



commerce
undergraduate
society

COMM 393 COMMERCIAL LAW MIDTERM REVIEW SESSION

BY ROY HUANG



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SELF-INTRODUCTION

Name: Roy Huang

Year: 3

Option: Accounting & Operations Logistics

COMM 393 Final Grade: 90%

Involvements:



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GENERAL ADVICE

- Cases
 - Review the case briefs for each case
 - Match the rights case with the right concept
 - Apply them in answering questions
- Makeup
 - Issue – What is the legal problem you are being asked to solve?
 - Law – Give a clear statement of the legal principle learned in this course. The legal principles may come from your textbook, class notes or cases. (State the case)
 - Application – Look back to the facts and apply the law to those facts. Develop arguments for BOTH sides.
 - Conclusion – Based on the arguments you have articulated above, decide what the outcome would likely be. If the conclusion is debatable, say so and give reasons. (Use the cases studied in class to help)
- Practice (Bear with me through this package of questions)



THE CONSTITUTION ACT & CHARTER OF RIGHTS AND FREEDOMS

Related Cases:

- LIEBMANN v. CANADA

Practice Problem:



John Anderson is a university student who always wanted to work in public accounting. Consequently, he applied for a tax position in KXYZ, a public accounting firm. Among over 2000 applicants, John was selected for an interview based on his remarkable GPA and past experiences. However, despite meeting all of the qualifications for the job, John was not hired for the position after his interview. John's friend who works at KXYZ later found out that the hiring manager disposed John's application only because John has a physical disability and can only work in a wheelchair. John's friend advised him to sue KXYZ under the Charter of Rights and Freedoms. Is John likely to succeed?



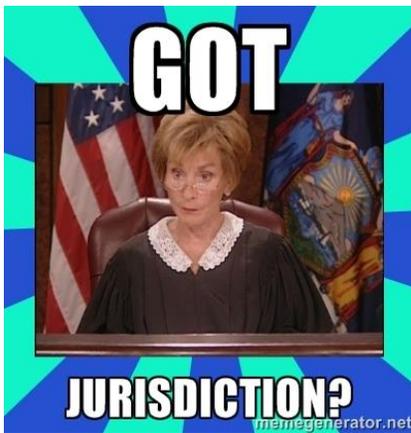
INTENT, OFFER, WRITING & ACCEPTANCE

Related Cases:

- CARLILL V. CARBOLIC SMOKE BALL COMPANY
- R V. 279707 ALBERTA LTD
- RUDDER V. MICROSOFT CORP
- MONTANE VENTURES V. SCHROEDER

Practice Problem:

On October 6th 2015, Alejandro sent a letter from Vancouver B.C offering to sell his COMM 393 Notes for \$50 to Rosa, who is currently on exchange at Toronto, Ontario. After Rosa received the letter from Alejandro on October 8th 2015, she sent a letter back to Alejandro on the same day.



a) Assume that Rosa accepted the offer in her letter. Which law would apply to this contract? The law of B.C or the law of Ontario?

b) Assume that Rosa accepted the offer in her letter. Assess Rosa's legal rights if Alejandro already sold his notes to another buyer in Vancouver and did not send his revocation letter to Rosa until October 10th 2015.





c) Assume that Rosa did not accept the offer in her letter and instead, she asked Alejandro to sell his notes for \$40. When Alejandro received this letter, he responded back to Rosa on October 12th 2015, refusing to sell his notes for \$40 and informed Rosa that due to the high demand

for his notes, he will now sell it for \$80. Rosa now regrets not accepting Alejandro's original offer at \$50. Would she be able to sue Alejandro to sell his notes to her at \$50?



CONSIDERATION & PROMISSORY ESTOPPEL

Related Cases:

- CALIGUIRI V. TUMILLO
- TULSA HEATERS INC V. SYNCRUDE CANADA LTD
- 6781427 HOLDINGS LTD V. ALMA MATER SOCIETY OF THE UNIVERSITY OF BRITISH COLUMBIA

Practice Problem:

Kitchener Lawn Mowers (KLM) agreed to mow the lawn for Natasha's home. KLM and Natasha signed a contract, setting the price at a lump sum fee of \$100. The contract did not mention the thickness and length of the grass. While mowing the lawn, KLM noticed that the grass was way too thick and long. KLM cannot complete the contract unless it goes to purchase an equipment for \$80. Therefore, KLM approached Natasha for \$80 to buy the equipment.

- a) Does Natasha have a legal obligation to pay the \$80 demanded by KLM?
- b) Assume that Natasha agreed to pay KLM \$80 to buy the equipment, payable at completion. KLM went and purchased this equipment and completed the work. When the work was completed, Natasha paid KLM \$100 but refused to pay the additional \$80. Explain promissory estoppel. Would it help KLM in this case?



CAPACITY

Related Cases:

- RE COLLINS

Practice Problem:



Mary is going on a field trip to Science World with her grade 5 class at Sir Lam Elementary. Two weeks before the trip, Sir Lam Elementary asked Mary to sign a form where she agrees to pay a nonrefundable \$10 fee for the field trip. Mary signed the form and paid the \$10 fee the following day.

Assume that it is the day before the trip. Mary caught a cold and no longer wants to attend the field trip. Is she entitled to reclaim the \$10 she paid?

!~Break Time~!



LEGALITY

Related Cases:

- MAKSYMETZ V. KOSTYK
- PHOENIX RESTORATIONS LTD V. BROWNLEE

Practice Problem:

Peck 2 Go Sushi in Kitslano hired Mr. Firenze as a sushi chef two years ago. Mr. Firenze was a new immigrant at the time and was happy to get his first job. The employment contract contained the following:

“In recognition of the necessity of protection of Peck 2 Go Sushi, Firenze will not, for a period of five years following the termination of his employment, enter into competition with Peck 2 Go Sushi in Canada. He may not make or distribute sushi, unless for personal consumption.”

Mr. Firenze got fed up with the sushi restaurant and so he decided to leave Peck 2 Go and start his own sushi restaurant in Downtown Vancouver. While he does not dispute that he is competing, he says the agreement is not binding. Is the non-competition clause binding?



MISREPRESENTATION

Related Cases:

- COLLINS V. DODGE CITY EAST
- WEINMAN V. BRINKMAN

Practice Problem:

Ali Baba is a recent high school graduate who owns an Xbox 360 gaming console that he used to play his Xbox 360 video games for many years. After extensive use, the console can now only play a game disk for one hour before the screen would freeze. Ali is unsure which component of the Xbox is causing the issue and he suspects it would



be very costly for him to fix this problem. This year, Ali decided that since he is going to university, he should sell his Xbox.

Ali thinks that he should not reveal the screen freezing problem because it may devalue his Xbox. Simply, he would advertise it for sale at \$60 and hope that any purchaser will not make too many inquiries. What would you advise him to do in these circumstances?



UNDUE INFLUENCE, DURESS AND UNCONSCIONABILITY

Related Cases:

- BUCKWOLD WESTERN V. SAGAR

Practice Problem:



What are the 3 criteria a court will use to determine if a contract is unconscionable? Give an example of an unconscionable contract that the court would set aside.

Name 3 situations where there is a presumption of undue influence. What is a recommendation you would make to your client if undue influence is presumed?



PAROL EVIDENCE RULE

Related Cases:

- GENERAL TIRE CANADA V. AYLWARDS LTD

Practice Problem:

Alicia Miller was hired for a cashier position at the Corner Bookstore. The Bookstore's manager Christine Lafayette thought Alicia was a perfect candidate for the job and verbally offered to pay her a salary of \$25,000, a profit sharing bonus of 2% as well a supplementary healthcare benefit of \$3,000 reimbursable at the end of each year.

Christine told the HR Manager to prepare a contract for Alicia to sign but forgot to tell the HR manager about the supplementary healthcare benefit of \$3000 she offered. As Alicia was delighted to receive her job offer, she rapidly skimmed through the contract and signed without noticing that the healthcare benefit of \$3000 was nowhere mentioned on the contract.

One month later, Christine left the company. At the end of the year when Alicia brought her prescription drug receipts to the Bookstore's accountant, the accountant refused to reimburse her for her healthcare expenses. Can Alicia bring a claim against the Corner Bookstore?



DISCHARGE OF THE CONTRACT

Related Cases:

- SATURLEY V. LUND

Practice Problem:

On April 1st 2015, Terminal Lawn Sprinkling (TLS) entered into a contract with the strata council of The Mandarin Walk, a residential complex located in Richmond, B.C. TLS will be responsible for sprinkling the lawn during the summer months from July to September and will be paid \$3000 in total.

It is now July 2015, after several months without rain, a stage 3 water restriction was implemented in Richmond B.C. The restriction prohibits water use for lawn sprinkling.

Assess the legal rights of TLS if the strata council of The Mandarin Walk sued TLS for damages in July 2015.



BREACH OF CONTRACT & DAMAGES

Related Cases:

- WESTCOAST TRANSMISSION V. CULLEN
- BLACKCOMB SKIING ENTERPRISES V. SCHNEIDER

Practice Problem:



On April 1st 2015, Terminal Lawn Sprinkling (TLS) entered into a contract with the strata council of The Mandarin Walk, a residential complex located in Richmond, B.C. TLS will be responsible for sprinkling the lawn during the summer months from July to September and will be paid \$3000 in total.

In June, TLS had a financing issue and their employees went on strike after TLS failed to pay wages. Labor negotiations are expected to extend into August. The strata council of The Mandarin Walk became aware in June that TLS would not be able to perform the contract. The strata council decided to hire Boca Sprinkling which charges \$5000 due to the late notice.

Can the strata council of The Mandarin Walk sue for damages at this time? Can TLS seek protection under the Doctrine of Frustration?

OTHER MISCELLANEOUS TOPICS

- Court Systems & Procedures
- Sources of Law
- Alternate Dispute Resolution
- Interpretation
 - Related Cases:
 1. BKDK HOLDINGS V. 692831 LTD
 2. BLACKSWAN GOLD MINES LTD V. GOLDBELT RESOURCES

WRAP – UP

