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Governing Law:

UCC article 2 deals with the contract of sales of goods where as common law applies to all other contracts. Goods are moveable things identified at the time of contract. Parry's two contracts with his niece Denise were for sale of two baseballs.

Here, Perry entered into two contracts with his niece to sell these baseballs. Baseballs are goods and therefore, UCC S. 2 will govern these contracts.

Merchant:

Merchant is a person who deals with sale or purchase of goods in a kind. Denis and Perry are not merchants because facts do not indicate that deal with the sale or purchase of goods regularly.

Valid Contract:

A valid contract requires mutual assent ( offer, acceptance) , consideration and no defense to formation.

Offer:

Offer is a commitment or undertaking to enter into contract with the present intention and directly communicated to the offeree with definite and certain terms.

Here, the facts suggested that Perry entered into contract. Perry communicated directly with Denise to sell two baseballs. There is a valid offer here. As per UCC, the only requirement is quantity of goods.

Acceptance:

Acceptance of the objective manifestation of the offeree.

Denise here accepted the offer of Perry to buy two baseballs.

Consideration:

Consideration is a bargain for legal exchange. Value of consideration is not important. some legal detriment or forbearance must be there.

Here, Perry selling ( giving up) baseball balls and Denise giving money to buy it and therefore there is a valid consideration.

Defense to formation:

Contract is not valid if it has defenses to formation such as statute of fraud, mistakes,

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duress, fraud, misrepresentation etc.

Statute of Fraud:

When there is a sale of goods more than \$500 in value, then the contract must be in writing.

Here, Perry did not know the real value of baseballs because he did not know anything about the value of these baseballs. The baseballs were autographed by members of championship team, one is signed by Jaguars and another one signed by Sluggers and therefore its value in more than \$500. They are also unique. The facts do not indicate that the contracts are in writing here and therefore, defense of statute of fraud applies here.

Unilateral Mistake:

A contract is voidable if the one party is mistaken about the terms of the contract and the other party knew about the mistake.

Here, Perry did not know anything about value of baseballs, however Denise knew the value of baseballs because she is a sports memorabilia expert. She knew the value of baseballs were more and she knew Perry's mistake and therefore these contracts are voidable.

Misrepresentation:

If the party misrepresents the material facts and the other party relies on the misrepresentation and enters the contract, the contract is not formed. Innocent misrepresentation can also render the contract unenforceable.

Here, Denise misrepresented Perry and told him the Jaguars baseball was a counterfeit and bought it from him for \$20. The facts state that the value of the Jaguar ball was worth \$5000.

Damages:

Expectation Damage:

Usually in a contract, the party is entitled to expectation damages. Expectation damages put the parties in a position if the contract would not have been breached.

Here, Denise obtained Jaguars by misrepresentation stating it is a counterfeit and gave only \$20. The facts indicate that the real value of Jaguars is \$5000.00 on the open market.

Perry is entitled for damages of \$4980.00 for Jaguars.

For Sluggers, Denise told that its value is only \$1000, whereas she sold it to Bob for \$10,000. She only gave \$2000 to Perry. Perry can get another \$8000 from Denise.

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## 2. Equitable remedies:

### Rescission:

Contract can be rescinded for the reasons of mutual or unilaterally mistakes, fraud, duress, misrepresentation etc.

Rescission is an equitable remedy.

Here, as discussed above, Denise misrepresented the material fact and induced Perry to enter into a contract, Perry can ask the court to rescind the contracts.

### Constructive trust:

Constructive trust can be imposed by the court when a party conferred with unjust enrichment.

Here, Denise sold the sluggers for \$10000 to Bob and gave Perry only \$2000.

From remaining \$8000 she purchased a used Voy car. Now the car is worth of \$20000 because of increased interest of collectors. Denise here unjust enriched with \$20000.

Perry can ask the court to impose constructive trust and ask Denise to pay \$20000 to Perry.

### Resulting Trust:

Court can impose the resulting trust when the wrong doer has conferred gain from the wrongful act.

Here, Denise wrongfully gained \$8000 from the sale proceeds of the Sluggers. She deprived the rightful owner Perry and used a car from his money. Car's value is increased to \$20,000. Court can impose resulting trust against Denise.

### Replevin:

Perry may bring the claim of replevin for Voy car.

Replevin is equitable remedy when the defendant wrongfully withhold the chattles of the plaintiff. Sherrif can take possession of the chattle and give it to the plaintiff. Plaintiff has to put bond in the court.

Here, Denise purchased the Jaguar for \$20 from Perry. Perry is a rightful owner and there is defense to the formation of contract and Denise has withhold Jagaur's . Court can order Denise to return Jagaur's to Perry.

Perry may also claim replevin for Voy car because Denise bought the car from the money she received form Bob for the sale of Sluggers.

Question #5 Final Word Count = 898

**END OF EXAM**