REMEDIES EXAM PROFESSOR COCHRAN
Fall 2006

TIME: 3 hour exam: begins 1:30 PM
5 essays [suggested time 30 minutes each]
17 multiple choice [suggested time is 30 minutes to complete all 17 questions]

FORMAT:

Format is similar to bar exam essay questions and bar exam multiple choice questions. There are no limits on how much the student can write or type on any given question.

Students writing out the exam answers should write on the front, but not the back of the blue book pages. This method allows you to insert something you forgot on the opposite blank page and allows me to write points and other notes if needed on the opposite blank page.

CLOSED BOOK:

Bring to the exam: 2 hands, one head, pen, pencil; laptop.

USE THE CASEBOOK'S RULES OF LAW

The exam questions require that rules of law be stated and analyzed. These rules of law will come from the materials in the casebook, and at times, the question itself will provide additional rules of law, such as a statute. Use the casebook's rules of law. If we studied a clear split, then indicate that split. For example, a majority of jurisdictions do not award damages for the sentimental or fanciful value of personal property to its owner, but a minority will allow this recovery.

Essay questions may be set factually in Utah, Ohio, Illinois or other states to be able to provide a detailed factual setting. This setting does NOT require you to recite the law of that jurisdiction. It is simply a way of providing factual detail and to avoid the use of the terms Anytown, Any State.

For example, if an essay question is set in Utah - the exact rule for laches in Utah is not provided in our casebook- but we will use the general definition-- it is an equitable defense created by unreasonable delay and prejudice.

QUESTION ONE

Emilio Javier [Javier] is a new client in the pro bono program we run here at the law firm. He tells me that until this past year, he enjoyed a good relationship with his employer, Willard Packaging Company [Willard]. Willard is a company that manufactures and distributes packaging materials- boxes, bubble wrap, tape and foam. Javier was hired about three years ago to work as an outside salesperson for Willard. He was provided with a few established leads and also did some cold calling to develop new contacts with businesses needing packaging materials. He was salaried for about two years and then went to straight commissions from his sales. This change decreased his earnings, and ultimately he left Willard to work for a competitor, Packaging Plus.

When he was first hired at Willard, Javier was called to a sales meeting attended by senior staff. At this meeting, all sales staff, including Javier, were presented with a document entitled "Duty of Confidentiality and Covenant Not to Compete." The document included a provision prohibiting Javier from working for a competing business within a seventy-five mile radius of Willard's principal place of business for one year after leaving Willard. It also provided:

I understand that if I breach this Covenant Not to Compete, the injury to Willard will be irreparable and substantial. I also realize that litigation is expensive and time consuming. Therefore, I agree to pay unto Willard the sum of $50,000.00 as and for liquidated damages, and not as a penalty, in the event that I breach the Covenants Not to Compete. I agree that the sum is a fair and reasonable sum to pay in the event of a breach and is not unreasonable, harsh, or unduly burdensome given the nature of such a breach.

The chief staff person called a sales staff meeting and read the document out loud to the sales staff and informed them that if they did not sign it, their futures at Willard "would not be very bright." Javier and all the employees present signed the document. Javier stated he did not read the document then or later during his employment with Willard.

Javier left Willard this May and after collecting unemployment for a few months, began working at Paper Plus, a competitor fifty miles from Willard's headquarters. When Willard confirmed Javier's employment there, Willard filed a complaint in state court to enforce the restrictive covenant, including its liquidated damages clause.

I haven't done much factual investigation, but I did learn that Willard did not create the document itself. In fact Willard copied the precise wording of the liquidated damages provision, including the dollar amount, from another company, one that sells customized wedding stationery.

Please evaluate Willard's action to enforce the contract and advise me if we have any responses, defenses, arguments and such to make in Javier's defense.

QUESTION TWO

You are clerking for a federal district court judge, Nicolas Bua, in the Northern District of Illinois. Judge Bua leaves you the following message:

Memo to Clerk--

We have a pre-trial motion before us- it's a motion to strike the jury trial requested by the plaintiff in Spinelli v. Gold Coast Casino & Michael Gresham. The plaintiff, Christine Spinelli, worked as a bartender at the Gold Coast Casino, which employed Michael Gresham as Spinelli's managing supervisor. Spinelli wrote a letter to Gresham on July 19, 2006 and Gresham received it on July 26, 2006. In the letter, Spinelli was seeking certain, specific information about the health care plan that was currently serving Gold Coast employees. She never received an answer to her inquiry. On July 31, 2006, she was fired.

Spinelli alleged that the timing of her termination was not a mere coincidence, but that she was fired because she had questioned her employer about employee benefits. She filed a claim against Gold Coast, alleging she was fired in response to her exercise of her rights under ERISA. ERISA is the Employee Retirement Income Security Act. It is a federal statute that regulates private pension plans and employee benefit plans. The Act was a response to highly publicized instances of fraud and mismanagement in employee pension funds that had resulted in thousands of workers losing retirement benefits accumulated over a lifetime of work. The Act applies to employee welfare benefit plans, and thus covers employer-provided health insurance.

The ERISA legislative history indicates that Congress, in drafting section 510, the provision prohibiting wrongful, retaliatory discharge for exercising ERISA rights, had looked to the analogous common law tort of retaliatory discharge, a tort widely accepted in state jurisdictions. Thus, Congress was confident an employment retaliatory discharge tort had become "part of our evolving common law."

Section 510 makes it "unlawful for any person to discharge a participant or beneficiary for exercising any right to which he is entitled under the provisions of an employee benefit plan." There is no dispute that Spinelli's allegations would fall under this provision. To enforce the rights granted in section 510, ERISA's section 511 provides that an aggrieved party may bring a civil action under the Act "(A) to enjoin any violation of the Act, or (B) to obtain other appropriate equitable relief."

Here's what I need from you-

I need you to write a draft opinion that analyzes whether Spinelli is entitled to a jury trial for her ERISA claim here in federal court. The defendant Gold Coast has filed a motion to strike the jury trial request. .

QUESTION THREE

Sue Dutton was driving in Oakwood trying to find her way to a yard sale, when she got hopelessly lost amid Oakwood's one-way streets and narrow alleyways. She admits that she negligently turned down a narrow one-way street and collided with Jim Ansel's car as he was driving down the one-way street in the correct direction. Ansel suffered neck and back injuries, and his car's trunk was crumpled and no longer operable. Ansel's daughter, Hannah, age 4, was in a car seat in the back seat, and seemed to suffer no injuries.

Ansel's injuries required medical treatment and physical therapy, causing him to miss three weeks of work at the Honda plant where he worked on the assembly line. His medical bills were paid by his medical insurance. He had accrued enough sick leave with Honda such that he did not lose any wages for the three weeks he was able to work. At the end of the three weeks, he was fully recovered from the injuries he suffered from the collision.

Hannah seemed fine for the first month after the collision. She attended preschool and then stayed nights with her grandmother while Ansel recovered. Ansel had never married Hannah's mother who died of a drug overdose shortly after Hannah's birth. Therefore, Grandma Barbara cared for Hannah when Hannah was not at preschool and Ansel was at work. Hannah had been late in developing her basic motor skills because of sensory integration syndrome, and the time she spent with Grandma had helped her with this problem. A month after the collision, Hannah collapsed on the playground, dead from undetected internal injuries she suffered because of the collision.

The force of the collision also caused Dutton's car to jump the curb on to Julie Bauer's property. The car smashed through a set of three ornamental garden gnomes displayed in her front yard and on into her garage. Inside the garage were the items that Julie Bauer had placed there for her yard sale that day. These items included used dish and kitchen ware, used clothing and used children's toys. In addition, Bauer had stored in the back of the garage the intricately crafted quilts that she was going to take for sale in New York City galleries later in the summer. Based on her previous gallery sales, these quilts would have probably sold for a total of $10,000. The car had entered the garage and smashed the table and items sitting on it and then plowed into the pile of quilts. The quilts were imprinted with the car's tire tracks, and car oil had also dripped onto them.

Sue Dutton has come to us because she has been informed that both Ansel and Bauer intend to file claims against her. Help me to prepare for what we can expect to see in the complaints and answers.

[1] What claim[s] and remedies will Ansel seek against Dutton for himself and/or Hannah? Does Dutton have any defenses to the claims or arguments against the remedies or the measure of the remedies?

[2] What claims[s] and remedies will Bauer seek against Dutton? Does Dutton have any defenses to the claims or arguments against the remedies or the measure of the remedies?

QUESTION FOUR

Jim and Cora Cheshire approached me last month about a possible suit against their landlord, John Stevens. They entered into a written month-to-month lease for a piece of residential property in January 2002. The large house they rented was old, and its condition was reflected by the low rent charged by the landlord: $300 a month. They explained that they had four young children when they entered into the lease and the large yard and house were a blessing for their family.

Beginning soon after they moved in, in March 2002, and finishing over four years later in May 2006, they made substantial improvements to the leased house. Over the years, these improvements included two new bathrooms, a new septic system, new windows, a new furnace, a new kitchen, wiring for the entire house, two new porches, new plumbing, and painting the entire house. Jim and Cora are both very handy people and performed nearly all the work themselves. Stevens lived three blocks away and was frequently on the rental property and was well aware of many of the improvements that the Cheshires were making to the property. The Cheshires never demanded or requested that their landlord pay for these improvements.

On October 1, 2006, Stevens gave the Cheshires fifteen days' notice, as required by the lease, to vacate the leased premises. They were shocked and surprised since they had been such long term, faithful renters, always paying the rent on time, and had made such obvious and substantial improvements to the house.

I sent a housing inspector and a house appraiser over to the rental house to investigate and to estimate the value of the improvements. The inspector found some of the electric wiring was not up to city code. The toilet water use exceeded the maximum amount dictated by county regulation. The work was in other ways was quite well done. The house appraiser estimated that the improvements increased the market value of the house by $25,000. Also, I learned that the landlord has now rented the house out for $600 a month.

The Cheshires tell me that they have tried to get Stevens to pay them for the value of the improvements, but he is quite adamant in saying that he owes them nothing. He told them there's nothing in the lease that covers this sort of situation, and, from having reviewed the lease, he is quite right. Stevens claims he has consulted his own lawyer; his lawyer apparently assured him that the Cheshires had no claims against him; further, he said that even if the Cheshires "cooked up" claims, Stevens had good defenses to them.

I need you to advise me:

What claim[s] the Cheshires have against Stevens?
What defenses Stevens has and their strength[s]?
What remedy[ies] the Cheshires could seek, how would they be measured or phrased and their strength[s]?

QUESTION FIVE

Last month, I, Judge Winters, new to the Utah state trial court, entered an order finding defendant Walter Kershaw in contempt for failure to deliver a well permit under my earlier order and awarding $190,500 in damages to the plaintiff Mike Christen.

In August, 2004, Kershaw, as seller, entered into a contract to sell Mike Christen a 480-acre parcel of land in Grand County, Utah, together with a 6 C.F.S. (cubic feet of water per second) well permit. As I have learned since moving to Utah, in the desert, land is sold with the accompanying well permit because without a well, the land is worthless. However, Kershaw heard that Christen's financing had not been approved, so instead conveyed the land and the well permit to Rockefeller Land & Livestock Co. ("Rockefeller") on December 17, 2004.

Kershaw's December 2004 conveyances resulted in competing claims filed in my court by Rockefeller and Christen over the real property and the accompanying well permit. All parties had counsel here and throughout these events. Following trial on these claims, I granted Christen his requested order for specific performance, ordering Kershaw, on August 28, 2005, to execute a general warranty deed encompassing the real property and to deliver the well permit to Christen.

When Kershaw failed to convey, Christen initiated a contempt proceeding. On May 21, 2006, I found Kershaw in contempt for his failure to comply with the order and judgment of August 28, 2005. Kershaw then conveyed the real property, but he did not convey the well permit. Therefore, I then conducted a contempt hearing and by order dated September 18, 2006, I found Kershaw in continued contempt for failure to convey the well permit, and I assessed damages in the amount of $190,500. I calculated the damages based on expert witness testimony on the difference between the fair market value of the land as promised, with the well permit, and the land received, without the land permit.

Kershaw just filed a motion to reconsider on a range of issues. [1] he renews his arguments that my underlying order to specifically perform on the contract, an extraordinary remedy, was made in error because Christen had an adequate contract remedy at law. [2] he now argues for the first time that the specific performance order was invalid based on the defense of impossibility of performance. Kershaw now argues that on August 28, 2005, he could not convey the well permit to Christen because he had conveyed it on December 17, 2004 to Rockefeller. [3] he argues that I should not have had a bench trial, because he had the right to a jury trial for the contempt hearing on September 18, 2006. I did deny his motion for a jury trial. [4] he further argues he was entitled to a jury trial because the result actually imposed-- $190,500-- was well in excess of $500 and thus considered "serious" contempt warranting a jury trial.

Please address the issues that Kershaw has raised and assess their validity. When handling this matter, I was distracted by chronic back pain, so I may have made mistakes. I need you to analyze whether I should have ruled as I did or differently on these four issues and why or why not.

MULTIPLE CHOICE QUESTIONS

1. In Cochran v. Heller, Cochran contracted with Heller to buy Heller's house in Oakwood. Under the terms of the contract, title was to close and the house would be vacant and ready for Cochran to move in and occupy by April 20. Therefore, Cochran arranged to have her family, including her two sons and all the family household goods, moved into the house on April 20. Cochran insisted on a liquidated damages clause: it provided that if the house was not ready for her to occupy on April 20, Heller would pay Cochran $100 a day for each day it remained unavailable for her and her family to occupy.

Cochran, her family, and their belongings arrived in Oakwood on April 20; the house was not ready for them to occupy. On May 1, Heller advised Cochran that he was not going to go through with the sale of the house. On May 10, Cochran brought suit against Heller for breach of contract and sought the remedies of specific performance and damages.

The court, in ruling on Cochran's request for the remedy of specific performance:

[A] may find for Cochran, whether the liquidated damages clause is enforceable or not.

[B] may find for Cochran, but only if the liquidated damages clause is held unenforceable.

[C] may find for Cochran, but only if the liquidated damages clause is held enforceable.

[D] must find for Heller.

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2. In ruling on Cochran's request, in Cochran v. Heller, for damages pursuant to the contract's liquidated damages clause, the court's conclusion will depend upon whether:

[A] the nearby Dayton Marriott where Cochran and her family stayed charged a rate that was commercially reasonable.

[B] Cochran could have avoided staying at the Marriott by making a reasonable attempt to mitigate damages.

[C] at the time Cochran and Heller entered into the contract, $100 per day was reasonably related to what the parties reasonably believed Cochran and her family's housing expenses would be.

[D] Cochran's purpose in insisting upon the liquidated damages clause was to encourage Heller to vacate the house on time.

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3. In Opperman v. Pitman, Opperman owned a large house that she used as a bed and breakfast. She contracted with Pitman to paint the shutters and wooden trim on the house for $5,000. The contract's provisions included one that specifically made performance subject to Opperman's good faith approval of the work. Opperman inspected the painting after Pitman had completed the work and concluded in good faith that Pitman had done a bad job with the painting work. Pitman demanded payment for the work. Opperman, however, told Pitman that she really wanted to make things work out, and so gave Pitman a check for $4,500, provided that Pitman would repaint the shutters and trim. Pitman reluctantly agreed, and Opperman gave Pitman the check for $4,500. Pitman went to his bank, endorsed the check "under protest" and deposited the check in his account. Pitman never returned to repaint the shutters and trim.

Opperman sues for breach of contract and seeks the remedy of specific performance, demanding that Pitman repaint the shutters and trim. Pitman counterclaims for $500, which Pitman believes is still owed him on the contract to paint the shutters and trim.

Will Opperman be granted the remedy of specific performance?

[A] Yes, because the contract fell outside the Statute of Frauds.

[B] Yes, because Opperman did have a good faith belief that Pitman's painting job was poorly performed.

[C] No, because Pitman's services are not unique.

[D] No, because Opperman has a preexisting legal duty to pay Pitman.

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4. What claims and remedies do Survival Statutes typically create or preserve?

[A] Survival statutes preserve a cause of action for or against a person even though the person dies.

[B] Survival statutes create a cause of action for the death of a person caused by the wrongful act of another.

[C] Survival statutes preserve the claims of survivors against those who have injured them.

[D] Survival statutes stop the running of statutes of limitations for causes of actions that arise from the wrongful death of a person.

5. In Boulder v. Hendrix, the parties disputed a contract for construction of a large garage to house a boat. On March 12, Hendrix hired Boulder to build this boat shelter on his land. They negotiated and then entered into a written contract with a price term of $8,000. Under the contract terms, Hendrix was to pay $4,000 when the work was half completed- on or before April 25- and then to pay the balance when the work was completed. The work was to be completed by June 1. On April 10, the construction work was one-quarter complete when a fire totally destroyed the partial structure. The fire started without the fault of either party. The fire made it impossible for the work to be completed on time. Boulder notified Hendrix on April 10 that because he was committed to an office building construction project starting June 1, he could not work any further for Hendrix. Hendrix hired another builder to build the boat shelter for $9,000.

Boulder sues Hendrix for unjust enrichment and seeks a quasi-contract remedy to receive compensation for the services he rendered before the fire. Boulder would be entitled to receive:

[A] the reasonable value of the work he performed, less the difference between the price Hendrix agreed to pay Boulder and the price Hendrix agreed to pay the other builder.

[B] the reasonable value of the work he performed.

[C] nothing, because Hendrix received no benefit from Boulder's work.

[D] one quarter of the price which Hendrix agreed to pay Boulder for the completed boat shed.

6.. In Boyce v. Kultgen, Ronnie Kultgen was a truck supervisor for Wright Trucking who used his personal truck on the job. Kultgen contracted with Bob Boyce, an old friend from high school, to purchase a used pickup, for a price of $14,500.00. The agreement concerning the truck was memorialized in a standardized printed agreement signed by both men. Boyce delivered the truck and its title, but Kultgen refused to pay for the truck. Boyce filed a complaint against Kultgen, alleging two counts: [1] breach of contract for sale of the truck and [2] unjust enrichment for retaining the truck without paying for it. The court will most likely:

[A] dismiss Count I of the complaint because the contract was unconscionable and given on a take it or leave it basis.

[B] dismiss Count I of the complaint for failure to name Wright Trucking as a defendant.

[C] dismiss Count II of the complaint because quasi contract claims are disfavored when there is a valid, express contract.

[D] dismiss Count II of the complaint because Kultgen was enriched, but not unjustly.

7. In Petersen v. Darren, Petersen, on behalf of himself and other shareholders, brought a shareholder derivative suit against the corporate director, Darren, in state court, based on acts of fraud. The plaintiffs' demand for a jury trial was stricken. On appeal, the appellate court should:

[A] Reverse, because a shareholder's derivative action was traditionally one at law, where juries were used.

[B] Reverse, because the Constitution guarantees all citizens a jury trial.

[C] Reverse, because the remedy sought is a legal remedy.

[D] Affirm, because the claim is an equitable one.

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8. In Paulsen v. Delacroix & Assocs., Dr. Paulsen decided to accept an offer to work from Delacroix & Assocs., a group of dermatologists in Tucson, Arizona. The Delacroix doctors had practice privileges at the University of Arizona Hospital. Paulsen had practiced medicine as a solo practitioner in Iowa for the past 15 years. When he accepted the Delacroix offer, he closed down his office, sold his business and moved to Tucson. When he arrived, the Delacroix office informed him there was no position for him. Six months earlier because of University financial mismanagement, a fiscal crisis was declared, and Delacroix received notice that no additional doctors would be granted practice privileges at the University of Arizona Hospital. Paulsen had read about some of the financial problems in the newspapers before he left Iowa, but when he inquired, the Delacroix office told him any freeze on Hospital practice privileges would not apply to him.

Paulsen sued Delacroix & Assocs. for its breach of the employment agreement. Delacroix argued there was no breach because events at the Hospital were out of its control. But Paulsen successfully argued that Delacroix was estopped from asserting the defense. On appeal, the appellate court will find:

[A] The trial court erred to estop Delacroix's defense because equitable estoppel can serve as an equitable defense; only and Paulsen used it offensively.

[B] The trial court erred to estop Delacroix's defense because Paulsen had some knowledge of the possible issues at the University of Arizona.

[C] The trial court correctly held Paulsen could assert estoppel because Paulsen had relied to his detriment on Delacroix's reassurance that his job and practice remained viable.

[D] The trial court correctly held Paulsen could assert estoppel because of Delacroix's six-month delay in informing him that he could not gain practice privileges at the University Hospital.

9. The term "substantive equity" refers to those claims which:

[A] were first fostered and developed in the Courts of Chancery.

[B] were available pre-merger to members of the clergy exclusively.

[C] were available only when the remedy at law was inadequate.

[D] were claims at law, but were remedied by restitution as the result of a defendant's unjust enrichment.

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10. In Parson v. Driver, Parson sued Driver. Driver was driving over the speed limit when he swerved into and injured Parson while Parson was riding his bicycle in the bike lane of the roadway. Parson brought a personal injury claim against Driver. Which recovery listed below will the court be **least** likely to permit Parson to recover?

[A] punitive damages

[B] loss of consortium

[C] pain and suffering

[D] medical expenses

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11. In Meadow Lodge v. Wilson, Meadow Lodge filed suit and sought an injunction against Wilson. Wilson operated a cider mill on land adjoining Meadow Lodge. The apple mash from the cider operation was dumped into the stream that ran across both properties. The apple mash discolored the stream water, causing huge losses in tourism for Meadow Lodge. Wilson refused to stop dumping the mash into the stream.

The judge issued an injunction ordering Wilson to stop the apple mash discharge. Wilson continues dumping. The court then holds Wilson in contempt for violating the order. The court sentences Wilson to five days in prison after finding her in contempt by clear and convincing evidence.

The court's contempt order is:

[A] Invalid.

[B] Valid because the sentence was coercive.

[C] Valid because the contempt was indirect.

[D] Valid because the sentence actually imposed was not serious.

12. Ken Olin owned Greenacres, in fee simple. For consideration of $5,000, Olin gave Tom Barton a written option to purchase Greenacres Farms for $300,000. The option was assignable. For a consideration of $10,000, Barton later gave an option to Chris Cutter to purchase Greenacres for $325,000. Chris Cutter exercised that option. Then, Barton exercised his option. Barton paid the agreed upon price of $300,000 and took title to Greenacres from Ken Olin. Thereafter, Cutter refused to consummate his purchase.

Barton brought an appropriate action against Cutter and sought specific performance, or, if that request were denied, then damages. Cutter counterclaimed for return of $10,000.

In Barton v. Cutter, the court will most likely:

[A] Grant Barton only the money damages as remedy.

[B] Grant Barton the remedy of specific performance.

[C] Grant Barton only the right to retain the $10,000.

[D] Order Barton to return the $10,000 to Cutter.

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13. A constructive trust arises by:

[A] agreement of the parties.

[B] operation of law and renders the defendant a constructive trustee.

[C] applying the equitable doctrine of equitable estoppel.

[D] the failure of an attempted trust, one that is missing an essential element.

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14. The term "injunction damages" refers to:

[A] damages suffered by an enjoined party when the court fails to notify that party of the hearing for the preliminary injunction

[B] damages suffered by an enjoined party, paid from an injunction bond, when an injunction is wrongfully issued

[C] damages suffered by a restrained party, paid from a bond, when a temporary restraining order is wrongfully issued

[D] damages suffered by a restrained party when a permanent injunction issues.

15. In Powers v. Denton, the plaintiff Susan Powers brings a wrongful death claim against Denton for causing the death of her husband, Bill Powers, as the result of a car collision. Under a typical wrongful death claim, Susan Powers may be able to recover damages:

[A] for her husband's pain and suffering during the time he lived after the accident.

[B] for her husband's hospital expenses before his death.

[C] for her husband's loss of enjoyment of life during the time he lived after the accident.

[D] for her husband's funeral expenses.

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16. In Franklin v. Quarles, the parties entered into a written lease. Franklin would lease a 100-acre farm from Quarles for five years at a rate of $2,000 per year, with the option to purchase "five acres of the farm land for $10,000 in cash" at the end of the lease's term. Before the lease was executed, Quarles orally promised to have a five-acre parcel surveyed before the lease's term expired. Franklin took possession of the farm and paid the rent for five years. During the fifth year of the lease, Franklin had determined that he would be exercising the purchase option, so he planted pine trees to create a Christmas tree farm and also built a large tool shed building on the property. At the end of the lease's term, Franklin tendered Quarles the $10,000 and demanded conveyance, but then Quarles repudiated the option agreement and retook possession of the farm. He had never had the five-acre parcel surveyed.

In Franklin v. Quarles, Franklin brings an action for breach of contract and seeks specific performance of the option agreement. Which is Quarles' best defense?

[A] The option agreement is unenforceable because it lacked separate consideration.

[B] Quarles failed to have the five-acre parcel surveyed and thereby the condition precedent to his own duty of performance failed.

[C] The property description of the land to be sold in the parties' written agreement was too indefinite.

[D] The option agreement is unenforceable under the parole evidence rule.

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17. In Franklin v. Quarles, assume that Quarles is NOT liable to Franklin for the breach of the sale of land contract.

Now, Franklin sues Quarles for the reasonable value of the improvements that Franklin added to the farm. Which theory of recovery will best support Franklin's claim?

[A] the tort of conversion because Quarles retook possession of the land including possession of the improvements.

[B] Quarles' breach of his fiduciary duty rendered him a trustee under a resulting trust that held the benefit of the improvements for Franklin.

[C] a breach by Quarles of an implied in fact contract- manifested by his acts in retaking possession of the farm and its improvements- to compensate Franklin for the improvements.

[D] a quasi contract for the benefits that Franklin unofficiously and non-gratuitously conferred to Quarles.

END OF MULTIPLE CHOICE QUESTIONS