

LAW OF CONTRACT QUESTION PACK

EXAM 1:

Question 1:

X, an organizer of art exhibitions, contracted with Y for an exhibition to be held on 24 to 27 July. These dates were the only dates mentioned during the negotiations. After having being pressurized by X, Y hurriedly signed the standard form contract without reading it. The contract contained a clause permitting X to change the dates of the exhibition unilaterally. Therefore X changes the dates. X had no reason to believe that Y would have signed the contract if he had known of the term. Y averred that the contract was void, because of this mistake.

1.1.1 Is Y's mistake material? Substantiate your answer in one sentence. (1)

Answer and discussion:

Yes. The mistake relates to the terms of the contract (legal consequences) (1)

The mistake is material. Y did not read the contract and did not know that it contained a term that allowed X to change the dates. See study guide 1 (50-53)

1.1.2 Will Y succeed in his attempt to have the contract set aside? Substantiate your answer briefly. (3)

Answer and discussion:

Yes. In this problem we have a contract signed by both parties, and this is an apparent contract. When answering this question you may thus use either the direct reliance of the iustus error approach.

Direct reliance approach: Y, a party to the contract, misrepresents his actual intention by signing the contract. (1) X was misled by Y's misrepresentation. (1) A reasonable man would have realized that Y, certain dates having being mentioned during the negotiations would not have expected a clause permitting X to unilaterally change these dates. (1) X's reliance is therefore not reasonable, and there is no contract.

OR

Iustus error approach: X made an innocent misrepresentation that there was no term allowing X to unilaterally change the dates, and this misrepresentation caused Y's mistake. (1) This is an example of misrepresentation by way of omission. There was a duty on X to direct

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Table of Contents Contract Law Exam Questions With Model Answers Ebook

1. Understanding the eBook Contract Law Exam Questions With Model Answers Ebook
 - The Rise of Digital Reading Contract Law Exam Questions With Model Answers Ebook
 - Advantages of eBooks Over Traditional Books
2. Identifying Contract Law Exam Questions With Model Answers Ebook
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Contract Law Exam Questions With Model Answers Ebook
 - User-Friendly Interface
4. Exploring eBook Recommendations from Contract Law Exam Questions With Model Answers Ebook
 - Personalized Recommendations
 - Contract Law Exam Questions With Model Answers Ebook User Reviews and Ratings
 - Contract Law Exam Questions With Model Answers Ebook and Bestseller Lists
5. Accessing Contract Law Exam Questions With Model Answers Ebook Free and Paid eBooks
 - Contract Law Exam Questions With Model Answers Ebook Public Domain eBooks
 - Contract Law Exam Questions With Model Answers Ebook eBook Subscription Services

- Contract Law Exam Questions With Model Answers Ebook Budget-Friendly Options
- 6. Navigating Contract Law Exam Questions With Model Answers Ebook eBook Formats
 - ePub, PDF, MOBI, and More
 - Contract Law Exam Questions With Model Answers Ebook Compatibility with Devices
 - Contract Law Exam Questions With Model Answers Ebook Enhanced eBook Features
- 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Contract Law Exam Questions With Model Answers Ebook
 - Highlighting and Note-Taking Contract Law Exam Questions With Model Answers Ebook
 - Interactive Elements Contract Law Exam Questions With Model Answers Ebook
- 8. Staying Engaged with Contract Law Exam Questions With Model Answers Ebook
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Contract Law Exam Questions With Model Answers Ebook
- 9. Balancing eBooks and Physical Books Contract Law Exam Questions With Model Answers Ebook
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Contract Law Exam Questions With Model Answers Ebook
- 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
- 11. Cultivating a Reading Routine Contract Law Exam Questions With Model Answers Ebook
 - Setting Reading Goals Contract Law Exam Questions With Model Answers Ebook
 - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of Contract Law Exam Questions With Model Answers Ebook
 - Fact-Checking eBook Content of Contract Law Exam Questions With Model Answers Ebook
 - Distinguishing Credible Sources
- 13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
- 14. Embracing eBook Trends

- Integration of Multimedia Elements
- Interactive and Gamified eBooks

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