

Contracts I
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Sample Exam Question #12

CAVEATS: This question is an example only. It does not cover enough material to constitute an entire exam. The questions on the real exam are of varying degrees of difficulty, and the number of points assigned to each question varies correspondingly.

Jenny Beasley wants to sue her former employer, Owl's Nest, for breaching its promise to award a new Mitsubishi to the winner of a March 2003 sales contest. Jenny claims that her manager, Jason Boone, told her and the other waitresses at the Paradise Road Owl's Nest that whoever sold the most margaritas at each participating Owl's Nest location during March 2003 would have her name entered in a drawing, and that the winner of the drawing would receive a new Mitsubishi. As the contest progressed, Jason told the waitresses that he did not know whether the winner would receive a Mitsubishi car, truck, or SUV, but that the winner would have to pay any registration fees on the vehicle. On or about April 8th, Jason informed Jenny that she had sold more margaritas during March than any other waitress at the Paradise Road Owl's Nest, and that he had submitted her name for the drawing. Two weeks later, Jason informed Jenny that she had won the drawing. He proceeded to blindfold her and lead her to the parking lot outside the restaurant. Waiting for her there was not a Mitsubishi car, truck, or SUV, however, but a plastic model of a Mitsubishi Zero, a World War II Japanese fighter airplane. Jason was laughing. Jenny was not.

Owl's Nest pays its waitresses \$5.00 per hour for each hour they work, and allows them to keep 75% of their tips. The restaurant keeps the other 25%. Waitresses are scheduled to work between 35 and 40 hours per week. They can work extra shifts when another waitress wants or needs time off, but are not allowed to work more than 50 hours per week. In the three months prior to March 2003, Jenny worked an average of 40 hours per week, and earned an average of \$1,600 per month in tips (\$1,200 of which she kept). During March 2003, Jenny worked an average of 50 hours per week, and earned \$2,000 in tips (\$1,500 of which she kept).

Owl's Nest waitresses are at-will employees, who work without written employment contracts. The company's policy manual requires any employee to give two weeks' notice prior to terminating her employment, and requires Owl's Nest to give any employee two weeks' notice prior to terminating her employment, unless Owl's Nest is terminating the employee for cause. Every employee receives a copy of the policy manual when she is hired. Jenny received a copy of the policy manual when she began working at Owl's Nest in January 2002.

Assume for purposes of the following questions that Jason acted with apparent, if not actual, authority; therefore, his words and actions are attributable to Owl's Nest.

- A. Did Jason make an offer that, if accepted, could have obligated Owl's Nest to award the contest winner a new Mitsubishi car, truck, or SUV if she won the sales contest? Please explain.
- B. Regardless of your answer to subpart "A," assume that Jason did make an offer that invited Jenny (and the other waitresses) to accept, and thereby form a contract (conditional or otherwise). Did Jenny accept Jason's offer? Please explain.
- C. If Jason's statements and Jenny's actions were sufficient to constitute an offer and acceptance, did Jenny give consideration to bind Owl's Nest to the contract thus formed? Please explain.
- D. Suppose that, in order to work the extra hours during March, Jenny had to pay a babysitter \$7.00 per hour to stay with Jenny's daughter, Evelyn. Would the \$70 or so per week that Jenny paid the babysitter be part of Jenny's consideration for Jason's offer, on behalf of Owl's Nest? Please explain.
- E. Assuming that Jason's words and actions are attributable to Owl's Nest, can Owl's Nest successfully defend Jenny's breach of contract suit by claiming mutual mistake? Please explain.
- F. Assuming that Jason's statements gave rise to a contract between Jenny and Owl's Nest, will Jenny's efforts to enforce it run afoul of any applicable statute of frauds? Please explain.