

Anonymous Number: _____

Please read these instructions carefully, as following them combines with your knowledge and skill to produce the best possible results. I suggest you allocate 10 minutes to reading and absorbing the instructions.

This is a 50-minute practice exam with one problem. The suggested amount of time to allocate to a problem corresponds to the number of points the problem is worth. Check now to be sure you have three pages.

You may set your Exam4 exam software to the open + network mode so you can access your computer and the internet. You may also look at any written material you have brought to the exam. You may not talk or otherwise communicate with anyone during the exam except for me.

If this were graded, you would earn three points by following these instructions:

- (1) timely submit this exam with your correct Anonymous Number in the space provided above,
- (2) timely submit your answers with your correct Anonymous Number, and
- (3) insert an answer separator (“Tools” on the top menu of Exam4) before your answer to each of the problems after the first.

Crucial instructions are next. Following them is how you would earn points beyond the three points just mentioned.

Each of the problems in this exam consists of a hypothetical story. After reading the story, presume litigation occurs and answer these questions:

1. Who is likely to bring what claim(s)—such as breach of contract, restitution, or rescission—against whom?
2. How will the plaintiff briefly state the elements of the claim by pointing to facts plausibly showing each element?
3. How will the defendant answer or otherwise respond to the claim?
4. Discuss the parties' arguments, assessing their strengths, and connecting that assessment with your predictions about how the court will rule. In making arguments and predictions, use cases in our book, the Restatement 2d of Contracts, or the Uniform Commercial Code.

If you identify an issue on which more than one party has a strong argument, then write the rest of your analysis in the alternative. "If the court decides [this], then In contrast, if the court decides [that], then"

Similarly, if you identify an unresolved factual question, write the rest of your analysis in the alternative. "If the trier of fact finds [this], then In contrast, if the trier of fact finds [that], then"

Do not write long paragraphs. Instead, use paragraph breaks (push Enter twice), so the white space will separate your points and show your organization.

Your word limit on this exam is 1200. If this were a real exam, I would not read or award points for any words beyond 1200. (To display the word count for Exam4, select the Tools menu at the top of the page and then select "Show Exam Statistics". The word count will be displayed on the right side of the page.)

Good luck!.

Problem 1

Suggested Time 40 minutes

In August 2026, Mountain Mining Co. (Mineco) and Halvorsen Drilling, Inc. (HD) signed a document that said:

1. HD shall drill ten exploratory wells, each to a depth of 1,000 feet, at Mineco's remote mining site, which is reachable only by air, by September 30, 2026.
2. Mineco shall pay HD \$36 per foot drilled upon completion of all ten wells.
3. Mineco shall pay Summit Air Cargo, Inc.'s fee for transporting HD's crew and drill rigs to and from the site.

In late August 2026, Mineco paid Summit Air Cargo, Inc. \$150,000 to fly HD's crew and drill rigs to the site. Then, before HD began drilling any well, HD's president told Mineco's site manager, "Most deals for this sort of work are at least \$40 per foot. HD won't start drilling until Mineco agrees to pay that." Mineco's site manager telephoned the four other drilling companies that operate in the region, and each of them said that its crews and rigs were booked until after weather would close the site for the winter. According to HD's president, Mineco's site manager then said, "Okay, Mineco will pay HD \$40 per foot." In contrast, Mineco's site manager remembers the conversation differently: "I didn't promise anything. I just said we'd look into possibly paying more if HD completed the work before October."

HD drilled the ten wells by September 30, 2026. Mineco paid HD \$360,000.