

Form of a Contract - Chapter 10

DO NOW:

3. Penelope Cramer orally agreed to sell Stanley Aquinas her summer cottage on the shores of Lake Erie in Lakeside, Ohio for \$298,000. Is the contract enforceable? Explain your answer.

5. Zach Tate is told by Vern Fuller, a used car sales person, that if the car he is purchasing breaks down in the next six months, the dealership will repair it free of charge. The written agreement that Tate signs contains only a 90-day guarantee. Will the six month oral guarantee be upheld in court? Explain your answer.

Oct 19-1:52 PM

Jun 20-2:02 PM

3 Questions

What does a contract look like?

Do lawyers have to write contracts?

Why is it a good idea to have a qualified person (like an attorney) write a contract?

What do you expect to see on a contract?

It should include/contain the place, the date, the parties, the subject matter, the price and terms, the intent of the parties, and signatures of the parties.

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With a partner:

You are to sell something of value to the person seated next to you...

discuss with them what should be on your contract

and write up a sample contract.

Keep these contracts handy. We will be using them later!

Oct 19-1:52 PM

Contracts That Must be in Writing

The **statute of frauds** requires that certain types of contracts must be in writing in addition to meeting the other six essential elements.

Review: What are the six essential elements of a valid contract?

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Contracts That Must be in Writing

Contracts to Pay the Debts of Others

- The debtor still owes the money; the person making the promise only pays if the debtor fails to pay.

Contracts Requiring More Than a Year to Perform

- The year begins when the contract is made, not when performance starts.

Contracts in Consideration of Marriage

- If a person agrees to marriage in return for money or a promise.
- If a person agrees to marriage and agrees to adopt a child.

Contracts for Sale of Goods of \$500 or More

- Goods** consist of moveable items, including specially manufactured items.

Contracts to Sell Real Property

- Real property** - is land and anything permanently attached to it.

An exception is for equitable estoppel... this prevents a party from claiming the statute of frauds for lack of written agreement when the other party changes his or her position in reliance on the oral promise (calls his home to buy another).

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Special Rules for Written Contracts

Best Evidence Rule


When you sign a contract, IF AT ALL POSSIBLE, do not accept a photocopy of the agreement.

Instead have each party sign duplicate copies of the original agreement.

If it ever goes to court, and **original agreement** is the **best** form of documentary **evidence**.

10min Best Evidence / Altered Contract


Dec 5-2:44 PM



Ambiguous Clauses: sometimes things are understood in different ways

If two parties are in dispute over an *ambiguous* clause in a contract, the court will favor the party who did not draft/write the contract.

SAT word of the day! What does "ambiguous" mean?



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Special Rules for Written Contracts

Parol Evidence Rule
Evidence of oral statements made before signing a contract cannot be presented in court to change the terms of that contract.

So... make sure that everything you agreed to orally is in the contract!!

Life Lesson

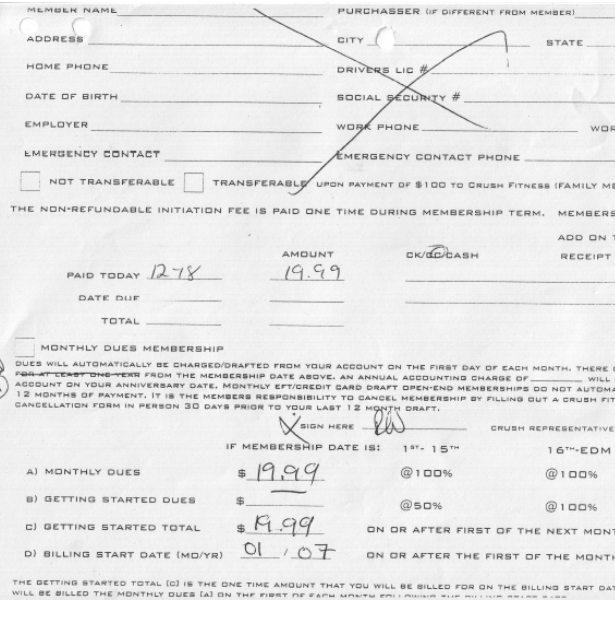
- Read everything
- Don't agree to anything you don't understand
- Write in any promises made to you
- Refuse to sign if you don't agree with everything

JJ Video
Contract Management
Episode 1-K

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Contradictory Terms
Handwriting prevails over typewriting or printing; typewriting prevails over printing. Words prevail over the amount written in figures.

Life Lesson: You can change the terms of your contract at signing!



MEMBER NAME _____ PURCHASER (IF DIFFERENT FROM MEMBER) _____
 ADDRESS _____ CITY _____ STATE _____
 HOME PHONE _____ DRIVERS LIC # _____
 DATE OF BIRTH _____ SOCIAL SECURITY # _____
 EMPLOYER _____ WORK PHONE _____
 EMERGENCY CONTACT _____ EMERGENCY CONTACT PHONE _____

NOT TRANSFERABLE TRANSFERABLE UPON PAYMENT OF \$100 TO CRUSH FITNESS (FAMILY MEMBERS ONLY)

THE NON-REFUNDABLE INITIATION FEE IS PAID ONE TIME DURING MEMBERSHIP TERM. MEMBERSHIP WILL AUTOMATICALLY BE CHARGED/DRAFTED FROM YOUR ACCOUNT ON THE FIRST DAY OF EACH MONTH. THERE IS AN ANNUAL ACCOUNTING CHARGE OF _____ WILL BE DEDUCTED FROM YOUR ANNUAL ACCOUNTING CHARGE OF _____ ON YOUR ANNIVERSARY DATE. MONTHLY EFT/CREDIT CARD DRAFT OPENING MEMBERSHIP DO NOT AUTOMATICALLY CANCEL MEMBERSHIP. IT IS THE MEMBER'S RESPONSIBILITY TO CANCEL MEMBERSHIP BY FILING OUT A CRUSH FITNESS CANCELLATION FORM IN PERSON 30 DAYS PRIOR TO YOUR LAST 12 MONTH DRAFT.

PAID TODAY 12.78 AMOUNT 19.99 CASH CREDIT CARD RECEIPT

DATE DUE _____ TOTAL _____

MONTHLY DUES MEMBERSHIP

IF MEMBERSHIP DATE IS: 1st - 15th 16th - EDM

A) MONTHLY DUES \$ 19.99 @100% @100%

B) GETTING STARTED DUES \$ _____ @50% @100%

C) GETTING STARTED TOTAL \$ 19.99 ON OR AFTER FIRST OF THE NEXT MONTH

D) BILLING START DATE (MO/YR) 01 / 07 ON OR AFTER THE FIRST OF THE MONTH

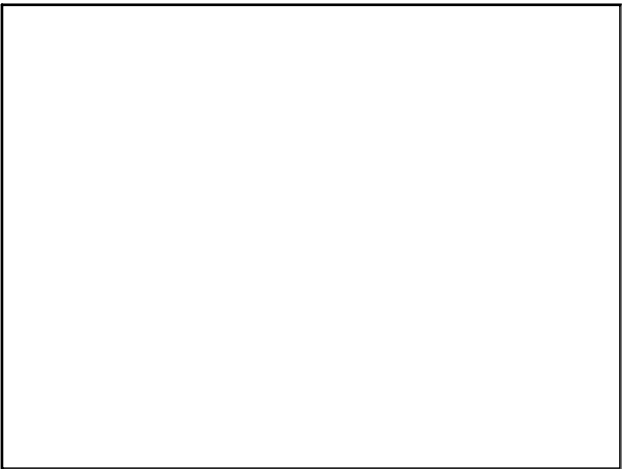
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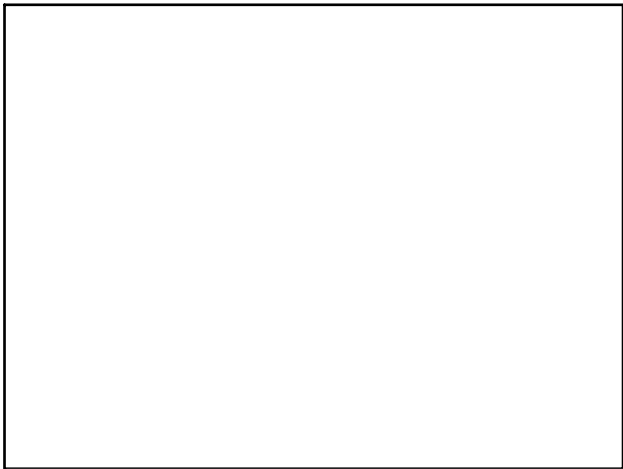
Now take out your contracts and make changes to the contract that satisfies both parties.
(i.e. condition, description, when paid, \$ paid, etc.)
Be sure to initial all changes you agreed upon!

Don't throw these away!
We will use them again next chapter!
Keep these contracts handy. We will be using them later!

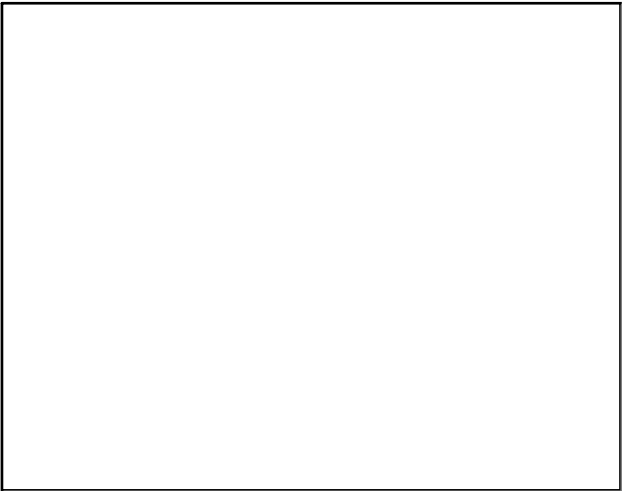
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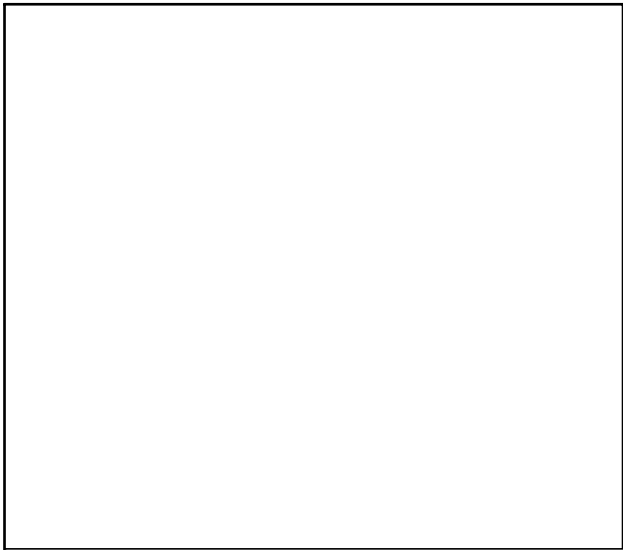
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Attachments

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