



CALIFORNIA BAR EXAMINATION CONTENT MAP CONTRACTS

The topics listed below are illustrative of those covered in Contracts, but are not exhaustive.

I. Introductory Principles/Applicable Law

- A. Definition of a contract
- B. Types of agreements
 - 1. Sale of goods
 - 2. Sale of services
 - 3. Bilateral contract
 - 4. Unilateral contract
- C. Sources of rules
 - 1. Uniform Commercial Code (UCC)
 - a. See Table of Contents for UCC Articles 1, 2, and 9 (fixtures only)
 - 2. Common law
- D. Mixed contracts
 - 1. Predominant purpose test
 - 2. Gravamen test

II. Formation

- A. Offer
 - 1. Preliminary discussions
 - 2. Requirements of valid offer
 - a. Present intent to contract
 - b. Definite and certain terms
 - c. Communication of offer
 - d. Advertisements
 - 3. Duration of offer
 - 4. Termination of offer
 - a. Revocation
 - (1) When effective
 - (2) Revocation after partial performance
 - b. Rejection/counteroffer
 - c. Lapse of time
 - d. Termination by operation of law

- (1) Death or incapacity of either party
 - e. Non-occurrence of condition of acceptance
 - 5. Limitation on power to revoke
 - a. Firm offer/option contract
 - b. Performance
- B. Acceptance
 - 1. Definition of acceptance
 - 2. Requirements for effective acceptance
 - a. Eligibility for acceptance
 - b. Communication of acceptance
 - c. Agreement with terms of offer
 - (1) Common law mirror image rule
 - (2) Modern view
 - d. Compliance with procedural requirements of offer
 - 3. Effective date of acceptance
 - a. Mailbox rule and exceptions
 - b. Other than by mail
 - 4. Acceptance by promise
 - 5. Acceptance by performance
 - a. Firm offer
 - 6. Acceptance by silence
 - 7. Effect of partial performance
 - a. Option contract
 - b. Bilateral contract
 - c. Unilateral contract
 - 8. Termination of power of acceptance
 - a. Lapse of offer
 - b. Communicated revocation of offer
 - c. Counter-offer
 - d. Rejection by offeree
 - e. Death or incapacity
 - f. Destruction of subject matter
- C. Consideration
 - 1. Bargain and exchange
 - a. Promise
 - b. Change of position
 - c. Benefit and detriment
 - d. Mutuality of consideration
 - e. Past consideration
 - 2. Illusory promises
 - a. Requirement and output contracts
 - 3. Preexisting duty
 - 4. Sufficiency of consideration
 - 5. Substitutes for consideration
 - a. Unjust enrichment
 - b. Moral obligation

- c. Promissory estoppel
 - d. Option contracts
 - 6. Separate consideration for modification
 - 7. Implied in fact contracts
 - 8. Implied in law contracts
- D. Defenses to formation
 - 1. Lack of capacity
 - 2. Illegality
 - 3. Unconscionability
 - a. Procedural unconscionability
 - b. Substantive unconscionability
 - 4. Statute of frauds
 - a. Applicability
 - (1) Compliance with requirements
 - (2) Exceptions: e.g., part performance
 - 5. Ambiguity
 - 6. Mistake/Lack of mutual assent
 - a. Mutual
 - b. Unilateral
 - c. Latent ambiguity
 - 7. Duress
 - 8. Misrepresentation/fraud

III. Parol evidence rule

- A. Policy and application
- B. Integration test
- C. Exceptions
- D. Extrinsic evidence of subsequent agreements

IV. Nonparties to contract

- A. Third-party-beneficiary contracts
 - 1. Requirements
 - 2. Incidental beneficiaries
 - 3. Intended beneficiaries
- B. Assignments of rights
 - 1. Requirements
 - 2. Rights of assignee
- C. Delegation of duties
 - 1. Requirements
 - 2. Novation
 - 3. Consequences of delegation

V. Performance

- A. Interpretation

1. Covenants
2. Conditions
 - a. Precedent
 - b. Concurrent
 - c. Subsequent
 - d. Express
 - e. Implied
3. Ambiguous provisions
4. Maturation of duties
5. Express/constructive performance
- B. Substantial performance
- C. Divisible contracts
- D. Anticipatory repudiation
- E. Excuse of condition/discharge of duty
 1. Impossibility
 2. Impracticability
 3. Frustration of Purpose
 4. Waiver
 5. Estoppel
 6. Wrongful prevention
 7. Discharge by subsequent agreement
 - a. Mutual rescission
 - b. Modification of contract
 - c. Novation
 8. Accord and satisfaction

VI. Breach

- A. Material breach
 1. Factors
 2. Remedies
- B. Substantial performance
- C. Minor breach
 1. Definition
 2. Remedies
- D. Duty to mitigate

VII. Remedies

- A. Damages
 1. Compensatory damages
 2. Consequential damages
 3. Incidental damages
 4. Reliance damages
 5. Liquidated damages
 6. Punitive damages
 7. Nominal damages

- B. Equitable Remedies
 - 1. Restitution
 - a. Quantum meruit
 - 2. Rescission
 - 3. Reformation
 - 4. Specific performance

VIII. Discharge of contracts

- A. Termination and cancellation
- B. Rescission
- C. Novation
- D. Accord and satisfaction

IX. Miscellaneous