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**NOTE THAT YOU HAVE 3 HOURS TO COMPLETE THE EXAMINATION.
GOOD LUCK!**

Part 2
Essay Questions

1.

Heyman contracted with Esterhazy a pasture of certain acreage and quality for pasturing Esterhazy's sheep. Heyman accepted the sheep at his pastures, knowing that the quality of alfalfa and other grasses was insufficient. This insufficiency was a breach of either an express or an implied term in the contract.

Shortly after acceptance of the sheep, Heyman informed Esterhazy of the insufficiency, which arose because of irrigation problems. Esterhazy replied, "Well, that's your problem: you got to pasture them right, or get grain elsewhere: we got a contract."

As a result of poor pasture, a number of sheep died, either of starvation or of disease brought on by low resistance due to underfeeding. Your client, Esterhazy, tells you, in addition to these facts, that he was short of funds at the time all this happened, and that Heyman had been the only person willing to pasture or feed on partial credit. When Heyman's pasturage proved insufficient, Esterhazy felt there was little he could do except to stand on the contract.

Esterhazy's sheep losses amounted to \$ 15,000, all occurring after he knew of the insufficient pasturage. He says he could have bought enough feed for the sheep for \$3,000, but that he simply did not have the money and could not borrow it. Advise Esterhazy as to all the causes of action and remedies to which he is entitled.

2.

Rita May Norman is a CPA. She went to work for Castlewright, a large accounting firm. Castlewright accountants work with clients and often build a personal relationship with them. After several years of work with Castlewright, individual accountants sometimes quit work and begin businesses of their own. Frequently, they draw their old clients away from the Castlewright firm. There is nothing to prevent them from notifying these clients that they have set up their own firm and nothing to prevent them from providing services to those clients.

However, Castlewright's employment contract with accountants contains a paragraph devoted to withdrawal. It provides in substance that the employee-accountant is free to withdraw from the firm at any time and to provide services to any of the firm's accounts if clients so wish. However, for any firm account serviced within two years of the withdrawal, the employee-accountant will pay the firm 90% of all fees earned from that client within that period. Please discuss the enforceability of the contract paragraph contained in the employment contract.

3.

Geraldine Flora built a small office building on her land. By error, about seven inches of the building-most of the thickness of one wall-was actually over the property line and on Wright's adjacent property. Flora's lot was small, about 50 feet wide and slightly tapering toward the rear. This permitted very little leeway in office design. The total width of the building was seven inches wider than it could have been had Flora stayed within the property line. The depth of the building was less than the depth of the lot-about 100 feet.

After the building was complete, a town survey made for other purposes revealed the mistake. There is no question that it was a mistake, not an intentional error. Flora has had tenants in the building regularly since it was built and most of them have leases of several years. To remove the wall would be costly to Flora, would reduce the office space and disrupt tenants on that side-possibly enough that they could claim a constructive or actual eviction. Wright sued Flora discuss all remedies that she may seek.