

One-Day Civil Law Seminar
Contracts & Leases Notes Handout

Contract Formation

- Offer

- Consideration

- Acceptance

- Counteroffers

Parties to the Contract

- Agency

- Guarantors

- Joint and Several Liability

- Husbands, Wives, and Kids

Terms of the contract

- Is there a writing?

- What rules of evidence should you be aware of?

- Are there any terms implied by law into the contract?
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Breach

- Defendant failed to perform their obligations.
- Failure to perform was not excused by:
 - impossibility
 - or frustration of purpose.

Defenses

Statute of Frauds

- Sale of land, leases over 3 years
- Agreement to pay debt of another
- Contracts for the sale of goods over \$500

Minors

- Under the age of 18
- Cannot be enforced against minor
- Minor may enforce

Duress

- Forcing a party to enter a contract
- Entering a contract must be voluntary

Fraud

- False representation of or concealed material fact
- Intended to deceive
- Injured was in fact deceived was by the false representation or concealment of material fact
- Entered contract as result of reliance on false representation or concealment of material fact
- Reliance on the false representation or concealment of material fact was reasonable

Unconscionability

- Inequality of the bargain so manifest as to shock the judgment of person of common sense
- Terms are so oppressive no reasonable person would make/no honest person would accept them

Public Policy/Illegality

- Violates public policy
- Involves illegal activity

Damages

- Direct
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- Incidental

- Consequential

- Interest from date of breach

Analysis of a contracts dispute

- Is there an enforceable contract between plaintiff and defendant?
- Who are the parties to the contract?
- What are the terms of the contract?
- Is the contract one that the law will enforce?
- Did defendant breach the contract?
- What damages is plaintiff entitled to recover?

Another way to think about it

- Plaintiff has the burden of proving by the greater weight of the evidence each of the following essential elements:
- That there was a contract
- That the plaintiff and defendant were parties to the contract.
- That the terms of the contract were A, B, C, etc.
- That the defendant breached term A as follows: ...
- That the breach by defendant resulted in my being damaged in this particular way ...
- The monetary amount of my damages is \$X, and here's how I calculated \$X ...

Summary

- Take the mystery out of contracts cases and increase the likelihood of a just result by following regular steps to analyze each case.
- Create visual representations of areas of the law that may be hard for you to remember.
- To avoid cognitive errors, consider both sides of a case and avoid rushing to judgment.

Leases

Terms

- Rent, Fees & Joint & Several Liability

- Termination & Renewal

- Security Deposit

- Residential Rental Agreements Act

- Right of Entry

- Pets

- Tenant's Breach/Termination

- Assignment

Questions

- In a summary ejectment hearing, what document should you always ask to see?
- What are you looking for in the lease?
- What happens if the plaintiff fails to prove every element of one of the grounds for summary ejectment?

Dimensions of a Fair Process

- Voice

- Neutrality

- Respect

- Understanding

Summary

- Always start with the contract/lease at issue!
- Enforce the terms of the contract/lease.
- Establish practices that support a fair process.