

November 2020

ESSAY QUESTION 1 OF 4

Answer All 4 Questions



California First-Year Law Students' Examination

Your answer should demonstrate your ability to analyze the facts in the question, to tell the difference between material facts and immaterial facts, and to discern the points of law and fact upon which the case turns. Your answer should show that you know and understand the pertinent principles and theories of law, their qualifications and limitations, and their relationships to each other.

Your answer should evidence your ability to apply the law to the given facts and to reason in a logical, lawyer-like manner from the premises you adopt to a sound conclusion. Do not merely show that you remember legal principles. Instead, try to demonstrate your proficiency in using and applying them.

If your answer contains only a statement of your conclusions, you will receive little or no credit. State fully the reasons that support your conclusions, and discuss all points thoroughly.

Your answer should be complete, but you should not volunteer information or discuss legal doctrines that are not pertinent to the solution of the problem.

You should answer according to legal theories and principles of general application.

QUESTION 1

Dave and Ed were partners in D&E's Delicious Donuts (D&E's). Ed was the baker in the back of the store and Dave waited on customers in the front. Dave would routinely enter less than the actual amount paid by customers into the cash register and keep the difference.

Dave noticed that every Friday morning at 9:00 a.m. Jayne would go to the bank across the street, withdraw funds, and then come over to D&E's. Every time Jayne came into the store, she would walk up to the counter to order a donut and a cup of coffee, talk to Dave for a few moments, and then sit at a table. From his conversations with Jayne, Dave knew that she withdrew \$250 on Friday mornings to cover her personal expenses for the following week.

One Thursday, Dave suggested to Bob, a regular customer, that when Jayne came into the store on Friday, he should grab her purse and run away. Dave said that he and Bob could later split the money. Bob said that he would think about it.

The next day, Jayne came into D&E's as usual, ordered a donut and a cup of coffee, and set her purse down on a table. Bob walked past her table, took Jayne's purse and ran toward the door. Another customer, Phil, saw what was happening and tried to block the door, but Bob knocked Phil over and ran outside. While Bob was running down the street and looking back to see if anyone was following him, he collided with Arlene, knocking her to the ground where she hit her head on the sidewalk and died.

1. With what crimes could Dave be reasonably charged? Discuss.
2. With what crimes could Bob be reasonably charged? Discuss.

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QUESTION 2

Martha is a college student living in a condominium (“condo”) owned by her uncle, John. On various occasions, John promised Martha that he would give her the condo when she graduates, which she will do in a few months.

Martha had suggested to John that the condo needed repainting. Recently, John saw his friend Karl, a painter, and offered him \$3,000 if Karl would “within the next three weeks, repaint the interior walls of my small condo where my niece Martha lives.” John said that he would supply Karl with all the paint. Karl orally agreed to do the painting, thinking that the condo was in the same city where both John and Karl lived. In fact, the condo was 250 miles away.

Two weeks later, Karl’s painting truck with all his equipment was destroyed in an accident that was not Karl’s fault. When Karl called John to tell him that he would not be able to paint the condo as scheduled, he learned for the first time that the condo was 250 miles away. Karl told John that he very much doubted that he would be able to replace his truck and equipment quickly. Karl also told John that, even then, he would not be able to paint a condo 250 miles away for \$3,000 unless John paid all his travel and lodging expenses. John told Karl, “Let’s forget about the whole thing.”

Martha was disappointed to hear that John was not going to have the condo repainted, so she told him that she would pay someone else \$3,000 to have it done. At her painting contractor’s suggestion, she paid him an additional \$12,000 to install a new kitchen floor, new kitchen appliances, and new bathroom fixtures.

After Martha graduated, John told her that he could no longer afford to give her the condo and instead would be selling it.

1. What claim or claims can Martha bring against Karl, if any? Discuss.
2. What defense or defenses can Karl assert against Martha, if any? Discuss.
3. What claim or claims can Martha bring against John, if any? Discuss.
4. What defense or defenses can John assert against Martha, if any? Discuss.

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ESSAY QUESTION 3 OF 4

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QUESTION 3

Manufacturer produces and sells fully-assembled bicycles (“bikes”) directly to consumers. Alice purchased one of Manufacturer’s commuter bikes, the frame of which was composed of aluminum tubes welded together. Shortly after receiving her bike, Alice was riding it to work when, without warning, the frame collapsed, causing her to crash and suffer serious injuries.

Alice took the broken frame to a bike mechanic, who told her that several of the tubes had not been properly welded together. The mechanic told Alice that, “In my many years of repairing bikes, I have never seen such sloppy welds on this or any other brand of aluminum bikes.”

Bill purchased one of Manufacturer’s road racing bikes, the frame of which was composed of a carbon fiber making it much lighter than if it were made of aluminum. Many of Manufacturer’s competitors also produce racing bikes with carbon frames. In order to make its racing bikes lighter than any other similar bike on the market, Manufacturer reduced the thickness of the carbon tubing by one millimeter in comparison to its competitors. Several reviews of Manufacturer’s bike in bike racing magazines suggested that, although the bike was lighter, using less fiber carbon material made the bike less stable, slowing the bike down. According to these reviewers, using less fiber carbon material also made the frame considerably weaker and subject to breakage.

Six months later during a race, the frame on Bill’s bike collapsed, causing him to suffer serious injuries. An investigation of the crash revealed that one of the carbon fiber tubes on Bill’s bike had cracked and broken in half.

1. On what theory or theories of liability could Alice reasonably sue Manufacturer? Discuss.
2. On what theory or theories of liability could Bill reasonably sue Manufacturer? Discuss.

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QUESTION 4

Seller is in the business of building and selling musical instruments. Buyer is a recording artist who tours giving concerts for a living. Ten years ago, Seller sold Buyer a banjo for \$10,000 pursuant to a written contract. Although that contract did not mention a touring banjo case, Seller gave one to Buyer along with the banjo at no additional cost.

Six months ago, Seller and Buyer agreed that for \$15,000 Seller would specially manufacture a custom banjo for Buyer with Buyer's name engraved on the neck of the banjo. Halfway into the project, Seller and Buyer agreed to increase the price of the banjo to \$20,000 due to an increase in the cost of materials. When Seller delivered the banjo, Buyer refused to accept it because Seller had not included a touring banjo case.

Because Buyer's name was engraved on the neck of the banjo, Seller could only sell it for \$5,000. In addition, Seller had to pay a \$1,000 commission to a musical instrument dealer who found the new purchaser.

Seller has now sued Buyer for breach of contract.

1. Buyer claims that the agreement to buy the custom banjo is invalid because it was not in writing. Will Buyer prevail on this claim? Discuss.
2. Buyer claims that the agreement to increase the price from \$15,000 to \$20,000 was invalid due to a lack of consideration. Will Buyer prevail on this claim? Discuss.
3. Buyer claims that Seller breached the contract because no touring banjo case was delivered as had been done before. Will Buyer prevail on this claim? Discuss.
4. If Seller prevails, what damages, if any, should he be awarded? Discuss.