

## CONTRACT LAW HYPO

### Jamal Gomez (Craig's List purchaser) and Elaine Harris (Craig's List seller).

**Jamal Gomez**, now 19, decided to go to college and is a starter in basketball for South State University. He has been saving his money for a year and now wants to purchase a 2008 Toyota Scion. A friend suggested that Jamal try finding the car on Craig's List. After weeks of searching, Jamal found **Elaine Harris** offering a red 2008 Scion tricked out with great spinner rims and extras.

Jamal and Elaine have met to do a test drive and Jamal had a family friend, who is a mechanic, look over the car. The friend says that it seems to be okay, but he is a bit concerned about the engine gasket, which would be very difficult to check because lots of parts would have to be taken off to be sure. Elaine assures Jamal that she and her husband have taken great care of the car and he should have nothing to worry about. Jamal and Elaine have exchanged emails for a few more days, and they have decided to negotiate a deal. A lawyer friend of Jamal's suggested that Jamal use a contract to protect himself since Elaine's total offering price for the Scion is \$3,500, compared to the best price he could find in AutoTrader, which was \$5,000. Elaine has reviewed Jamal's contract and the two have decided to meet to discuss the terms.

**Team A**  
**Information Known Only to Jamal**

- One of Jamal's family friends is a salesperson at a used car lot, and has offered to give Jamal favorable financing if Jamal buys a car from his lot.
- Jamal would prefer to buy a car on his own from Elaine because he doesn't want to be in debt to the family friend. Plus, the family friend doesn't have a tricked out Scion at this good a price.
- Jamal is willing to pay more than \$3,500, but he wants the best deal possible because he worked the entire summer in a burger joint to earn the money.

**Team B**  
**Information Known Only to Elaine**

- Elaine knows that the car has been in a few accidents, but thinks the car is still safe and all the damage has been repaired. The car was stolen recently and recovered after 3 days. The insurance company fixed the damage to the door lock and ignition.
- Elaine's husband has been out of work for 6 months and his unemployment insurance is about to run out, so they need to sell the car ASAP, to pay the rent. Because of this, she will take less than \$3,500.
- Since her husband has been out of work they have not continued the regular maintenance on the car.

**STREET LAW  
NEGOTIATIONS WORKSHEET**

NEGOTIATION OBJECTIVES: At the conclusion of the negotiations, you should have reached agreement on the issues listed below. Also, you should keep a written record of your agreement (feel free to use the space provided).

ISSUE	RESOLUTION
<p><b>Price.</b> How much will Jamal pay Elaine for the car? Does the price go up or down depending on whether Jamal gets a warranty? What, if anything, should Elaine disclose about the car?</p>	
<p><b>Payment.</b> Even if Jamal and Elaine agree on a price, they also have to agree on <b>when</b> and <b>how</b> Jamal will pay Elaine. Does he pay <b>before</b> or <b>after</b> she gives him the pink slip and it is recorded at the DMV? How can he trust that the car is really in great shape? What if it breaks down next week?</p>	

**Warranty.** Will Elaine give Jamal his money back if the car breaks down? Is there any warranty on the car? For how long? Even if she will give Jamal his money back, can he get another car for \$3,500? Is there a way for Jamal to get a warranty on his own, from a third party? Are most private sales on an “as is” (no warranty) basis? If Elaine gives a warranty, can Jamal enforce it?

Street Law Hypothetical  
Elaine Harris and Jamal Gomez  
February 7, 2013

## CAR PURCHASE AGREEMENT

**THIS CAR PURCHASE AGREEMENT** (this “Agreement”) is effective as of February 7, 2013 (the “Effective Date”) by and between **Elaine Harris** (“Elaine”) and **Jamal Gomez** (“Jamal”).

### RECITALS

**WHEREAS**, Elaine owns the 2008 Toyota Scion with VIN number \_\_\_\_\_ described herein;

**WHEREAS**, Jamal desires to purchase and Elaine desires to sell such Car;

**NOW, THEREFORE**, in consideration of the mutual premises and undertakings herein contained, the receipt and sufficiency of which are hereby acknowledged, Elaine and Jamal agree as follows:

#### 1. DEFINITIONS.

- 1.1 “**Jamal**” shall include Jamal’s successors and assigns.
- 1.2 “**Elaine**” shall include Elaine’s successors and assigns.
- 1.3 The “**Car**” means the 2008 Toyota Scion with VIN number \_\_\_\_\_, and current mileage of \_\_\_\_\_, owned by Elaine.

#### 2. PURCHASE PRICE AND PAYMENT TERMS.

- 2.1 In exchange for the delivery of the Car, by Elaine to Jamal, Jamal shall pay Elaine the amount of \_\_\_\_\_ (the “**Purchase Price**”).
- 2.2 Jamal shall pay \_\_\_\_% of the Purchase Price (the “**Deposit**”) to Elaine when he takes possession of the Car. Within \_\_\_\_ days after Jamal has received the Car, Jamal will pay the remainder of the Purchase Price to Elaine.

2.3 Upon full payment of the Purchase Price, Elaine will immediately deliver to Jamal the pink slip to the Car.

**3. RISK OF LOSS.**

1. **Risk of Loss.** \_\_\_\_\_ will bear the risk of loss of the Car during the waiting period, prior to full payment of the Purchase Price.

**4. WARRANTIES**

4.1 Elaine guarantees that the Car is in good working condition and has never been in a serious accident. If the Car malfunctions within \_\_\_\_\_ days after signing this document, then Elaine will \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**IN WITNESS WHEREOF**, this Agreement has been duly executed as of the date first referenced above:

By: \_\_\_\_\_  
Elaine Harris

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Jamal Gomez

Date: \_\_\_\_\_