it was vandalized. As it so happens, there had been previous incidents of vandalism of cars left outside the agency, but the agent with whom Abel dealt had never been apprised of those facts.

You represent Able. The GPS costs $50. The hail caused $700 in damages. The vandalism caused $1000 in damages. Advise him.

III (1 hour)

On November 15, 2016, Sam of Sam Stores called up Fred of FlyersRUs and told him that they were planning to open a store in Euphoria City the following April and they wanted 1000 Flyers a month for April 1 and the following 8 months. For December they wanted 2000 flyers. Copy for the flyers would be given to Fred by the 20th of the preceding month. Fred told Sam, “We would normally charge $50/thousand, with a $50 markup fee per flyer, but I’ll waive the markup fee and only charge Sam Stores $475 for the flyers. With tax, the entire order would cost $513.” Sam responded, “We have a deal.” Sam was not told that FlyersRUs would make a profit of $20 on each of the 9 sets of flyers.

The April and May flyers were just what Sam wanted. Sam mailed Fred two checks, each for $50. On the first one, Sam wrote in the memo slot, “1 of 9, balance $425.” On the second check, Sam wrote, “2 of 9, balance $375.” Fred cashed both.

During May, Fred discovered that Sam Stores did not provide reproductive health care to its workers and actively supported anti-choice organizations. Had Fred known these facts, quite unusual for Euphoria businesses, he would not have agreed to provide his creative energies to Sam Stores. Fred was informed of these facts by his workers who threatened to refuse to work on flyers for Sam Stores.

On the June 1st flyer, in addition to the copy provided by Sam, at the bottom, Fred placed a small line: “These flyers are printed by FlyersRUs. FlyersRUs, like the United States Supreme Court, supports a woman’s right to choose.”

When he saw these flyers, Sam called up Fred and said, “You are fired. We won’t pay for these g-dforsaken flyers and we won’t do business with you again. What right did you have to mess with our copy? I’m going to sue you. I want you to immediately correct the flyers to my copy so that I will not lose business for June.”

Advise Fred.

(end of exam)