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Each question may apply the UCC or Common Law and will be discussed in each question separately.

Bob v. Sam

a) The issue is **whether the common law or UCC applies.**

UCC applies if there is a sale of goods and the common law applies if there is a services contract between the parties. If there is a mixed contract for both a sale of good and a services contract, the predominant purpose test applies and courts look at whether the contract is predominantly for the purpose of services or goods. A good is anything that is movable at the time of entering into the contract.

Here, a car is a movable object and thus there is likely a sale of goods because Sam is selling Bob his car.

Therefore, the UCC applies.

b) The issue is **whether Bob and Sam have a valid and enforceable contract.**

An **offer** is 1 party's commitment or willingness to enter into a contract with certain and definite terms and communicated to the other party.

Here, there is a valid offer because Bob saw the for sale sign that Sam placed on the car while it was parked in the driveway. Bob is an avid car collector but does not constitute as a merchant here. Bob signed a letter offering to pay Sam \$250,000 and mailed it off to Sam.

Therefore, there is a valid offer.

An **acceptance** is a party's manifestation assent to enter into the contract. A bilateral contract is a contract where both parties promises to perform. Acceptance of a bilateral contract occurs when a party begins performance. A unilateral contract is a contract where 1 party promises to perform an acceptance occurs when there is full performance.

Here, the Sam and Bob have a bilateral contract. Sam has accepted the offer by calling Bob and saying that he accepted his offer and Bob would be paying Sam \$250,000 for the car.

Therefore, there is a valid acceptance.

Consideration is the bargained for legal exchange and the promise must induce the detriment and the detriment must induce the promise.

Here, there is consideration and a bargained for legal exchange because Sam's promise would be inducing a detriment to Bob because Bob would have to pay \$250,000 and Bob's promise to pay the price induces a detriment to Sam because he would have to give up his car in exchange.

Therefore there is a valid consideration.

Therefore, there is a valid contract between the parties.

c) The issue is whether Bob can sue for any remedies for either a breach of contract or for specific performance of the car.

Parties may only sue for money damages (legal remedies) or specific performance, not both.

Legal remedies or money damages requires: 1) foreseeable; 2) causation (But-For test); 3) certainty; and 4) unavailability. These factors apply to incidental damages, expectation damages, and consequential damages. Punitive damages are not available under Contract law. Incidental Damages are damages that are reasonably expected as a result of the contract, such as keep the property in storage. Expectation damages are damages that makes the plaintiff whole and puts the plaintiff in a position as if the contract had been performed. Consequential Damages are damages that are directly foreseeable as a result of the contract. Nominal Damages are damages awarded to P even though P was slightly or not at all harmed.

Here, money damages are likely foreseeable, certain, unavoidable, and causation exists. It is foreseeable that Bob would pay the \$250,000 and but for Sam selling the car to Charlie without telling Charlie about their agreement, Sam would have title to the car. Money damages also appear to be unavoidable and certain to allow the court to make Bob whole and in as good a position as if the contract was performed. If the court finds that Charlie has title to the car, however, Sam would likely not recover anything because he and Sam were supposed to meet the next week for payment and title exchange but Sam died the next night in his sleep.

Specific performance is a contract equitable remedy. Specific performance requires the parties to have 1) a valid contract; 2) satisfied the conditions of the contract; 3) Inadequate Legal remedy, 4) Mutuality of performance; 5) Feasibility of Enforcement; and 6) No defenses for the Defendant. An inadequate legal remedy applies when the defendant is insolvent, money

damages are too inadequate or speculative, the property is unique, and the plaintiff cannot sue for replevin.

Here, there is a valid contract between Bob and Sam, and the contract conditions were due to be satisfied the next week. There are no facts to show that Sam is insolvent, however, the car that Sam owns is a classic 1965 Eris Automobile and there are only 500 of these cars that are made. They are considered highly valuable. The parties had a mutuality of performance, and it is feasible to enforce the agreement as the statute of frauds has been satisfied because the parties have a valid written agreement, signed by the party to be charged (Bob), and it contains essential terms (\$250,000 for the car). There does not appear to be any defenses that Sam or his estate or his nephew could make.

Therefore, Bob should be entitled to specific performance.

Charlie v. Sam

a) The issue is **whether the common law or UCC applies.**

UCC applies if there is a sale of goods and the common law applies if there is a services contract between the parties. If there is a mixed contract for both a sale of good and a services contract, the predominant purpose test applies and courts look at whether the contract is predominantly for the purpose of services or goods. A good is anything that is movable at the time of entering into the contract. (Same rule as above).

Here, a car is a movable object and thus there is likely a sale of goods because Sam is selling Bob his car.

Therefore, the UCC applies.

b) The issue is whether Charlie and Sam have a **valid contract.**

An **advertisement** is usually treated as an invitation for an offer. An **offer** is 1 party's commitment or willingness to enter into a contract with certain and definite terms and communicated to the other party.

Here, there is an invitation for an offer because Charlie saw Art's advertisement for the car. Charlie had no reason to know that Sam and Art had an agreement that Sam had just terminated. Charlie drove to Sam's house and offered \$300,000 for the car. This is when the offer was made and valid.

Therefore, there is a valid offer.

An **acceptance** is a party's manifestation assent to enter into the contract. A bilateral contract is a contract where both parties promises to perform. Acceptance of a bilateral contract occurs when a party begins performance. A unilateral contract is a contract where 1 party promises to perform an acceptance occurs when there is full performance. The mailbox rule occurs when a party drops an acceptance in the mail and a party is deemed to have accepted a contract the moment a stamped envelope is placed in the mail. However, the mailbox rule typically only applies with common law, therefore, it does not apply here and does not matter when Sam accepted the contract. Under the UCC, so long as acceptance occurred within a reasonable time, then the offer is deemed accepted.

Here, the Sam and Charlie have a bilateral contract just like Sam and Bob did. However, Sam said he would "think about it" and did not inform Charlie of the contract he had with Bob. However, when Charlie's contract arrived, Sam signed it, placed a stamped envelope addressed to Charlie and dropped it in the mailbox. If this was a personal services contract, then the mailbox rule would apply and Sam would have been deemed to accept the contract between him and Charlie the moment he dropped the letter in the mail.

Therefore, there is a valid acceptance.

Consideration is the bargained for legal exchange and the promise must induce the detriment and the detriment must induce the promise.

Here, there is consideration and a bargained for legal exchange because Sam's promise would be inducing a detriment to Charlie because Charlie would have to pay \$300,000 and Charlie's promise to pay the price induces a detriment to Sam because he would have to give up his car in exchange.

Therefore there was consideration.

Therefore, there was a valid contract.

c) Remedies

The same remedies that apply to Bob apply to Charlie with both legal remedies (money damages) or specific performance.

Art v. Sam

a) The issue is whether Common law or the UCC applies.

The UCC applies if there is a sale of goods and the common law applies if there is a services contract between the parties. If there is a mixed contract for both a sale of good and a services contract, the predominant purpose test applies and courts look at whether the contract is predominantly for the purpose of services or goods.

Here, there is likely a mixed contract as there is a service to be performed by Art to sell the car, and the goods being sold is the car. However, the contract states "Art will serve as Sam's exclusive agent in selling his Eris Car. Upon successful sale, Art will earn a commission equal to 10% of the sale price." This contract although involves one for the sale of a goods, a car, it is predominantly for the purpose of Art acting as Sam's exclusive agent to sell the car for him.

Therefore, this is a services contract and the common law applies.

b) The issue is whether Sam repudiated the contract.

Anticipatory Repudiation occurs when a party unequivocally expresses to the other party that he/she is revoking or cancelling the contract before performance is due. However, once the party has begun performance, a contract cannot be revoked. In addition, if there is a condition precedent, a contract will be deemed complete and satisfied upon meeting the condition.

Here, Sam called Art and said he was terminating their agreement. There are no facts to show that Sam failed to unequivocally revoke his the contract. The parties have a bilateral contract, therefore, upon Art beginning performance, the contract has been accepted and may not be revoked. The condition here that Art must meet is successfully selling the car in order to earn his 10% commission. Art will argue that because Sam repudiated after he began performance, he should still be entitled to 10% of the sale price (\$300,000) because of the sale to Charlie.

Therefore, there is an invalid repudiation because Art began performance.

c) Remedies for Art

The issue is whether Art has any remedies to claim is 10% commission under the alleged contract.

When a party repudiates a contract, the non-repudiating party may treat the contract as a total repudiation and sue immediately, treat the contract as a breach and wait to sue, ignore the

repudiation and urge performance, and accept the repudiation and sue for performance.

Here, Art may utilize any of the methods mentioned in the above paragraph and sue for the 10% commission.

Therefore, Art will likely be able to receive his 10% commission due to Sam's invalid repudiation.

Question #5 Final Word Count = 1899

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