

Caroline Bradley

SPRING SEMESTER 2011

# **SAMPLE EXAM CONTRACTS**

**THREE HOURS.**

**THIS IS A CLOSED-BOOK EXAM.**

Try to show thought and critical analysis of the materials and issues dealt with in the course.

DO read the questions carefully and think about your answers before beginning to write.

DO refer to statutory provisions, cases and other materials where appropriate. If you make general statements, try to back them up with specific references.

DO NOT use abbreviations unless you explain what you are using them to stand for.

DO NOT make assumptions in answering the hypothetical.

DO explain what further information you might need in order to answer the question properly.

DO write legibly and clearly.

**You will get credit for following these instructions, and may be penalized for failing to do so.**

## **SECTION A (60% of the exam grade)**

Al is the President of Bradley College, which is based in Arcadia, a state in the US. Bradley College is working hard to establish its reputation as an innovative teaching and research institution. The College spends a very large amount of money on marketing every year, including a series of television advertisements in which paid actors pose as graduates of Bradley College telling what seem to be their own very powerful stories of how all of their success in life was the result of their education at Bradley College. The College has attracted large numbers of well-qualified students to its programs. When students arrive at Bradley college and pay their fees they also sign a document which states that they promise to abide by the College's Honor Code.

The College has a very large staff, including a number of professors. Individual schools in the College are involved in hiring decisions, but Al always meets with prospective professors himself before they are hired, and Al's office is responsible for issuing all employment contracts. Professors usually begin working at the College on a probationary contract for one year, which is renewable at the discretion of the President. The College does have a tenure system, although a very small proportion of the faculty have tenure-track and tenured appointments. The College has adopted a Faculty Manual which sets out disciplinary procedures which apply to the College's faculty. The Faculty Manual states that faculty members are not allowed to spend more than 10% of their time on paid work outside the College.

Diana visited Bradley College for an interview for an appointment as a professor in the New Media Department. She met with Al, with Evan, who is the Chair of the New Media Department, and with the faculty. She gave a presentation about her recent work as part of the interview. Two weeks later Evan offered her a job. He asked Diana to start teaching for the department immediately because the department was short staffed. He said that initially she would be a visiting professor, and would be paid \$2500 per month, but that when the new academic year began she would be a tenure-track assistant professor, and that she would then be receiving an annual salary of \$50,000. Evan said that if Diana completed her first year as an assistant professor satisfactorily she would be appointed to a three year contract. He also said that the Department would order new equipment for a new course Diana had proposed to teach beginning in

the Fall.

Diana was very happy to hear about this attractive offer. She received an offer of a tenure-track appointment from another college at a salary of \$50,000. However, the other appointment would not begin until the Fall, and the other college was further away from her home and seemed like a less exciting place to work, so she turned down this offer in order to go to work at Bradley College. Diana started teaching at Bradley College in January. Her teaching load was high, but she worked hard and managed not only to teach her courses but to write conference papers which she presented at two academic conferences over the summer. When she went back to work at Bradley College in the Fall she discovered that the College had hired Gary to be a new tenure track professor for the New Media Department. Gary specializes in a different field from Diana's. Evan said that Diana was welcome to stay on as a visiting professor at \$2500 per month. By the time Diana discovers what has happened it is too late for her to find another tenure-track job for this year.

When Diana began to teach at the College in January, Evan entered into a contract with Firewolf for Firewolf to design and build the equipment for Diana's new course and to provide technical support for a period of three years. The contract provided for a deposit of \$50,000 and for the balance of \$250,000 to be paid on delivery. Firewolf began work on the project immediately. Firewolf's designers were very pleased to have landed this order from Bradley College and looked forward to being associated with the College's success and to obtaining similar orders from other educational institutions in the future. However, over the summer Evan decided that the Department did not need Diana's new course. Evan cancelled the contract with Firewolf and asked for the return of the deposit. He now says that if Firewolf does not return the entire deposit he will make sure that Firewolf never receives another order from Bradley College.

By the end of the Fall semester Hilda, a student at Bradley College, discovers that she is having difficulty keeping up with her work. She downloads a term paper from the internet and submits it to Gary as her own work. This conduct constitutes a breach of the Bradley College Honor Code, and after the Honor Council finds that she has breached the Honor Code, Evan decides that Hilda should be expelled from the College. Under the terms of their agreement with the College students who are expelled forfeit all tuition payments they have made to the College. Hilda paid the full

year's tuition in the Fall and does not see why she should have to pay for an entire semester's classes she will not be able to take.

Identify the issues raised by these facts, analyze them in the light of the material you have studied this semester, and answer the following questions

1. What remedies are available to Diana?
2. What remedies are available to Firewolf? Is Firewolf required to surrender the deposit to Bradley College?
3. What arguments can you make to support Hilda's claim to reimbursement of fees for the Spring semester?

## **SECTION B (40% of the exam grade)**

### **ANSWER ONE QUESTION FROM THIS SECTION**

1. "Freedom of contract means that courts should never rewrite contracts "

Discuss.

2. Write a critique of any two cases we studied during this semester. (NB: Note the exam instructions on overlap).