



COMM 393

FINAL EXAM REVIEW SESSION

by Sarah Wang

General Advice

- Read the case carefully and highlight important facts
- Use the course outline to view a list of all topics and cases learned
- Don't just answer the question; analyze every legal concept and follow the **legal reasoning framework**
- Have a list of the laws and their definitions available
- Manage your time well during the exam

Legal Reasoning Framework

- **ISSUE:** What is the legal problem at hand? (Most of the time you can simply repeat the question.)
- **LAW:** Give a clear definition of the legal principle learned in this course. State the source if the source is a case you have studied in class.
- **APPLICATION:** Look back to the facts and apply the law to those facts. State any assumptions made. If ambiguous, develop arguments for both sides.
- **CONCLUSION:** State your final conclusion clearly (i.e. Decide what the outcome would likely be). If ambiguous/debatable, give reasons and state all possibilities.



Topics Covered

Midterm Review Package:

- The Constitution Act and the Charter of Rights and Freedoms
- Contract Formation (Intent/Offer/Acceptance)
- Consideration and Promissory Estoppel
- Capacity to Contract
- Legality of Object

Final Review Package:

- Misrepresentation
- Undue Influence, Duress and Unconscionability
- Interpretation
- Parol Evidence Rule
- Discharge of the Contract
- Breach of Contract and Damages
- Exclusion Clauses
- Sale of Goods
- Privity of Contract
- Negligence, Contributory Negligence and Vicarious Liability
- Negligent Misstatement (Professional Liability)
- Fiduciary Duty
- Agency
- Sole Proprietorships and Partnerships
- Corporations



Practice Problem 1

David recently got divorced with his wife and was left with a 3-year-old son to take care of on his own. In order to take care of his kid, David quit his job and became a full-time stay-at-home dad. A few months later, David realized that he needed to go back to work in order to support himself and his son. After a few interviews, David accepted an offer at Macrosoft to start work on May 1, 2020. David decided to hire a babysitter to take care of his son during the hours he was at work. One of David's friends, Tom, mentioned that his 20-year-old daughter, Emily, would be able to babysit during the summer. David, remembering that university ends by the end of April and summer begins in May, thought this was perfect. He quickly drafted up a contract, which required Emily to take care of his son between 8am to 6pm on every weekday, starting from the beginning of summer.

On May 1, as David was preparing to leave for work, he called Emily to make sure she was on her way to his house. He was shocked when his call went directly to Emily's voicemail, which mentioned that she was currently on vacation in Hawaii and would not return to Canada until May 10, 2020. Having no other choice, David was forced to contact Macrosoft and let them know he could not come in to work due to a family emergency. Seeing this as a sign of unprofessionalism, Macrosoft fired David. As a result, he was very upset with Emily. When Emily came back from vacation, David asked why she went on vacation despite knowing they had a contract that started at the beginning of summer. Emily argued that summer begins in late June, when elementary and high school students are finished school, while David argued that summer begins in May when university students are done exams.

David has brought a legal action against Emily to sue for his lost wages. Will David be successful? Explain fully.



Practice Problem 2

Aussie is a consultant at the firm Honest and Pure Consultants. One of the firm's clients, Hogan, is a real estate investor that Aussie provided many services for over the years. The advice that Aussie provided to Hogan helped him become a very wealthy man, and because of this, Hogan placed complete trust in Aussie.

Recently, Hogan approached Aussie for advice. He was thinking of purchasing a building in downtown Vancouver and renting it out as offices to different businesses. Hogan was deciding between the Bentall 6 building and the WeDoNotWork building, and wanted investment advice from Aussie.

Aussie's wife is a real estate agent in charge of selling the Bentall 6 building. Upon its sale, she would earn a 10% commission. Aussie, despite knowing that the WeDoNotWork building is the better investment option, decided to recommend Hogan to purchase the Bentall 6 building so that him and his wife could earn the commission. Hogan followed Aussie's advice and purchased the building.

After the purchase, Hogan contacted some of his real estate investor friends to tell them about his newest acquisition. Hearing this, one of his friends Riguy responded, "Why did you purchase the Bentall 6 building? The WeDoNotWork building is much better valued as it is in a prime location for offices. I don't think you'll be able to make a return on your investment at Bentall 6." Hogan explained to Riguy that he made the decision based off of his trusted consultant, Aussie. To that, Riguy said, "Don't you know that Aussie's wife is the real estate agent for Bentall 6? You got tricked!" After finding out about this, Hogan felt extremely betrayed and has decided to bring a legal action against Aussie. What is the legal basis for Hogan's law suit against Aussie and will he be successful?



Practice Problem 3

Megan walked into an Aritzya store and tried on “The Super Buff” as it was on sale for 20% off. Seeing this could be a potential sale for the store, a salesperson approached Megan to try to convince her to make the purchase. As someone who is extremely against animal cruelty, Megan asked the salesperson what the jacket was made of and mentioned she would only purchase it if the jacket did not contain animal-sourced products. The salesperson assured Megan that the jacket was made from “vegan-down,” which is a type of artificial down that is not extracted from animals. Hearing this, Megan was extremely happy and decided to purchase the jacket.

After she went home, Megan’s mother was extremely upset with Megan’s purchase and insisted that Megan did not need a \$250 jacket. The next day, Megan went back to Aritzya to try to return the jacket. The cashier at Aritzya informed Megan that the jacket is non-refundable as it was on sale.

- a) Suppose Megan went on the Aritzya website and found out that The Super Buff is “made from 100% goose down.” What rights would Megan have for returning the jacket in this case?



b) Suppose Megan is unable to get a refund from Aritzya, so her mom tells her to try to sell the jacket online in order to recover most of the money. Megan goes on the Facebook group “Vancouver Aritzya Shop and Swap” and posts a picture of her Super Buff. The next day, a girl named Rachel messages Megan and the two form a contract for Megan to sell her Super Buff to Rachel for \$200 and to meet on November 12 for the exchange. Two hours before the arranged meet up time, Rachel messages Megan to let her know that she can no longer afford to buy the jacket as she was not aware that her car insurance payment was due that day and as a result, a large amount of money was debited out of her bank account. Rachel claims she cannot complete the contract due to unforeseen circumstances beyond her control, but Megan wants to take legal action against Rachel for breach of contract. How likely will Megan succeed?



Practice Problem 4

John, Riley, Austin and Yohan established a podcast business under the name Brothas. Each person had invested \$500, and they agreed that all purchases made for the business had to be approved by all of them. After purchasing a computer and sound editing app, they had \$50 remaining in their bank account. They did not have enough money to purchase the high-tech mic they needed for their podcast, which was listed for \$200 at BestPurchase.

One day, John was browsing on Facelook and saw a Marketplace advertisement for a used version of the mic they wanted, which was listed for \$150. As John wanted to act fast and secure the deal before someone else took it, he messaged the seller, Iain, immediately without consulting Riley, Austin or Yohan first. John asked Iain the condition of the mic, to which Iain responded, "It's in perfect condition, just like new." John was very happy with this response and entered into a contract with Iain to purchase the mic. John gave Iain a cheque for \$50 drawn on Brothas' bank account. He also signed an agreement on behalf of Brothas to make monthly payments of \$25 until the balance of the purchase price had been paid.

When Iain went to deposit the cheque, the bank refused to honour it as two signatures were required on Brothas' account. Iain has started a legal action against Brothas for what he is owed. Riley, Austin and Yohan were very angry with John, and hence dissolved Brothas. The three claim that they have no responsibility as John was not authorized to enter into the agreement with Iain on their behalf in the first place.

Assess the legal rights and liabilities of all the parties involved.



Practice Problem 5

On April 1, 2020, Ben and Jerry entered into a contract for Ben to purchase Jerry's ice cream manufacturing facility located in Coquitlam for a price of \$700,000. The terms of the contract demand that Ben pay a deposit of \$100,000 to Jerry within 24 hours after contract formation. The contract also specifies that if Ben defaults in any one of his obligations under the contract, Jerry may, at his election, retain the deposit as liquidated damages. Both parties have agreed that the \$100,000 deposit constitutes a genuine pre-estimate.

Within 24 hours after Ben accepted Jerry's offer, Ben paid the deposit and it was deposited into Jerry's bank account at CIBC. The contract completion date (i.e. when title of the manufacturing facility would transfer and money would change hands) was set for April 20, 2020.

On April 15, 2020, Ben notified Jerry that he will not be purchasing the manufacturing facility anymore as he lost his ice cream recipe and no longer wants to enter into business in the ice cream industry. Jerry responded by telling Ben that he elected to terminate the contract and claim the deposit as liquidated damages according to the contract. A week later, Jerry entered into a new contract to sell his manufacturing facility to Tom for \$800,000.

Ben is trying to get his deposit back. He claims it would be unfair for Jerry to retain his deposit as he suffered no losses. Will Ben be entitled to get his deposit back?



Practice Problem 6

Tobi is a delivery truck driver for Sleep Tight Inc., a corporation that sells mattresses and bed frames. One day, Tobi was driving his truck along a busy road on his way to deliver various products to several customers. Since there was not enough space in his truck to fit everything, Tobi had decided to secure one mattress to the roof of his car. This was allowed as per Sleep Tight Inc.'s company policies, however, Tobi had not followed proper instructions when attaching the mattress as he had a long day ahead and was in a hurry to start his deliveries. Suddenly, the mattress that was secured to the top of his truck flew off into the traffic behind him.

Bella was driving behind Tobi. As she was in a rush to get to work on time, she was driving at 70km/h even though the speed limit was 50km/h. When Bella saw the mattress fly off the truck in front of her, she swerved to avoid getting hit. As she swerved, she hit Winnie, a cyclist who was riding her bicycle on the side of the road. Winnie was not wearing a helmet and as a result, suffered severe injuries. Her \$5000 mountain bike was also wrecked.

- a) Assess the legal rights and liabilities of Winnie, Bella, Tobi and Sleep Tight Inc. in this situation.

- b) Regardless of your answer in part a), assume that Sleep Tight Inc. is held liable to Winnie but has no assets. It is a corporation owned by Yuta, the only shareholder and director. Will he be liable to Winnie for her injuries and losses?



Practice Problem 7

Jim and Dwight are two warehouse workers for Munder Difflin Paper Company, a company that produces paper products and ships them to various customers. One of their main customers is Six Star, a manufacturer of notebooks and agendas. In Munder Difflin's contract with Six Star, there is a clause that states: "The warehouseman's liability is limited to \$50 unless specifically stated otherwise."

While preparing for a shipment, Jim and Dwight were joking around in the warehouse and accidentally lost control of the forklift, which caused 200 boxes of paper to fall from the forklift. The majority of the boxes cracked open, and as a result, the paper inside fell out and was damaged from the dirt and mud in the warehouse. Munder Difflin contacted Six Star to let them know that their scheduled shipment must be delayed due to the original products being damaged. Six Star was furious as they needed the shipment immediately in order to stay on track with their production timeline, and has therefore decided to bring a legal action against Jim and Dwight for damages.

Jim and Dwight are worried as they do not have enough money in their bank accounts to pay for all the damaged goods. However, their colleague, Pam, has advised them not to worry as the limitation of liability clause Munder Difflin signed with Six Star would protect them. Is Pam correct in this situation? How likely will Six Star succeed in its legal action and how much will Jim and Dwight have to pay?



Practice Problem 8

On Friday night, John and Chris went to a local bar to celebrate finishing their COMM 393 final exam. After having 12 drinks each, John and Chris left the bar. On their way home, the two decided to stop at Chubway to get some sandwiches. They added different types of meats and cheeses to their sandwiches and also ordered drinks, chips and cookies. Both of them ended up spending over \$30 each at Chubway. After leaving Chubway, John and Chris walked into Blurberry and each purchased a \$500 wallet.

The next morning, after John and Chris woke up, they checked their bank accounts and noticed they had each spent \$530 last night at Chubway and Blurberry. Shocked at their own actions, John and Chris immediately went back to Chubway and Blurberry to try to get refunds, claiming that they were “too drunk to function” the previous night. Neither store would allow them a refund.

Sitting outside Blurberry and feeling depressed that they had just spent \$500 on wallets, John suddenly remembered something from the previous night. While they were in the store, the salesperson at Blurberry had told them, “If you don’t buy the wallets, I’ll make sure neither of you can get home safe tonight. There’s no more skytrains running at this time and I’ll call Yellow Taxi, the only cab provider in town, to boycott the two of you.” In this case, do you think the court will enforce the contract between John/Chris and Blurberry?



Practice Problem 9

Ashley is a shareholder of EarthCom Inc., a publicly traded corporation. For years, Ashley has been relying on the company's financial statements, which are audited by Carter Henderson LLP, to help her make decisions regarding whether to buy, hold or sell her shares. Based on the positive reports issued, Ashley has retained her shares and purchased more over the years.

Recently, EarthCom went bankrupt and Ashley's shares are now worthless. It has been discovered that the company has engaged in fraudulent financial reporting and as a result, its assets and revenues have been significantly overstated for the past 5 years. Carter Henderson LLP, the auditor, has been negligent in its audit procedures and as a result, never uncovered these frauds committed by management.

Since EarthCom is now bankrupt, Ashley has decided to bring a legal action against Carter Henderson LLP in hopes to recover her losses. Will her action succeed? Explain why or why not.



Practice Problem 10

Adam is the HR intern at luluapple and mainly helps with organizing campus recruiting events. For an information session that luluapple is holding at UBC, Adam was in charge of ordering food. Adam decided to order sushi from Sushi-Is-Us, a small sushi store located near UBC who provides free delivery services. Adam set up a meeting with the owner of Sushi-Is-Us to negotiate terms of the contract. At the meeting, Adam asked the owner if he could order a variety of rolls. The owner responded, “We could do 20% salmon rolls, 20% tuna rolls, 20% California rolls, 20% dynamite rolls and 20% cucumber rolls, how does that sound?” Adam thought this sounded perfect, so he asked the owner to draft up a contract that he could sign and email it to him within the next 2 days.

The next day, Adam received an email from the owner of Sushi-Is-Us with a drafted contract. As Adam had a lot of work on hand, he didn’t bother reading the contract before signing it and sending it back to the owner.

On the day of the information session, Sushi-Is-Us delivered the sushi platters to UBC. To Adam’s surprise, the platters consisted of 80% cucumber rolls and the remaining 20% of the other rolls he had ordered. As a result, much of the food was leftover as UBC students are apparently not a big fan of cucumber rolls.

The next day, Adam was called in to meet with his manager, Colin. Colin was extremely upset that Adam did a poor job ordering food for the event, which led to negative feedback of the event by the student attendees. Adam argued that they should sue Sushi-Is-Us as the owner had breached the contract. He pulled up the contract he signed to show Colin, which stated that “a variety of sushi rolls would be delivered to UBC” on the specified date.

Does Adam have a remedy against Sushi-Is-Us in this case?



Practice Problem 11

Ross Geller is a paleontologist who loves anything related to dinosaurs. One day, he saw an advertisement for a new dinosaur themed room at EscapeCity, an escape room located in his neighbourhood. Being fascinated by this idea, Ross decided to try to attempt this escape room. Unfortunately, none of Ross' friends liked dinosaurs as much as he did, so Ross went to EscapeCity by himself.

When Ross arrived, he was greeted by the receptionist, Angela. Angela provided a waiver for Ross to sign, telling him that it was a common practice for escape rooms to get participants to sign a waiver form to excuse EscapeCity of any potential liabilities in the case of injury. She also assured Ross that this was merely a formality and that no participants of their escape rooms have ever been injured. Hearing this, Ross signed the waiver form, which had the following terms stated in red, bold print:

I, the participant, recognize that there are certain inherent risks associated with the described activity and I assume full responsibility for personal injury to myself, and further release and discharge EscapeCity for injury, loss or damage arising from my use of or presence upon the facilities of EscapeCity, whether caused by the fault of myself, EscapeCity or any other third party.

As Ross was trying to escape the dinosaur themed room, he accidentally bumped into a dinosaur statue and chipped his tooth. Later, when he visited the dentist, he found out that it would cost \$2,000 to fix his tooth. Ross has decided to bring a legal action against EscapeCity to try to recover his losses. Assess his likelihood of success.



Practice Problem 12

Lawnmower-Is-Us provides lawn and garden care. The company markets its services door-to-door through commissioned salespeople. Donald is a salesperson who works for Lawnmower-Is-Us.

One day, Donald arrived at the home of Sandy and SpongeBob, a recently married couple who are both in their 30s. After Donald spent 2 hours explaining all the different types of services they provide, Sandy politely rejected him as she thought the prices were too high and that they would rather just mow their lawn themselves. She also mentioned that they would reconsider the deal if Donald was able to offer them a discount. Donald decided to offer the couple a 20% discount, thinking that discounted business was better than no business at all. With this new discount, Sandy and SpongeBob decided to sign up for 10 years of lawn care service.

The contract that Sandy and SpongeBob signed clearly said that the contract would not bind Lawnmower-Is-Us until approved by its president. However, when Sandy and SpongeBob questioned this term, Donald assured them there would be no issue, then he simply crossed the term out and initialed the change. The contract also stated that any payments, once made, was non-refundable, and that the contract could not be cancelled. However, Donald told Sandy and SpongeBob that they could opt out of the plan at any time and get their money back. Sandy and SpongeBob were extremely happy with this and immediately issued 10 cheques payable to Lawnmower-Is-Us for the next 10 years and gave these to Donald.

When Donald brought the contract back to Lawnmower-Is-Us, the company said that it would not honour the discounted deal negotiated by Donald. In this case, would Sandy and SpongeBob have recourse action against Lawnmower-Is-Us and/or Donald? Explain.



Practice Problem 13

Tom Horton is planning on opening a donut shop and needs a new deep fryer urgently. He heard from his cousin, Tim, who is also in the donut business, that the deep fryers at Deep Fryer Paradise are extremely durable and affordable. When Tom arrived at Deep Fryer Paradise, a sales representative approached him and asked if he needed any help. Since Tom did not know anything about deep fryers, he explained to the sales representative that he was looking for a deep fryer that was very reliable and durable for his new donut shop. The sales representative told Tom that the Donut Fryer 123C was exactly what Tom needed, and that he had sold a ton of these deep fryers to other donut shop owners and everyone loved it. Hearing this, Tom was very happy and decided to purchase the Donut Fryer 123C.

Tom paid \$60,000 for the deep fryer and took possession of it in October. Since then, Tom has used the deep fryer every day to produce over 20,000 donuts of different varieties. In December, Tom began experiencing problems with the deep fryer as the timer had stopped working, resulting in the majority of his donuts being overcooked and therefore had to be thrown out. Later that month, the Donut Fryer 123C stopped working completely. When Tom took the deep fryer back to Deep Fryer Paradise to have it repaired, he was shocked to find out that it would cost him \$30,000. Tom decided to return the deep fryer due to the product being defective. However, Deep Fryer Paradise would not grant him a refund. They have claimed that it is past their return policy of 30 days, and that Tom has been using the deep fryer excessively beyond its operating capacity, so Tom is the one at fault.

If Tom brings a legal action against Deep Fryer Paradise for rescission, will his action be successful? Explain the legal basis for your reasoning fully.

