

Contracts II
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Sample Exam Question #9

Jenny Beasley wants to sue her former employer, The Owl's Nest, for breaching its promise to award a new Mitsubishi to the winner of a March 2002 contest. Beasley claims that her manager, Jason Bond, 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 2002 would be entered in a drawing, and that the winner of the drawing would receive a new Mitsubishi. As the contest progressed, Bond 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, Bond informed Beasley 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 ago, Bond informed Beasley 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, but a plastic model of a Mitsubishi Zero, a World War II Japanese fighter. Clever, eh? Bond was laughing. Beasley was not.

Waitresses at The Owl's Nest are paid \$5.00 per hour for each hour they work, and are allowed to keep 75% of their tips. The other 25% goes to the restaurant. Waitresses are scheduled to work between 35 and 40 hours per week. They can pick up 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 2002, Beasley 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 2002, Beasley worked an average of 50 hours per week, and earned \$2,000 in tips (\$1,500 of which she kept). In order to work the extra hours during March, Beasley had to pay a babysitter \$5.00 per hour to stay with Beasley's three year old, Bobbi.

Waitresses at The Owl's Nest are at will employees, working without written employment contracts. The company's policy manual requires any employee to give two weeks notice prior to terminating their employment at The Owl's Nest and requires The Owl's Nest, likewise, to give any employee two weeks notice prior to terminating their employment, unless the employee is being terminated for cause. Every employee is given a copy of the policy manual when they are hired. Beasley received a copy of the policy manual when she began working at The Owl's Nest in January 2001.

Beasley has asked your firm to represent her in her lawsuit against The Owl's Nest. Your supervising partner, Janet Knowles, has asked you to answer the following questions.

- A. Does Beasley have a viable breach of contract claim against The Owl's Nest? If so, why? If not, why not?
- B. Does Beasley have one or more viable equitable claim(s) – *i.e.*, promissory estoppel, promissory restitution, restitution, quasi-contract – against The Owl's Nest? If so, why? If not, why not?
- C. What defense(s) should we anticipate The Owl's Nest asserting to this/these claim(s), what is the legal and factual basis for each defense, and how can we overcome them? Please explain.
- D. To what remedy or remedies is Beasley entitled if she prevails on one or more of the claim(s) available to her? Please explain.