

*“Things Your Lawyer Never Told You about the Law”
A Series of Discussions*

Understanding Contracts

We have often heard people talk about *contract*. It is usually in the context of some sort of business transaction. We may even have signed a contract or two at one time or another over the years. But have we ever really stop to think about what is a contract, or how can a contract affect our life, and why should we care?

When we think about it, we use contracts almost every day. Our life insurance policy is a contract that will pay our beneficiaries a sum of money when we die. Our work is an employment contract. Buying a house is a purchase contract. Paying for parking at a parking lot is a bailment contract. Buying a newspaper or candy is a contract. And yes, even getting married is a contract.

A contract is an agreement between two or more parties, which creates an obligation to either do or not to do a particular thing in exchange for something of value. The “thing” of value can be money, goods, services, or even personal affection, in certain circumstances. Contracts are often used to facilitate business, trade and commerce. A contract can be enforced in a court of law.

Every contract must contain the following *material terms* to be valid and enforceable:

- *An Offer* refers to the promise by Party A to either pay money, do something, or give something of value to Party B in exchange for something of value.
- *Acceptance* refers to where Party B accepts all the terms and conditions of Party A's offer "*as-is*". Any deviations from the terms set forth by Party A in the offer is not acceptance.
- *Consideration* is the thing(s) of value exchanged between the parties. Consideration can be money, goods, services or love and affection. Usually, the consideration is something that is of value to the other party.
- *Mutual Assent* means that the parties to the contract agreed to what they bargained for. This is often referred to as a "meeting of the minds".
- *Performance* is where each party does what s/he promised to do in the exchange.

There are three general types of contracts - oral, written and performance. An *oral contract* is where the parties have entered into a verbal agreement; a *written contract* is where the parties have memorialized their agreement into a written form; and a *performance contract* is where the accepting party can either notify the person making the offer of his or her intent to accept, or can perform the agreed upon task specified.

So as you can see, contracts are quite simple legal concepts to understand and use.

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