

Contract law problem questions: breach of contract and contract termination



Case Study #1

Lamar Smunt contacted a famous artist named Casimir Roginsky so that Smunt could have a portrait of his mother painted. Smunt offered Roginsky \$500,000 to paint the portrait. Roginsky sent a letter back to Smunt, insulting Smunt's mother and asking for \$750,000 to paint the portrait. After he sends the letter, Roginsky regrets turning down the \$500,000 and calls Smunt to accept the offer. Roginsky knows Smunt will receive the letter and tells Smunt not to open it. Smunt receives the letter and immediately breaks the contract with Roginsky over what was written. Roginsky files a breach of contract against Smunt.

Smunt sent Roginsky an offer; Roginsky declined that offer as soon as he sent his counteroffer via mail. "The mailbox rule (also called the posting rule), which is the default rule under contract law for determining the time at which an offer is accepted, states that an offer is considered accepted at the time that the acceptance is communicated (whether by mail, e-mail, etc)" (School). Which means Roginsky declined the original offer and instead sent a counteroffer to Smunt. Calling Smunt did not negate the letter he sent as a response.

Under the Uniform Commercial Code (UCC), Smunt's offer to make a contract invited acceptance of the contract on behalf of Roginsky. Because Roginsky declined the offer, there is no contract to enforce. He did present a counteroffer to Smunt but tried to hide his declining of the initial offer and his counteroffer by telling Smunt not to open the letter he had sent him. By

attempting to hide the contents of the letter from Smunt, one could make an argument that Roginsky engaged in fraud.

In addition, the modern understanding of entering into a contract requires that the parties entering the contract are clear on who is involved in the contract, the topic of the contract, how much money is involved in the contract, and finally how long the contract permits for the specific good and/or service to be provided. When Smunt sent the original offer to Roginsky, it encompassed everything but a time frame for the painting to be completed. Even though one aspect of the contract is missing, Roginsky still declined the offer. Timeline's also matter in regards to contracts, which is why the letters have precedence over the phone call Roginsky made to Smunt.

In the very least Roginsky attempted to commit fraud. He tried to lie to Smunt in order to obtain the \$500, 000 contract. He misrepresented himself on the phone call where he accepted the offer, which was an attempt to have Smunt enter into a binding contract with him, without Smunt knowing that the initial offer was declined. Had Smunt entered into the contract and later, once the painting had begun, he had received the letter and read it; Smunt would have a case for contract fraud. Roginsky does not have a case to file a breach of contract suit against Smunt, but he has opened the potential for a fraud investigation to occur against himself.

Reference

- School, C. L. (n. d.). *Mailbox Rule* . Retrieved from Cornell Law School: Legal Information Institute: https://www.law.cornell.edu/wex/mailbox_rule

Case Study #2

Wombat entered into an oral agreement with Tony's Toy Company to become a district manager for three years. Upon this oral agreement, Wombat quit his job, sold his home, and moved his entire family to a new state in order to start his new position with Tony's Toy Company. After one month in his new position as a district manager, Tony's Toy Company informed Wombat that things are not working out and his job has been terminated.

There are six types of contracts that must be written down in order for the Statute of Frauds to be applicable. One of them is that a written contract must be signed if the activity in the contract cannot be completed within one year. Wombat was verbally hired for three years, which means he should have been given a written contract. This means that Wombat could have a case if they never had him sign a contract once he began work for Tony's Toy Company.

Promissory estoppels may apply in this case. " Withincontract law, promissory estoppel refers to thedoctrinethat aparty may recover on the basis of a promise made when the party'srelianceon that promise wasreasonable, and the party attempting torecoverdetrimentally reliedon the promise" (School, Promissory estoppel). A verbal contract is a promise.

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Wombat relied on that promise. The promise was reasonable; Wombat merely had to perform duties for the company in exchange for payment. He made major life decisions based on that promise.

Ethically speaking, Tony's Toy Company should have given Wombat a contract to sign and because he had to move to a new state in order to take on the position at the toy company. It may have been a more ethical decision to give him a 90-day probationary period before giving him a position fulltime. As long as Tony's Toy Company did not fire Wombat for one of the many federally protected variables (race, religion, ethnicity, gender, etc) there really is not a case for a breach of ethics. Legally speaking Tony's Toy Company may find themselves being sued due to promissory estoppel but they cannot be sued because their actions are morally questionable.

Finally, one must examine what state Wombat moved to in order to take the job at Tony's Toy Company. Many states are 'right to work' states. That means that a company can fire any employee at any time without having to give a reason for why they are firing that employee. If that is the case, Wombat may still have a case due to promissory estoppel but it could be a challenge to bring to court.

Reference

- School, C. L. (n. d.). *Promissory estoppel* . Retrieved from Cornell Law School: Legal Information Institute: https://www.law.cornell.edu/wex/promissory_estoppel