

John Leonard and Pepsico, Inc



John D. R. LEONARD v. PEPSICO, INC. In the notable case of Leonard v. Pepsico, the court had to consider if it was a valid contract. To be a contract it needed the four essential elements. First, an agreement had to be reached by all parties as to the terms and conditions of the contract. To form a contract there must be a mutual agreement to an exchange (Leonard v. Pepsico, 2006). Second, the contract would require the element of consideration. There would have to be an exchange by both parties of something of value. Third, both parties would need to possess the capacity to enter into an agreement. This would mean that the individual representing Pepsico has the authority to make a contract. Fourth, the contract would have to have legal purpose. A contract would not be binding if the terms or enforcement were illegal at the time and place that it was implemented. The ruling in the Leonard v. Pepsico case relied on the objective theory to consider the contract void. This theory, often called the innocent bystander theory, purports to ask the question of what a reasonable person might expect from the agreement. Simply put, if an innocent bystander had witnessed the agreement, would they expect it to be serious. This sometimes enters a ruling where one party has misstated a condition that any reasonable bystander would understand as a mistake. The party would not be bound by this error. In this case, it was held that any reasonable person would assume that the offer was a joke.

The court found that Pepsico was not bound by the agreement on two key points raised by the defense. The first was that the humor used by Pepsico in the advertisement clearly indicated that the offer was intended as a joke and thus failed the innocent bystander test. In Judge Wood's ruling she writes, "The commercial is the embodiment of what defendant appropriately

characterizes as 'zany humor'" (United States District Court, 1999, p. 6).

Secondly, the judge ruled that as an advertisement it did not fit the definition of a contract.

Advertisements are not usually considered binding contracts, but merely a request to sell. In the ruling of Leonard v. Wood, the judge wrote that. "[...] there must ordinarily be some language of commitment [...] the circumstances are exceptional and the words used are very plain and clear" (United States District Court, 2000, 3). In this case, there was no written language that would take this advertisement above mere information and did not elevate it to the extent of a contract. If the advertisement had contained additional wording that placed a clear intent to fulfill the request such as 'first come, first served' or 'while supplies last', the advertisement may have been considered an agreement (United States District Court, 2000, p. 5). In the case of Leonard, the terms were too vague for the advertisement to be a contract.

This case was similar to a unilateral contract. It would have technically been a binding unilateral contract had it not lacked the necessary elements required of any contract. PepsiCo made the offer without any acknowledgment by Leonard. Leonard had the option of acting or not acting on the offer. It could have been considered a unilateral contract without regards to what Leonard did or did not do. Leonard was under no obligation and only one of the parties made a promise (Mann, Roberts, & Smith, 2000, p. 166). Had the offer been serious and included enough verbiage to adequately form an agreement, it would have been a unilateral contract. This differs from the bilateral contract that requires both parties to agree to act in a certain fashion.

References

Leonard v. Pepsico (2006). Retrieved November 30, 2006, from <http://www.4lawschool.com/contracts/pepsico.shtml>

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