

**October 2005 Baby Bar
Question 1 – Contracts**

Alice v Ed

Offer

An offer is an outward manifestation of present contractual intent with definite and certain terms which was communicated to the offeree.

Ed was greeted by his friend Alice in the grocery store and stated to Alice, come by my new car wash and I'll give you a free car wash tomorrow shows Ed's outward manifestation of present contractual intent to give Alice a free car wash.

The terms were described as one car wash, quantity; tomorrow, being the time period; Ed and Alice are the parties; free is the price; and car wash is the subject matter. Since the terms are stated with sufficient particularity, the terms are definite and certain.

Ed while chatting with Alice in the grocery store stated he would give her a free car wash tomorrow evidencing a communication to the offeree.

Therefore, there was a valid offer.

Acceptance

An acceptance is an unequivocal assent to the terms of the offer.

Alice will argue that when she thanked Ed this was an unequivocal assent to his offer to receive a free car wash.

However, Ed will contend that Alice merely thanked him, and did not assent to the terms of the offer.

Thus, no acceptance had been formed.

Revocation

A revocation is an express statement by the offeror to revoke the offer prior to timely acceptance.

Ed will assert that the following day, after receiving Alice's reply, he phoned Alice and said he would not give her a free car wash, this demonstrates a statement by Ed, the offeror, which showed his intent to revoke the offer to Alice for a free car wash.

Therefore, there was a valid revocation.

However, if the court does find a valid acceptance, Ed's revocation was not communicated prior to the timely acceptance of Alice.

Consideration

Consideration is that which is bargained for and given in exchange for a return promise, requiring a benefit and a legal detriment to all parties.

Ed bargained for giving a free car wash in exchange for no return promise from Alice. Alice bargained to receive a free car wash in exchange for no return promise to do any act for Ed. Thus, Alice had no detriment.

Alice may argue that she offered Ed free tickets to the game, in exchange for his free car wash. However, the tickets were not a basis of the bargain and merely gratuitous.

Since Ed only obligated himself to provide a free car wash to Alice, which he was not previously obligated to do Ed had a legal detriment in delivering a free car wash. However, Alice did not give anything in exchange for a legal benefit. Thus, no consideration existed.

Therefore, no contractual rights exist between Ed and Alice.

Officer Brown v Ed

Offer

Defined supra.

Ed said to Officer Brown if you drive by my house soon and make sure everything is ok. Ed's further statement that he would give Officer Brown a free car wash tomorrow shows Ed's outward manifestation of present contractual intent to give Officer Brown a free car wash.

The terms were described as one car wash, quantity; tomorrow, being the time period; Ed and Officer Brown are the parties; free is the price; and car wash is the subject matter. Since the terms are stated with sufficient particularity, the terms are definite and certain.

Ed ran into Officer Brown and said to him he would give him a free car wash is a communication to the offeree.

Therefore, there was a valid offer.

Acceptance

Defined supra.

When Officer Brown said to Ed, "I accept your kind offer," there was an unequivocal assent to the terms of the offer.

Therefore, there was a valid acceptance.

Revocation

Defined supra.

Ed will assert that the following day, after receiving Officer Brown's reply, he phoned Officer Brown and said he would not give him a free car wash. This demonstrates a statement by Ed, the offeree, showing his intent to revoke the offer to Officer Brown for a free car wash.

However, since Officer Brown did accept prior to the revocation, the revocation is not effective.

Therefore, there was not a valid revocation.

Consideration

Defined supra.

Ed obligated himself to give Officer Brown a free car wash, which he was not previously obligated to do. This was a detriment incurred in exchange for the benefit of receiving Officer Brown's service of driving by and checking out his house to make sure everything was OK.

Officer Brown bargained for a free car wash in exchange for a return promise to drive by Ed's house and make sure everything was OK. However, Officer Brown patrols Ed's neighborhood, and was under a pre-existing duty to perform his service. Thus, Officer Brown did not incur any legal detriment in exchange for the car wash.

Therefore, the consideration is invalid. Thus, no contractual rights exist between Officer Brown and Ed.

Charlie v Ed

Offer

Defined supra.

Ed's statement to his neighbor Charlie that he would give him a free car wash establishes Ed's outward manifestation of present contractual intent to give Charlie a free car wash.

The terms were described as one car wash, quantity; tomorrow, being the time period; Ed and Charlie are the parties; free is the price; and car wash is the subject matter. Since the terms are stated with sufficient particularity, the terms are definite and certain.

Ed saw his neighbor Charlie and said to him he would give him a free car wash is a communication to the offeree.

Therefore, there was a valid offer.

Acceptance

Defined supra.

When Charlie replied Thanks, I'll take you up on that there was an unequivocal assent to the terms of the offer.

Therefore, there was a valid acceptance.

Revocation

Defined supra.

Ed will assert the following day after receiving Charlie's reply, he saw Charlie in line at the car wash and told him I am not going to give you a free car wash which demonstrates a statement by Ed, the offeree, showing his intent to revoke the offer to Charlie for a free car wash.

However, since Charlie did accept prior to the revocation, the revocation is not effective.

Therefore, there was not a valid revocation.

Consideration

Defined supra.

Ed obligated himself to give Charlie a free car wash which he was not previously obligated to do. This was a detriment incurred. However, Charlie did not give anything in return for the benefit.

Charlie bargained for a free car wash in exchange for no return promise. Thus, Ed's offer was gratuitous. As such, there was no consideration.

Detrimental reliance

Where a party detrimentally relies to the extent that a denial of enforcement of the contract would result in an unconscionable loss or injury, a substitute for consideration exists.

Charlie will argue that he left work and drove for one-half hour to get to the car wash. This conduct evidences that he detrimentally relied on the offer made by Ed by the fact he drove a long period of time to get to the car wash. Charlie will also contend by driving a long distance and waiting in line to receive the car wash is proof of the detrimental reliance on the offer made by Ed.

Since the actions taken by Charlie in reliance on the offer by Ed will result in an unconscionable loss and injury to Charlie if Ed's promise is not enforceable, the court will likely find the detrimental reliance applies.

Therefore, the court will enforce the contract between Ed and Charlie.