

UNIVERSITY OF MARYLAND
SCHOOL OF LAW

**INTRODUCTION TO CONTRACTS
(2 HOURS AND 15 MINUTES)**

Day Division
Professor Singer

Tuesday, December 19
9:10 AM – 11:25 PM

No. _____

Signature: _____

Print Name: _____

Submitted Electronically: Yes_____ **No**_____

INSTRUCTIONS:

1. **Honor Code.** Student conduct, during exams and at all other times, is governed by the Student Honor Code.

2. **Your Name, Your Exam Number and Exam Submission.** Sign and print your name in the blanks above. Put the exam number, course title and instructor name on the examination envelope. Indicate whether you are submitting this exam electronically. Submit these examination questions at the conclusion of the examination; do not put the examination questions in the examination envelope.

3. **Time.** Submit your examination answers within the announced time for the examination. If you submit your answers late, you likely will be penalized.

4. **Computer Exams.** Computers may be used on this exam. This is an Option 2 - Open Mode Exam. You may have access to Exam4 and student computer-based notes, but no Internet access. If you use a computer on this examination, you must use the Exam4 examination-taking software provided by the law school. You must provide your own computer and must have downloaded a copy of the Fall 2006 version of the Exam4 software to your computer. You should have completed this download, tested the software, and be sure the computer is in working order well before the date of this exam.

At the end of the examination, choose the "Submit Electronically" function on the Exam4 software. The software will request your Exam ID (Examination Number). Put the course name on your answer as instructed in the handout, but do not put your name anywhere on your answer. Submit your answer within the

time limits for the examination; no allowance for additional time will be given for equipment failure. After submitting your answer electronically, return to the examination room promptly and turn in (but do not seal) the envelope provided, with a notation on the envelope stating "Submitted Electronically." (The administration will print your Exam4 answers and insert them in the exam envelope.) At the same time turn in your examination questions to the proctor.

Technological Problems: If you experience a technological problem during the examination period, consider the amount of time remaining and decide whether you should continue (or restart) the examination in blue books. No additional time will be provided for technological problems. Responsibility for submitting your answers on time electronically lies entirely with you. The Information Technology (IT) Department will assist in retrieving examination files from your computer, and the Office of Registration & Enrollment will accept an IT-certified copy of an examination file retrieved from your computer as a timely submission, as long as there is no evidence of tampering with either your computer or the examination file.

5. Handwritten Exams. If you submit handwritten answers to the examination, put the number found above on each of your blue book answers to the examination. Both the envelope and your answers should contain your examination number, the course name, and the instructor's name. Do not put your name anywhere on the envelope or on the blue book answers.

Upon completion of the examination, put your answers in the envelope, fasten the flap, and hand in the envelope to the examination proctor. Be sure to enclose all of your answers in the envelope—you will be graded on only what is inside the envelope. Do not put the examination questions in the envelope. Hand in the questions separately to the examination proctor. You are responsible for ensuring that all of your completed answers and questions are handed in to the examination proctor.

6. Specific Instructions and Examination Materials. You will have two hours and 15 minutes to complete this examination, which consists of three questions. For grading purposes, each question will be weighted in accordance with the time allotted to its answer. You should use the extra 5 minutes as you see fit. This is an OPEN-BOOK examination. You may have with you your Casebook, Supplement, class-notes, and any other materials you choose to bring. If the questions do not give sufficient facts for you to formulate an answer, assume whatever additional facts are necessary and state clearly what you are assuming. Give your reasoning in all cases.

Happy holidays!

I.
(60 Minutes)

Lynn Swan is a third year law student at the University of Marimore School of Law. Last summer, between his second and third years of law school, Swan worked as a summer associate at Singer, Steinzor & Casey (SS&C), one of the largest and most prestigious law firms in Washington, D.C. As a summer associate, Swan worked extremely hard on several important cases; he even worked all of July 4th weekend on an emergency matter that no other summer associate was available to handle. By all accounts, Swan did a superb job. On August 15, Swan's last day as a summer associate, Jill Jones, the senior hiring partner at SS&C, took Swan out to lunch. Jones told Swan how impressed the firm was with his work and, especially, with his dedication. Indeed, she told Swan that the diligence and dedication he had shown was "over and above" the commitment expected of a summer associate, and that his efforts had helped the firm land a very important client.

In light of those efforts, Jones told Swan that the firm would be pleased to have Swan join the firm as a full-time associate following his graduation from law school the following May. The two discussed salary and benefits; Jones told Swan that associate salaries at SS&C were "very competitive" and that his starting salary would be set "according to market conditions in Washington, D.C." Jones also told Swan that, because the firm wanted its associates to begin their careers "well-rested and recovered from the bar exam," new associates generally did not start work at SS&C until after Labor Day.

Swan expressed his appreciation to Jones and indicated that he would be "quite interested" in joining the firm. Jones said she understood that Swan might need some time to consider his future and that the firm would be "back in touch to finalize details" in January, 2007.

In the fall of 2006, Swan returned to Marimore for his third year of law school, pleased that his summer had gone so well. Because he was counting on joining SS&C after graduation, Swan decided not to interview with any other firms in the fall, even though many firms came to campus to interview third year students. Swan also decided not to apply for judicial clerkships, since several SS&C lawyers had told him that the firm did not value such experience. Over the course of the fall semester, Swan kept in touch with Jones and other lawyers at SS&C. He attended several firm events and even joked with the office manager about getting "first dibs" on an associate office. Swan also put down a deposit on a townhouse within walking distance of SS&C's offices in downtown Washington, D.C.

In late November, 2006, Swan and his classmates began hearing rumors that SS&C was experiencing financial difficulties and was about to be acquired by a much larger, national law firm. Because Swan was preoccupied with studying for exams, he did not immediately follow up on the rumors, even after the December 4th edition of the

Legal Times ran a front page story on SS&C's financial difficulties. On December 15th, as soon as his last exam was over, Swan mailed the following letter to Jill Jones:

December 15, 2006

Dear Ms. Jones,

I hereby accept your offer to join SS&C as an associate beginning September 4, 2007 at the competitive salary that we discussed. I look forward to working with you and your colleagues.

/signed/
Lynn Swan

Immediately after mailing the letter, Swan returned to his apartment, where he found the following letter among the holiday catalogues delivered that day.

December 12, 2006

Dear Mr. Swan:

As you may have heard, SS&C is currently undergoing a restructuring and has decided to merge with the national firm of Dewey, Cheatum & Howe. As a result of these developments, the firm will not be able to hire any new associates this year. Therefore, I regret that we will be unable to finalize the arrangements that you and I discussed last August. My colleagues and I wish you the best of luck in your legal career.

/signed/
Jill Jones

Swan is furious and dismayed. Because of your expertise in contract law, Swan has turned to you for legal advice. He wants to know if he has any viable contract claims against SS&C and what defenses SS&C could raise in any lawsuit Swan might bring.

II
(40 Minutes)

In addition to being a successful law student, Lynn Swann is an avid marathon runner and reader of running magazines. In September, 2006, Swan saw the following advertisement in Runner's Universe, a popular monthly publication. The ad was from Nikki Sports, a new manufacturer of up-scale running gear that is trying to increase its share of the lucrative fitness market. The advertisement read:

**ATTENTION MARATHONERS:
EARN FREE RUNNING SHOES FOR LIFE!!!**

Just purchase a pair of Nikki's new "Runners' Edge" racing shoes and complete 3 marathons wearing the shoes by the end of 2006, and Nikki will replace your worn shoes FOR FREE, up to four times a year, for as long as you keep running.

In smaller print, the ad contained instructions on how to submit proof of purchase, as well as how to establish that the runner had completed three marathons wearing the Nikki shoes.

In response to the ad, Swan purchased a pair of \$200 Nikki Runners' Edge shoes (one of the most expensive running shoes on the market) and signed up to run three marathons: one in October, one in November and one on December 31, 2006. He successfully completed the October and November marathons wearing the Runners' Edge shoes, and he is currently training for the December race.

Just yesterday, however, Swan opened the December issue of Runner's Universe and saw the following announcement from Nikki Sports.

OOPS! WE GOOFED.

We have encountered unexpected difficulties with our "Free Running Shoes for Life" promotion advertised in the September issue of this magazine. Therefore, we regret that we must CANCEL the promotion, effective immediately.

Swan is furious (again!). He says that he never would have bought the shoes, nor run in three marathons during a busy semester of law school, if not for the Nikki promotion. Moreover, he views the behavior of Nikki Sports as a "slap in the face to all runners." Swan has again turned to you for legal advice. He would like to know if he has a viable breach of contract claim against Nikki Sports. Please advise him.

III.
(30 Minutes)

A noted contracts scholar recently wrote the following:

Over the past 50 years, contract law has increasingly departed from its foundational assumptions of voluntary agreement and mutual assent. As a result, contract law today is little more than an exercise in unpredictable social policy. Common law judges should reverse this trend by returning contract doctrine to its classical origins.

Using at least 2 of the cases or doctrines that we have studied this semester, please assess (1) the accuracy of this scholar's claim and (2) the desirability of the scholar's proposed solution.

-- End --