

UNDERSTANDING AND CONTRACT LAW

★UNDERSTANDING★

The Author hereby states that he DOES NOT UNDERSTAND.

"Under": In or to a position below or beneath something. In or into a condition of subjection, subordination, or unconsciousness.

"Standing" : A position from which one may assert or enforce legal rights and duties.

★ACTS AND LAWS★

"ACT": A legal document codifying the result of deliberations of a committee or society or legislative body.

★DEFINITIONS★

Human: Hue-Man (the colour of a man).

Person: (noun)

1. An individual human being.
2. A human being or corporation recognised in law as having certain rights and obligations.

Person; In the sense of an individual human being.

People (Persons): A human being (natural person) or a corporation (artificial person) regarded as having rights and duties under the law. - Chambers Dictionary 9th Edition

Person:

1. An individual human being.
2. A human being or a corporation recognised in law as having certain rights and obligations. - Collins Australian Dictionary 5th Edition

Person:

1. A human being, whether a man, woman or child.
2. Any human being or artificial body of people, having rights and duties before the law. - Macquarie Dictionary 3rd Edition

Note:

None of the dictionaries referenced here describe an individual as a "sole trader". This is a fraudulent and misleading definition, which is not common to the English language.

★THE CORPORATIONS LAW★

The following extracts are from the Corporations Law 1989.

"Act" means:

- (a) except in relation to a jurisdiction - an Act of the Commonwealth; and
- (b) in relation to a jurisdiction:
 - (i) in the case of a State - an Act passed by the Parliament of that State; or

- (ii) in the case of the Northern Territory - an Act of the Northern Territory; or
- (iii) in the case of the Capital Territory - an Act or Ordinance of the Capital Territory;

★CONTRACT LAW★

An application can be considered a contract.

For a valid contract to be enforced, there are a number of basic rules, which must be followed: "A contract is any legally-enforceable promise or set of promises made by one party to another and, as such, reflects the policies represented by freedom of contract."

In the Civil Law, Contracts are considered to be part of the General Law Of Obligations.

Wikipedia, the free encyclopedia.

Basic common law contract law addresses four sets of issues:

1. When and how is a contract formed?
2. When may a party escape obligations of a contract (such as a contract formed under duress or because of a misrepresentation)?
3. What is the meaning and effect to be given to the terms of a contract?
4. What is the remedy to be given for breach of a contract?

★CONTRACT FORMATION★

Generally, formation of a contract requires a bargain in which there is a manifestation of mutual assent to the exchange and a consideration (see also consideration under English law).

★Escape from Contract★:

A party may in some cases escape obligations established by a contract for one of the following reasons:

★ – Mutual or unilateral mistake as to a basic assumption upon which the contract was made

★ – Misrepresentation of facts inducing one of the parties to enter the contract

★ – Duress inducing one of the parties to enter the contract

★ – Lack of capacity to contract (such as infancy, influence of drugs, alcohol or mental illness)

★ – Unconscionability

★ – Violation of a public policy

★ – Absence of a writing evidencing formation of the contract if the Statute of Frauds requires such a writing

★ – Performance of the contract becomes impossible or extremely difficult or costly by virtue of events occurring after the contract is formed

★ – The principal purpose of the contract is substantially frustrated by virtue of events occurring after the contract is formed In some situations, a collateral contract may exist.

★MEANING AND EFFECT OF CONTRACT TERMS★

Many contract disputes involve a disagreement between the parties about what terms in the contract require each party to do or refrain from doing. Hence, many rules of contract law pertain to interpretation of terms of a contract that are vague or ambiguous.

The parol evidence rule limits what things can be taken into account when trying to interpret a contract.

★PRIVITY★:

In general, only parties to a contract may sue for the breach of a contract.

★VALIDITY OF CONTRACTS★

For a contract to be valid, it must meet the following criteria:

★Mutual Agreement★ - (see main article offer and acceptance):

There must be an express or implied agreement. The essential requirement is that there be evidence that the parties had each from an objective perspective engaged in conduct manifesting their assent, and a contract will be formed when the parties have met such a requirement. For a contract based on offer and acceptance to be enforced, the terms must be capable of determination in a way that it is clear that the parties assent was given to the same terms. The terms, like the manifestation of assent itself, are determined objectively.

★Consideration★:

There must be consideration (see also consideration under English law) given by all the parties, meaning that every party is conferring a benefit on the other party or himself sustaining a recognizable detriment, such as a reduction of the party's alternative courses of action where the party would otherwise be free to act with respect to the subject matter without any limitation.

★Competent, Adult (Sui Juris) Parties★:

Both parties must have the capacity to understand the terms of the contract they are entering into, and the consequences of the promises they make. For example, animals, minor children, and mentally disabled individuals do not have the capacity to form a contract, and any contracts with them will be considered void or voidable.

★ Although corporations are technically legal fictions, they are considered persons under the law, and thus fit to engage in contracts.

★ For adults, most jurisdictions have statutes declaring that the capacity of parties to a contract is presumed, so that one resisting enforcement of a contract on grounds that a party lacked the capacity to be bound bears the burden of persuasion on the issue of capacity.

★Proper Subject Matter★:

The contract must have a lawful purpose. A contract to commit murder in exchange for money will not be enforced by the courts. It is void ab initio, meaning "from the beginning."

★Mutual Right to Remedy★:

Both parties must have an equal right to remedy upon breach of the terms by the other party

★**Mutual Obligation to Perform**★:

Both Parties must have some obligation to fulfill to the other. This can be distinct from consideration, which may be an initial inducement into the contract.

★**EXPRESS AND IMPLIED CONTRACTS**★

A contract can be either an express contract or an implied contract.

An express contract is one in which the terms are expressed verbally, either orally or in writing.

An implied contract is one in which some of the terms are not expressed in words.

An implied contract can either be implied in fact or implied in law. A contract which is implied in fact is one in which the circumstances imply that parties have reached an agreement even though they have not done so expressly.

For example, by going to a doctor for a physical, a patient agrees that he will pay a fair price for the service. If he refuses to pay after being examined, he has reached a contract implied in fact.

QUASI-CONTRACT

A contract which is implied in law is also called a quasi-contract, because it is not in fact a contract; rather, it is a means for the courts to remedy situations in which one party would be unjustly enriched were he or she not required to compensate the other.

For example, an unconscious patient treated by a doctor at the scene of an Accident has not agreed (either expressly or by implication) to pay the doctor for emergency services, but the patient would be unjustly enriched by the doctor's services were the patient not required to compensate the doctor.

The rules by which many contracts are governed are provided in specialized statutes that deal with particular subjects. Most countries, for example, have statutes which deal directly with sale of goods, lease transactions etc.

For example, most American states have adopted Article 2 of the Uniform Commercial Code, which regulates contracts for the sale of goods.

There are also many acts around the world which deal with specific types of transactions and businesses.

For example, the states of California and New York in the U.S. have statutes that govern the provision of services to customers by health studios, and the UK has the Sale of Goods Act 1979 which governs the contracts between sellers and buyers.

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PRIMARY LIABILITY

GOLD COAST CITY COUNCIL		ORIGINAL
ADMINISTRATION CENTRE, GOLD COAST, QUEENSLAND		
SURFERS PARADISE TELEPHONE: (07) 55 816000 FAX: (07) 55 816346		NERANG TELEPHONE: (07) 55 780211 FAX: (07) 55 963653
Last page of Receipt		Page 1 of 1
RECEIPT		DATE
*****		REGISTER
CASH	REGISTER DATE	RECEIPT NO.
CASH		TIME
DEBTOR INFRINGEMENT TICKET		10.00
NOTICE		
TOTAL RECEIPT AMOUNT		10.00

CASH		10.00

The Maker of a Cheque has Primary Liability.

When a Policy Enforcer writes you a ticket, he is the "maker" or "drawer".

The "payee" is the government or state, which means that you are the Bank.

The maker owes the debt, but only the bank can refuse to pay.

The Banker's Handbook states that "No bank is allowed to Dishonour an instrument", therefore you must do a conditional acceptance."

"Ordinarily, the liability of a maker or acceptor as primary". - Blacks Law Dictionary.

DEFAULT NOTICES

The credit card notice of default is a much more complex notice, as it asks specific questions about the nature of the transactions, and lets the Credit Card Company know that you are onto them.

Not many people would suspect that the PEN or PIN that I discussed earlier means that each and every time you use your credit card, and either sign an endorsement or slip, or enter your pin, you are generating a credit on the account which is transferred via the credit provider, to the store or merchant you are buying your goods from.

You create the credit every time, and then they expect you to pay again, claiming that they loaned you the money for the item.

They are nothing more than Moneychangers. All we should be paying is a small fee for the service.

NOTICE OF DEFAULT AND DEMAND

From:, hereinafter "Borrower"
in his private capacity dba , agent for, hereinafter "Lender"

Date:,

Notice of Default and Demand to Cease and Desist Collection Activities Prior to Validation of Purported Debt

Dear,

As you have chosen not to respond to my request for Adequate Assurance, or returned the Affidavit enclosed with it, the Borrower has become suspicious of your activities and the validity of the agreement. This constitutes timely written notice that the Borrower now disputes the entire amount of the alleged loan and declines to pay the purported debt which unless I hear from you, I will discharge and cancel in its entirety, without dishonour, on the grounds of breach of contract, false representation and fraud in the inducement.

Failure to answer my previous correspondence tells me that you acknowledge that the Borrower funded the alleged loan thus ending any claim you have against that person.

If you cannot provide evidence to validate your claim does not constitute fraudulent misrepresentation and that the Borrower owes this alleged debt, this is lawful demand that, within seven (7) days, you provide such validation and supporting evidence to substantiate your claim. Until your claim is validated, you have no authority to instigate any collection activities.

This is Notice that absent the validation of your claim within seven (7) days, you are prohibited from contacting the Borrower, at his home or at work. You are further prohibited from contacting his employer, bank, or any third party.

Each and every attempted contact, will constitute harassment and defamation of character and will subject your institution and any agents in his/her private capacities who take part in such harassment and defamation, to a liability for statutory damages of up to \$1000.00, or as prescribed by law and possibly a further liability for legal fees to be paid to any counsel.

Absent such validation of your claim you are prohibited from filing any notice of lien and/or levy and are also barred from reporting any derogatory credit information to any credit reporting agency.

Verification requires confirmation of correctness, truth or authenticity by affidavit, oath or deposition.

In accounting, it is the process of substantiating entries in books of account (Blacks Law Dictionary, 6th Edition). This verification should include, but not be limited to signing the enclosed Affidavit verifying the terms and conditions of the alleged loan and answers to the

following list of questions:

- 1.
- 2.
- 3.
- 4.
- 5.

You should be aware that sending unsubstantiated demands for payment through the Australian Postal System might constitute mail fraud under federal and state law. You may wish to consult with a competent legal advisor before your next communication with me.

Your failure to respond on-point within 7 days to satisfy this request will be construed as your absolute waiver of any and all claims against the Borrower, and your tacit agreement to compensate the Borrower for costs including any council.

For and on behalf of MR JOHN HENRY DOE TM

by, (insert your signature here)

John-Henry of the Doe Family
Principal Creditor

Unfortunately, there is no way for me to possibly know all of the possible responses or letters that you may or may not receive, so I am unable to write a standard reply for you, however I will include a couple of common letters, and the replies I sent so that you can get the idea.

FINAL NOTICE

From:, Authorised Agent for, Principal Creditor for ALL CAPS STRAWMAN TM hereinafter "Borrower"

To:, in his private capacity dba, agent for, hereinafter "Lender"

Date:, Friday the 6th Day of February 2009

ATTN:

Your silence and unwillingness to answer any of my previous correspondence or to provide verification of the alleged debt is accepted as tacit agreement and settlement by failure to state a claim upon which relief can be granted.

If you have evidence to validate that your claim does not constitute fraudulent misrepresentation and that my client owes this alleged debt, this is a FINAL NOTICE and demand that, within seven (7) days, you provide such validation and supporting evidence to substantiate your claim in the form of a written Affidavit, signed under penalty of Perjury.

Until your claim is validated, you have no authority to continue any collection activities, or to make any court order in the matter.

This is Actual Notice that absent the validation of your claim within seven (7) days, you must cease and desist any and all collection activity and are prohibited from contacting my client, at his home or at work. You are further prohibited from contacting his employer, bank, or any third party.

Each and every attempted contact, will constitute harassment and defamation of character and will subject your agency and/or board and any all agents in his/her private capacities who take part in such harassment and defamation, to a liability for statutory damages of up to \$1000.00, and possibly a further liability for legal fees to be paid to any counsel which he may retain.

Further, absent such validation of your claim you are prohibited from filing any notice of lien and/or levy and are also barred from reporting any derogatory credit information to any credit reporting agency.

Failure to respond will result in Estoppel.

Verification requires confirmation of correctness, truth or authenticity by affidavit, oath or deposition.

NOTICE TO PRINCIPAL IS NOTICE TO AGENT AND NOTICE TO AGENT IS NOTICE TO PRINCIPAL

For and on behalf of MR JOHN HENRY DOE TM
by, (insert your signature here)

John-Henry of the Doe Family
Principal Creditor

In care of, (address)

MORTGAGE NOTICE

The following four points should be included at the end of a Mortgage based notice of Adequate Assurance, and you may want to also ask the bank to see the original unaltered mortgage instrument (not a copy or an affidavit stating they have lost it] as securitisation often means that the Bank no longer has your note, therefore they are not the holder in due course, and have no right to collect on it.

1. Any outstanding amount of the alleged loan is to be balanced and returned to zero.
2. A statement showing the discharge of the alleged debt showing zero balance.
3. The surrender and return of the title deed and/or other instrument that may be held as insurance, to the Borrower.
4. A guarantee that no report of delinquency or bad credit shall be given to any credit reporting agencies.

Failure to respond will be deemed a dishonour of this Notice.

For and on behalf of MR JOHN HENRY DOE TM
by, (insert your signature here]

John-Henry of the Doe Family
Principal Creditor

NOTICE TO PRINCIPAL IS NOTICE TO AGENT AND NOTICE TO AGENT IS NOTICE
TO PRINCIPAL