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631 REMEDIES
Spring Semester 2012

UNM School of Law
Final Examination

Professor Robert J. Desiderio
Time: 8:30 am
May 3 and May 8, 2012

INSTRUCTIONS

1. This examination includes 9 questions. Answer all questions. Each question will be weighted equally.
2. You may have with you in this examination your casebook, materials that I have handed out, and any notes and/or outlines that you have prepared or participated in their preparation. You may not have any other books, materials, or other information with you.
3. Please explain your reason or analysis in responding to each question. You will receive more credit for a well thought-out answer than for your actual conclusion for each question.

YOU HAVE 3 HOURS TO COMPLETE THE EXAMINATION.

GOOD LUCK!

1. Amy negligently injured Barbara. As a consequence, Barbara was out of work for one month, losing \$10,000 in wages. Barbara, however, was covered by an income maintenance insurance policy purchased by Barbara's employer as part of her fringe benefits. The insurance policy paid Barbara \$5,000 for her lost wages. If Barbara sues Amy, how much can Barbara recover from Amy? Why?
2. Andre contracted with Billie to sell Billie a press able to print on cloth. Andre warranted that the press would print on any cloth. Billie paid \$10,000 for the press. Billie tried to print on linen, but the press would not do so. Other than not being able to print on linen, the press worked fine. As a result of the press's failure to print on linen, Billie lost profits in the amount of \$50,000. The value of the press, if it could print on linen, would be \$15,000. The contract Billie signed stated:

Billie expressly agrees that should Andre be held liable for any reason Billie's exclusive remedy is for Andre to repair or replace the press or return to Billie amount of price Billie paid to Andre.

Please advise Billie as to her remedies in a breach of warranty action against Andre and any response Andre could raise.

3. Sonia contracted to work for American Network for 5 years as a TV sports announcer for \$500,000 a year. At the end of second year, Sonia accepted an offer to announce for National Network, American Network's competitor, for \$1,000,000 a year for 5 years. American Network wants to know whether a court will grant specific performance, requiring Sonia to announce for American Network for three additional years. Advise American Network.
4. In constructing a residence on her property, Maria placed part of the foundation on Pedro's land. The structure encroached 2 feet on Pedro's land. Pedro learned about the encroachment after Maria completed 50 percent of the structure at a cost to Maria of \$100,000. Pedro told Maria to stop until they could come to an agreement or a court decided the case. Maria refused, believing she was not encroaching on Pedro's land, and also because a delay in completion would increase her cost by more than 50 percent. Pedro wants to know if he can prevent Maria from continuing constructing her home. Advise Pedro.
5. Maria contracted with Nancy to build a shed on what Maria believed is Nancy's property. Maria built the shed at a cost of \$5,000. Nancy has not paid Maria. In fact, Otto is the real owner of the property and he did not give Nancy permission to have the shed constructed. Otto had contracted to sell the land to Penny for \$20,000, who does not want the shed on the land. Otto, therefore, tears down the shed. The market value of the land with the shed on it was \$27,000. May Maria recover any amount from Otto? If so, why and how much? If not, why not?

6. Anita stole Brianna's I-pod and pawned it at John's Pawn Shop for \$200, owned by John. Anita then lost the \$200 at the race track. John, in turn, gave the I-pod to his son. The value of the I-pod when Anita stole it was \$500. Please explain the remedies, if any, that Anita has with respect to John, or John's son.

7. Car Dealer contracted with Jeff to sell Jeff a limited edition red Mustang for \$20,000, the going market price. Before delivering the Mustang to Jeff, Car Dealer sold the car to Ursula for \$28,000. Car Dealer then informed Jeff that it will not deliver the limited red Mustang to him. There are no other red Mustangs available. The Car Dealer offered to sell a blue, white, or black Mustang to Jeff for \$17,000, a \$1,000 below market. Jeff refused Car Dealer's offer. Please advise Jeff as to all his available remedies against Car Dealer.

8. Mary gave Barbara \$2.00 to purchase a Powerball lottery ticket, which Barbara agreed to do. Barbara purchased the Powerball ticket and that ticket won \$100,000. Barbara refused to give Mary the \$100,000, claiming, wrongfully, that she had purchased the winning ticket with her own money. Barbara spent \$50,000 of the \$100,000 to purchase Apple stock, now worth \$200,000; with the other \$50,000, she purchased a certificate of deposit. With interest, the certificate of deposit is now worth \$55,000. Mary has asked you to advise her as to all her available remedies against Barbara.

9. Jon learned that Billy intends to leave town with Jon's prize baseball card, which Jon let Billy have for a day to show his little league baseball team. (It is a 1910 Honus Wagner card value at \$1,000,000) Jon sues Billy and motions the court for a temporary restraining order ordering Billy to return the card to Jon. Jon's complaint is not verified, nor has Jon executed any affidavit accompanying his motion. Jon's attorney has given Billy's lawyer notice that a hearing is scheduled for the following morning. At the hearing, Jon's evidence is a receipt showing he purchased the card, and testimony of a travel agent that Billy had visited, seeking information about trips to Brazil. Neither Billy nor his attorney appeared at the hearing. Should the judge grant the temporary restraining orders?

END OF EXAMINATION