



Contract Fundamentals: A Legal Pop Quiz

Most people understand that contracts memorialize important agreements between parties. But, just how contract savvy are you? Complete SSR's quick quiz to check your knowledge of the fundamentals of legal agreements.

- 1. Ordinarily, agreement is evidenced by:**
 - a. An offer alone.
 - b. An offer plus an acceptance.
 - c. A valid acceptance only.
 - d. Legal capacity.
- 2. In order for an offer to be effective, which of the following IS NOT necessary?**
 - a. The offer must be communicated to the offeree.
 - b. The price requested must be acceptable by a reasonable person.
 - c. The terms of the offer must be reasonably certain and definite.
- 3. Bob offers to sell Barry his one-year-old iPod for \$75. Barry accepts the offer. At this point:**
 - a. You have an offer to negotiate.
 - b. You have a preliminary agreement.
 - c. You have a legally valid contract.
 - d. You have a fully executed contract.
- 4. If Bob tells Barry, "You know, I've been thinking about selling my iPod for under \$100", this constitutes:**
 - a. A valid offer.
 - b. A counteroffer.
 - c. A preliminary negotiation.
 - d. A statement of intent.
- 5. Curtis offers to sell Elise his motorcycle at some time in the future. Elise accepts. Is there a valid contract?**
 - a. Probably not, because the terms are not definite.
 - b. Probably so.
 - c. Definitely not, because Curtis failed to communicate the offer.
 - d. Definitely not, because the acceptance was invalid.
- 6. Which of the following IS NOT an effective way to terminate an offer?**
 - a. By rejection.
 - b. By acceptance.
 - c. By counteroffer.
 - d. By revocation.

So, how did you do? Let's review the answers and see:

- 1.b.** A valid agreement includes an offer and an acceptance of that offer.
- 2.b.** The price requested need not be acceptable by a reasonable person to have a valid contract. However, both parties to the contract must agree to the price.
- 3.c.** There is a contract as there has been an offer which has been accepted.
- 4.d.** There is no valid offer here – merely a statement of intent. Therefore, no enforceable contract can arise.
- 5.a.** The terms such as price and the time at which the transaction shall take place are not communicated between the parties. There are not definite terms, therefore, there can be no contract.
- 6.b.** By acceptance. Once there is an acceptance to an offer, what do we have? Yes, an enforceable contract.

If you received a score of 6 out of 6; congratulations, you know quite a bit more basic contract law than the average citizen. Anything less than a perfect score, while completely normal, is a good reminder that all agreements should be approached with clarity and are best reviewed by your attorney to ensure a smooth transaction and to preserve all of your rights as a party.

About the author: Barry Rothman specializes in business and transactional law with particular expertise in contracts, intellectual property, trademarks/service marks, corporations, employment, franchises and real estate.

S P R I N G 2 0 0 7

Can you believe that it is finally spring in Colorado? We had a long and difficult winter. There were times during the course of the winter of 2006-07 that Colorado, buried under feet of snow that had been blackening, slowly melting, for weeks, looked more like Buffalo, New York. But now, with longer days and warmer temperatures, the winter snow is a mere memory, and even spring snow will not stay with us long. This year, more than most, we can all be thankful for the renewal that spring brings.

As all of us move into spring cleaning mode in preparation for summer, we urge you to make sure that you have updated all of your legal records for 2006. It is important to stay current each year, under Colorado statutes, by performing routine upkeep to your corporate, partnership or LLC records. Likewise it is wise to annually review estate plans and other wealth protection vehicles with an eye toward the ever evolving tax code. So, put down your shovel, pull off your gardening gloves and give us a call if we can help you to keep your entities compliant with Colorado law.

Best regards,

Curtis Shortridge

This publication provides general information and should not be used or taken as legal advice for specific situations which depend on the evaluation of precise factual circumstances. Use of any information herein does not create an attorney-client relationship. The law is constantly changing and there are exceptions to almost every rule of law. You should not rely on the information provided in this newsletter without seeking legal counsel.

USERRA and the Citizen-Soldier

The federal Uniformed Services Employment and Reemployment Rights Act (“USERRA”) protects members of the uniformed services from discrimination in employment. USERRA covers aspects such as hiring, promoting, employing, re-employment, termination, and benefits. USERRA may be affecting more and more employers because of the ongoing wars in Iraq and Afghanistan. Employers and employees alike should be aware of their rights and responsibilities under USERRA.

Whether and what rights and responsibilities an employer or employee has depends on the circumstances. For example, an employee called up for a yearlong deployment with his Reserve unit may have rights during and after his deployment of which his employer should be aware. One such right might be that the Reservist could maintain his employer-sponsored health insurance plan during his deployment. The employer may require the employee to pay for the continued coverage, within the limits provided by USERRA. Upon his return, if he qualifies, the employee may be entitled to reinstatement to the position he left to do his duty.

USERRA requires certain actions by the employee, as well. An employee generally must give proper notice of a particular event, such as deployment and return, unless excused. Employers may not be required to reinstate the employee if holding the position would cause undue hardship or if there was a bona fide business change that eliminated the employee’s position. There are other rights and responsibilities employers and employees have under USERRA.

An employer faces liability if it violates USERRA. The employee or job applicant can file a complaint with the federal government. The federal government is supposed to investigate, and decide whether it will bring legal action against the employer. The employee also can sue the employer on his own.

An employer who loses a USERRA lawsuit faces a potential damage award for lost pay and benefits that a court can double for willful violations. The employee can recover his attorney fees. The court also can issue injunctions, order the reinstatement of the employee, and order other relief.

This short article is only a sample of what USERRA covers. Employers should strive to comply with USERRA to reduce the risk of losing protections under the law, and of facing liability. If you are concerned about how USERRA applies to your situation, we would be happy to consult with you.

About the author: Matthew D. Macy received his J.D. from Emory University School of Law. He brings special civil litigation expertise to the firm in the areas of Employment Issues, Trade Secrets, Officer and Director Liability, as well as Unfair Competition.