TAFT LAW SCHOOL REMOTE

BABY BAR

9-28-2021 6:00PM – 7:00PM

INSTRUCTOR: We will be starting in five minutes. Thank you. Welcome to tonight's series. We will be starting in approximately two minutes. Thank you. We will start in one minute.

Our main focus will be on the last baby bar. We have four essays. You can post questions in the chat. This session will be recorded. If you want to go listen, you can check the Taft website. Let us get started. This question will be on two PowerPoint placements here.

It was rather lengthy. This up-and-coming baby bar will be done online. It has not made a decision to continue with that. Question number one. The first thing you will do is look to the call of the question. Will buyer prevail?

That is a general call. I love the names they use on the exams. Buyer, seller, deft. I know this is a contract question. My mind will go there. I can go back to the last paragraph and read that. The last sentence confirms it. I like to know about the subject matter beforehand.

Let us go through the first paragraph. Seller owns a van and we have a plumbing business. We seller purchased a new van. She decided to sell the old one. Dear buyer, I will sell my old van to you for $15,000 cash. The letter indicates whether we have an offer. Buyer responded with an e‑mail that said I am interested. If you can give me until Sunday to decide. She said, you can have until Sunday. We are going and forth. Did we have an offer? We want a week to decide. The fact that he wants his mechanic to look at it, he has added a term.

Of course, the fact that she gave him that time frame. The mechanic reported to buyer that the van needed a new set of tires but $15,000 was a great price. He decided to buy the van and order the new tires. Late Tuesday, seller sent an e‑mail states, Jones dry cleaning said they may be interested in $17,000 for the van.

Someone else may be interested. Is that enough to show you are revoked my offer? I don't think it is. Based on the language. It is not enough. Buyer did not read the e‑mail on Wednesday. Buyer mailed the letter saying I agreed to buy it. I will drop off the check on Saturday. A valid acceptance?

Thursday, she told him she told the van. The buyer sent another letter. She sent him a letter again that it was sold. What are we looking at? Breach of contact. You want to outline the examination. You can start it in the virtual outline or do it in your written answer and make it complete sentences later.

You want to take the time to outline it so you can understand what is transpiring and understand the elements. This exam has a few sleepers. They didn't take the time to use their checklist and outline the examination.

With this type of exam, I will start in con logical order. My checklist helps me. The UCC does apply when you deal with transaction of goods. We are dealing with a van. I have seen students go either way. It is arguable seller purchased a new van. I found they don't deal in these goods with a special knowledge. Buyer had a lawn service. Both didn't qualify as merchants.

I don't think it matter. It will make a difference if you think they are merchants. It would be the firm offer versus the option. You want to be consistent with your findings. Next is offer. I will sell you the van. That shows words of intent.

We have certain terms. The van being one. Buyer and seller. The price. The terms are stated. They have particularity. I feel like we have strong facts. I want you to notice that none of the elements had issues. Was there an acceptance when buyer responded? There is no mirror image. I will address that.

I am interested. You say, can you give me until Sunday to decide? That raises the issue of a counteroffer. A rejection to have original offer. Am I rejecting? I was still interested. He added a term. The fact that he added a term shows it will be a counteroffer.

He requested what? Did that create an option? What is the problem? No consideration here. He ordered new tires. When did he go to the mechanic? Tuesday. Next issue would be the revocation. When buyer sent the letter, that shows the intent. Buyer accepted it first.

He may honor the main box rule. It says buyer mailed a letter stating I agreed to buy. It is affective upon dispatch. What is the problem? Two. If you found a valid option, the mailbox rule doesn't apply. It depends on how you argue the alliance. It can go either way.

If you found it invalid, still bring up the mailbox rule and say it would apply. What does matter is you let the reader know there is a problem here. It is a gray area. What happened next? Seller sent a revocation. That shows an express communication. The big issue here a lot of students miss was statute of frauds.

Baby bars love to test statutes of incomplete writings. It is not combined into one document. That is an incomplete writing. The only way out is based on purchasing of those tires. I don't see any facts to argue in regard to payment.

He said he would pay them on Saturday. Baby bar likes to take the agreement outside the purview based on your conduct of reliance. Since he told his mechanic to purchase the new tires, he did rely that you key it open until Sunday. I put seller. It would be the terms of the contract. The difference between the price versus the fair market value that you can get for the van. You promised me $15,000. The damage would be $2,000.

I think this is straightforward. I don't think it was something to panic about. It was like a final exam in law school. Question two. This one I don't like. Students had a hard time. I did not like this call to question. In in absence of evidence of negligence, are there other theories that may support a claim by neighbor against fireworks shack? Discuss.

We will go through this together. I guarantee you may have missed a big issue. The call was bad. It wasn't nice on their part. Let us go through the facts. Fireworks shack is a size of a large supermarket that stocks a large variety of fireworks. It is located in an otherwise residential neighborhood in the city of hometown. Why are you in a neighborhood selling fireworks? I am thinking nuisance.

Public versus private. Takes safety measures to avoid fires on premises. Frequent inspections happen by employees. Especially trained in fire prevention. What are they telling you? I take every precaution there is to make sure there is no fire. A fire broke out in the store and caused an explosion that injured a neighbor in his backyard.

We know it is an issue of private nuisance. An investigation has failed to find the source of the fire or that the shack was in any way negligent. What should bother you here is there is no evidence of how this got started.

When we are short, what do we rely on? It establishes a breach. We don't talk about a breach for strict liability. What other possible theories could they want? Products liable. I do not like this question at all I cannot talk about negligence. There is an issue of Race Ipsa. None of them had in regard to products liability.

The bar website has them in there. They wanted the products liability. This is an abnormally dangerous activity. You will point out that that is a theory. It has a large volume of fireworks. They have a duty not to expose others.

They must take steps to eliminate cause of harm. They told you everything. How do you fall below standard of care? He is selling fireworks. Could there be a danger? There is. You owe a duty to the neighbor. Neighbor wasn't hurt. Is it foreseeable? Anyone could get hurt. Your damages, I would talk about general and special.

They don't give you facts for damages. For tort theories, any damages. My first theory would be strict liability. When you see strict liability, you should look for private nuisance. They told me it is just the neighbor. Sometimes they test that way. Usually when you see private nuance, it is continual. We had one fire that broke out.

He was injured. Again, what are you doing in a residential neighborhood? Coming to the nuisance, it doesn't matter. They took all precautions. It resulted it injuries. Are they liable for private nuisance? This could go either way. The big ticket item is products liability. You have to show detective product. They didn't make that clear.

We are using Race Ipsa to show the defect. Since there is no evidence as to what caused the fire to break out, a fire work must have been defective. That is something to grab onto. What does the doctrine do? It proves the breach and shifts the burden to show they didn't breach their duty.

Since we don't know how it broke out, fire marshal can't determine how. It had to be by the fireworks. Strict liability. They sold fireworks they are a retailer. We can argue a defect. When it somehow exploded and caught the shack on fire. Despite the warnings a fire did break out. I had people changed in regard to prevention. It still broke out. I would go through breach. A lot of times we don't talk about it. I won't talk about negligence. They told you not to in the absence of any evidence of negligence. Are there other theories? The call was miswritten.

What theories would support a claim by neighbor? You took me away from negligence. I feel like whoever wrote this question wanted you to address it. Based on this call, you just can't. I would go through Race Ipsa. The question is begging for it. It shows the absence of negligence. He has control over his fire shack. Fireworks are in the owner's position.

Something caused this. You will show a breach. You will shift the burden on the defendant. Since I am under products, products has generally multiple theories to talk about. I really feel products is right for testing. What will you do? It exploded and hurt the neighbor.

Fireworks shack is a retailer. It is an adequate design. There is an explosion. That breached the implied warranty and super back your causation. If you missed the Race Ipsa, you missed this. They know it is not how we are taught. Breach of negligence doesn't go. Examiners are not perfect.

This gives you a general idea of what? How they make mistakes. They have a criminal procedure question. You are only responsible for criminal. It panicked people. They through the question out. Some people did okay on it. They were in the middle of the subject. The bar examiners do make mistakes. Listen to your instincts. Go with your gut

Question three. That threw students off. Call two. They are the same except for the parties. The other this to remind you is it says crimes. It says defenses. Two or more. What does defenses mean? True defenses. Self‑defense. Crime prevention. Or counter arguments. What is that? Based on the facts.

If you can't find a true defense, don't make it fit. Don't forget the counter argument. We got too calls. There has to be something different. A conspiracy issue. Something. Let us go through the facts. Karl lived with Martha and her son and dog. He told her about the plan to steal from Barry Rich. He planned to pretend like he was trying to find the dog's home. Karl asked her to come with him. He wanted her to chase after her to look for jewelry. He said you better do what I say or sunny will be badly hurt. She agreed to help.

When rich opened the door, he let the dog run into the house. The bedroom he found a valuable diamond ring. It was worth $5,000. The dog ran past rich and knocked him down. He hit his head on the table and died. He plans to go to the pretend the dog is lost. When he asked her to go with him, that is solicitation. You have the intent to go in the house and look for jewelry. Larceny. It is also burglary. When she said she wouldn't help, that is the issue. She agreed there is your conspiracy. Seeing the second for Martha, she is trying to protect her son Sunny. It says in the afternoon went to his house with the dog. She ran after the dog. He takes the valuable diamond ring. The fact he is knocked down by the dog and died. We have a homicide.

This time they put it in order for me. He is inducing her to help him distract rich to steal. Carl will be charged with solicitation. You could address murder. It is a lesser included offense. There is no problem in regarding to bringing it up. With conspiracy, based on the facts, he asked her. She said she won't help. I feel as to the element they put it in the agreement. She said she won't help. There is no agreement.

He said you better. Or sunny will be hurt. Then she agreed. There is an actual agreement. The unlawful act would be larceny. We do have a conspiracy. It takes the crimes in the order. They went over to the house. Knocking on the door. I will talk about burglary. He opened the door. There was no break in. They gained entry by fraud with the dog.

The entry was by non-consent. It was by constructive force. You see through the chimney. They didn't enter. It was rich's home. They entered with intent to distract. It is in the afternoon. The common law fails. What do we do when it fails? Talk about modern law. If common law succeeds, we don't have to talk about modern.

Modern law, any structure of crime. What do we argue? Look to how they gain access here. It was his household. Taking the diamond ring would be a larceny. I will get in and out of the elements. He took the ring from his bedroom. It is properly of another. Specific intent was to take the ring. The larceny is straightforward. Now, we have murder. You have to show malice aforethought.

The dog knocked him down. When a death results, you are guilty on the murder rule. He is committing a larceny. He will argue it is not foreseeable. Is it foreseeable? It does come up that you have a causation issue. If they find it is, are you convicted of first degree? Felony murder rule. You would be guilty. That is call number one. Call number two is Martha.

If you did a good job, the big issue is Pinkerton's rule. Since there was an agreement to help him gain access to rich's house, she would run in after the dog. What about in regard to the murder? She could be found guilty in the murder as well. Is it a natural? Now she has her defenses. It is defense of duress. Did he overcome the free will? He beat her son badly. It will happen now or he will be hurt. It looks current to me. She had no other choice but to follow orders. His threat overcame her free will. Is it a defense to murder? No.

Murder may be a viable defense. Because of the felony murder rule. When I put it may be viable, it could be. The way we convicted a murder was based on the felony murder rule. If it wasn't based on that, it won't work well. Is duress an offense to the burglary? Yes. They like to test it on the multi‑states.

You stand in the shoes. If I didn't agree to go along with them, he will beat my son badly. Plus we live with this person. They were counter arguments. Any questions on number three? I hope you did issues about these. Question four. They were not expected two contracts. They were surprised. Guess that, October, you will most likely have two torts. I will go over areas to focus on. We will not get contracts as second subject.

Call question number 4. Does Amy have a breach of contract claim? [Reading]. PLIS a private nonprofit educational institution. Convinced that many law students change their minds and take jobs in the private sector, they created a large aid plan. The student gets a $10,000 grant for each year of law study. This can go up to $30,000. If grantee does not accept and retain full time employment in a qualified interest job as a lawyer for five years, following graduation, the grant must be paid in full right away.

It can be performed in one year. They withdrew the offer to 15 of the students who they already made offers. I am revoking it. One of them had her offer rejected from all the other schools once she received the offer from PLIS. She is telling over schools she won't be going there. You can see the first few paragraphs go to Amy.

Michael went under the plan. After 4.5 years at this position, the job was terminated for lack of funds. After an eight‑week search he was unable to find a qualified job and got work helped troubled adolescence.

Since they made this offer to the students, and she was accepted, this shows they had the intent to be bound. $10,000 in yearly grants. Parties are the applicant. The subject matter is the grant. She did accept evidence.

We have a valid offer. Acceptance we do have. Revocation, sorry, I am with drawing your offer. Based on our conduct, it is an inequivalent. What is she giving up? She is doing the employment she is providing consideration. Full time employment in exchange for five continuous years following graduation. There is consideration of both parties. If you look at it, do they give you any writing here?

It says it withdrew the offer. I don't see the contact. She can't perform with this time Period. She has to work for five years. It violates the statute. Second time we have seen this. She accepted their offer and rejected other offers to other law schools.

The statute is not valid. The fact they withdrew it, she relied on them. They are in breach. General damages are the expectations of the terms of the grant. Can we get special damages? I don't see how unless you can show loss of income.

I didn't like the damages. That means two or more. I don't see anything here. $10,000 each year. Financial plan. He did receive the annual grant. Consideration was $10,000 in exchange for employment for five years. Did he commit full performance? He did 4.5. A contract which is not performed. Full performance is the only way to take it out. What will we do?

It doesn't take it outside the statute. It violates it. That is one defense he has. We have this expressed condition. It stated he has to retain full time employment for five years. He took a community center counseling job. That is public interest. It says as a lawyer.

He can make an argument to excuse the expressed condition. Why? He did 4.5. He looked for eight weeks. I did four and a half years. I tried to find a job. I searched for eight weeks. He can say the damage is the money. I did frustration of purpose first. Then go to implied condition. He did 4.5 years out of the five. His performance should be excused. We don't ever use the term substantial performance.

They can be reimbursed for what they didn't get for that half a year service. Your general damage. The expectation. The fair market value of the services as a public lawyer in exchange.

This was hard for students. Statute of fraud was there too. I hope you took a lot away from this. Does anyone have questions on four? A few things to go over. Study contracts and criminal law. Focus on UCC2‑207. This deals with additional terms. You look to additional terms to become part of the contract. Look at the statute of frauds, warranties, and remedies.

Focus on UCC2‑207. Areas to go through is your formation of contact. Condition and excuses. Be careful of third party. Torts. Products liability. Criminal law. Solicitation attempt. They shifted from the last few times the red line view to causation issue with murder and the felony murder rule. These are areas to focus on and go through. That is important. I will have them e‑mail predictions. If you have questions, feel free. Now is the time. We are hitting October soon. Friday.

The exam is the 26th. Boot camp time. Not your strengths. Work on your weaknesses. Our strengths will be there for us. Any questions? If you do, feel free to send me an e‑mail. I am happy to help you. Stay focused. Tighten down on your study schedule. The multiple choice exam questions to pass this upcoming examination. Talk to you next week.