

Dana Merriman
MODEL LESSON PLAN
May 2000

Lesson: Making a Contract

Time: 90 minutes

I. Goal: Studying contracts helps students:

A. Recognize when a contract has been formed and determine whether it is valid and enforceable.

II. Objectives:

A. Knowledge Objectives: As a result of this class, students will be better able to:

1. Identify the elements of a contract (offer, acceptance, mutual agreement, and consideration).
2. Understand the basic rules governing minors and contracts in Washington (e.g. K where minor misrepresents age, K involving necessities, K involving school loans).
3. Recognize when a contract is void (e.g. lack of elements, unconscionability, etc.).

B. Skills Objectives: As a result of this class, students will be better able to:

1. Recognize when a contract is legally binding. (i.e. does it contain all requisite elements, is it unconscionable, does it involve illegal activity, etc.?)
2. Make informed choices as to which contracts they should enter into as minors (i.e. weigh the consequences of entering into certain types of K's in which they will be bound).

C. Attitude Objectives: As a result of this class, students will be better able to:

1. Feel more positive about the law knowing that unfair contracts are not enforced.
2. Feel confident in asserting their rights under a valid contract or in exercising the option to be released from the terms of a contract when possible.
3. Feel more secure in knowing what pitfalls to avoid when negotiating a contract.

III. Classroom Methods:

- A. Before class begins, approach ten students to serve as volunteers for a role play. Give them each a description of their part.
- B. By way of introduction, remind the class that the discussion will cover the assigned reading relating to contracts. (Assign the chapter on contracts during the preceding class.)
- C. Recap the reading by asking students to brainstorm the elements of a legally binding contract, recording them on the board.
 1. Must be "offer" by one party and an "acceptance" by the other.
 2. Must be "mutual agreement" in which both parties agree exactly to the terms of the K. Be sure to note that the parties need not say "we agree," agreement can be inferred from actions such as signing a K or beginning to carry out the terms of the bargain.
 3. Must be an exchange of consideration, i.e. something of value in exchange for something else of value. Note that the values of items being exchanged need not be the same. (The law allows consumers to make good deals and bad deals.)
- D. Briefly lay out the rules that apply to contracts and minors and explain the public policy behind such rules.
 1. Generally, minors can't be forced to carry out their contracts and may cancel or refuse to honor the terms. However, upon cancellation minors are required to return any goods or consideration still in their possession.
 2. Exception: Minors are held to contracts involving necessities such as food, clothing, shelter, or medical aid.
 3. In most states, minors who continue making payments on a contract after reaching the age of majority are considered to have "ratified" the contract, at which time the contract may not be canceled.
- E. Explain that often times conflicts arise between contracting parties and that it may be difficult to determine whether a contract is enforceable. Inform the class that they will witness some examples of these conflicts played out in a unique" forum**"THE JENNY SPRINGER SHOW,"** and that they will participate as the audience and help to decide whether the contracts entered into by the guests are valid or not.
 1. Set up two chairs in front of the class.
 2. Recruit teacher to serve as bouncer.
 3. Hand out two-sided signs to audience. (Side 1: Binding Contract" You can't dash, fork over the cash!" Side 2: Not Binding----You're in luck, Schmuck!") Explain that the audience will be asked to vote with these signs after hearing from each pair of guests.
 4. Remind audience to look to the board for the elements that make up a legally binding K as they are listening to the guests' stories.

5. One law student teacher plays **Jenny Springer** and introduces the topic of the day: "**Quit being a Hound! I'm not bound!**" (Display sign)
6. Jenny introduces the first set of guests and asks them to tell their stories. (Play it up by using a fake microphone and pacing around the room like Jerry Springer!)
7. Jenny asks audience to decide whether there was a legally binding contract by a show of their signs. (Encourage vocal participation as well, i.e. cheering and booing.)
8. Jenny runs up to audience members and asks them to explain the rationale behind their choices.
9. To wrap up each dispute, Jenny asks **Judge Judy** (played by the second law student teacher) to give a verdict and explain the law. (Use props, i.e. graduation robe for judge costume and a ladle for a gavel.)
10. Introduce the next set of guests, ask them to tell their story, and so on. Repeat exercise with the remaining sets of guests.
11. Jenny summarizes the do's and don'ts of contract in the "**Final Thought**" to the audience.

IV. Evaluation:

- A. Test for understanding by assessing student responses to whether the contracts entered into by the guests in the Jenny Springer role play are valid or not.

V. Assignment:

- A. Problem 20 on page 285 of the text.

Dan/Danielle Woofer

You are 17 years old, but look like you're at least 20. A few months ago, you went to Magnolia Hi-Fi to buy a new stereo system and signed a contract for a \$1,000 set-up. Before you signed, the salesman asked whether you were over 18 and you said yes, or rather "Give me a break, how old do I look!" The contract required you to put \$300 down and pay \$50 monthly. You put down the \$300, but two weeks later you decided that you wanted out of the contract because your new girlfriend/boyfriend said your speakers were "sad" and couldn't "kick it." You took the stereo back to the store and demanded your money back.

You have come to the Jenny Springer show because you want out of the contract and you believe it is void because you are a minor.

Mac/Marcy Magnolia

You are the head salesman at Magnolia Hi-Fi and take great pride in the fact that your stereos "rock." A couple months ago, you sold a sweet \$ 1,000 set-up to a guy named Dan (or girl named Danielle). The customer looked pretty young, so you were sure to ask whether he/she was over 18 before he signed the contract. The customer said yes. The contract required \$300 down and \$50 monthly. The customer paid the \$300 and took the stereo home. However, two weeks later, the customer returned the stereo and said they wanted to get out of the contract. You refused because the contract was signed. After all, teenagers can't just go around breaking contracts and getting away with it because they're young, especially when they lie about their age!

You have come to the Jenny Springer Show because you think the contract is valid if the customer signed it and claimed to be over 18. You don't think it should matter that the customer is actually 17 years old, and therefore a minor.

Charlie/Charlene Cheap

You have a daughter named Charity who recently celebrated her 18th birthday. A couple years ago, you promised to pay her \$1,000 when she turned 18. However, she has been very rebellious in recent months and you no longer think she deserves the money. In fact, you think she might even use the cash to party with her rowdy friends and get into trouble. Her grades were terrible last semester and you think she could even be doing drugs. When you told Charity that you had decided not to give her the \$ 1,000 for her birthday as you had promised, she was very upset. To your disbelief, she claimed you had entered an oral contract and threatened to sue you for the money!

You have come to the Jenny Springer show because you don't think you should have to pay Charity the \$1,000 you promised. After all, you didn't sign anything.

Charity Cheap

You recently celebrated your 18th birthday. A couple years ago, your dad promised to pay you \$ 1,000 when you turned 18. When your birthday finally rolled around, he refused to give you the money because you have been very rebellious during recent months and your grades have declined. He even had the nerve to accuse you of doing drugs! You have been hanging out with a pretty wild crowd, but your dad never said you had to be a straight "A" student to get the money. You saw an episode of Ally McBeal that gave you an idea about how to get the cash out of your pop. You threatened to sue him for the money because he entered into an "oral contract" with you when he promised to pay you \$1 ,000 on your 18th birthday.

You have come to the Jenny Springer show because you want the money you were promised. You believe your dad's promise met all the requirements of an oral contract. It worked for Ally McBeal didn't it!

Nick/Nicky Novice

You are a student at the University of Washington. After a very stressful semester, you decided to do something adventurous and spend spring break skiing at Whistler with a group of friends. You had never been skiing before, so you contacted the ski school in the area to set up a couple lessons. When you explained that it would be your first time on skis, the instructor said that you would need at least four lessons before you could hit the slopes at Whistler, for your own safety of course. Four lessons sounded a little excessive to you, but you didn't want to go back to school in a cast! Upon arrival, you reluctantly signed a contract for four lessons priced at \$300 each (or \$1200), to be paid in monthly installments of \$ 100 for the next twelve months. After the first two lessons, you realized you had been scammed. You learned the basics in one session and the instructor spent the rest of the time admiring his/her reflection in your ski goggles.

You have come to the Jenny Springer show because you want out of the contract. You think it was unconscionable because it was extremely unfair. You claim there was uneven bargaining power because the instructor was a pro and you were just a beginner.

Sly/Sylvia Slopes

You are an arrogant ski instructor at a resort near Whistler. After failing to make the last Winter Olympics, you got stuck teaching beginners at the local ski school. You are very bitter and charge unfairly high prices for your lessons, often taking advantage of first-time skiers by claiming they need several lessons before they can safely ski at Whistler. You make them sign contracts for packages of four lessons when they actually learn everything they need to know in one. You are now being hassled by a customer that you taught during spring break with a claim that the contract was unconscionable. You maintain the contract is completely valid and binding because the law doesn't protect stupid consumers. Besides, you didn't hold a gun to anyone's head and force them to sign up for lessons.

You have come to the Jenny Springer show because you think the contract was valid. The customer was just too dumb to do any research and find out it was a bad deal. You don't believe that a contract has to be fair to be valid.

Larry/Lorinda Law

You are the sheriff of the small town of Lake City. Recently, there has been a string of bold robberies in which thieves have made off with hundreds of lawn ornaments from yards in the neighborhood, including many prized plastic geese. Subsequently, you got a call from the president of "Citizens Against the World", a grass roots neighborhood watch program in the area that is made up of a bunch of nuts! They patrol their neighborhood like some sort of paramilitary group. The president of CAW demanded that you order a manhunt for the thief. You brushed it off and am later discovered a flyer stating that CAW was offering a \$1000 reward for the capture of the lawn ornament thief. A few days later, you were sitting in the local doughnut shop and happened to spy the thief in a yard across the street, just as he was making off with two plastic flamingos. You stuffed your half-eaten jelly glaze into your shirt pocket, ran across the street, and single-handedly captured the thief. When you called CAW to claim the reward, they refused! They said you didn't deserve the money because it's your job to catch criminals, and boy are you mad.

You have come to the Jenny Springer show because you feel that you have a valid claim to the reward money. After all, why should it matter that you're the sheriff? That's discrimination! You don't think CAW should be able to get out of the reward contract.

Norm/Nora Neighbor

You are the president of a grass roots neighborhood watch program in Lake City, an overly enthusiastic group that calls itself "Citizens Against the World" (or CAW). When you flunked out of high school, you discovered that you couldn't be a fighter pilot in the air force, so now you patrol the streets of your neighborhood in military clothing. Recently, there has been a string of bold robberies in which thieves have made off with hundreds of lawn ornaments from yards in the neighborhood, including many prized plastic geese. You contacted the sheriff, but doubt anything will be done. In your opinion, the sheriff is a lazy, doughnut-eating slob. Utterly appalled by these crimes, and concerned for the safety of your own little ceramic lawn trolls, you immediately called a special meeting of CAW. The group collected \$1000 and offered it as a reward for the capture of the thief. A few days later, the sheriff captured the thief. To your disgust, the sheriff had the nerve to try and claim the reward! You have refused to pay the reward to the sheriff because it is his job to catch criminals.

You have come to the Jenny Jones show because you don't think the sheriff should be able to collect your reward for simply doing his job. You would have been more than happy to honor the contract if somebody else had captured the thief, but not the sheriff.

Ned/Nell Needy

You are an unemployed artist, obsessed about whether your boyfriend/girlfriend (Butch/Barbie) is faithful to you. He/she is a model and poses live for artists for a living, which drives you insane with jealousy. You meet Sam Stalker one night at a shady bar. When the two of you get to talking, you get an idea. If only you could have someone follow your honey and find out for sure if he/she is faithful, then you would feel much better. So you offer Stalker \$300 to follow Butch/Barbie and beat up anyone who tries to touch him/her. Stalker accepts, but comes back a week later and tells you Butch/Barbie is completely faithful to you. HA, you know better than that, does this Stalker think he can pull one over on you?! You refuse to pay the \$300.

You have come to the Jenny Springer show because you don't think you have to honor a contract that wasn't properly carried out. You are sure that you are being cheated on, so why should you have to pay Stalker \$300 when the job wasn't done right!

Sam/Samantha Stalker

You are an ex-convict and have been out of the slammer for a couple years now. One night you meet Ned/Nell at a shady bar. As it turns out, this poor sap is a mess because he/she thinks his significant other (Butch/Barbie) is unfaithful. You feel sorry for Ned/Nell, so when he/she offers you \$300 to follow the cheater and beat up anyone in the way, you eagerly accept. You follow Butch/Barbie for a week, but don't uncover any cheating. When you go back to Ned/Nell to report the news and collect your \$300, Ned/Nell refuses on the grounds that you didn't do your job or you would have caught Butch/Barbie for sure!! You are extremely agitated and want the money for the job you agreed on and carried out.

You have come to the Jenny Springer show because you don't think someone can get out of a contract just because the results turn out different than they expected. After all, you did your part of the bargain!

Judge Judy's Explanation of the Law

1. Minors & Contracts

17 year old tells salesperson that he is 20 years old, enters into contract to purchase stereo, and now wants to cancel contract.

In Washington, the contracts of minors are voidable, meaning that the minor can get out of the contract if s/he chooses to do so. The person with whom the minor contracted cannot void the contract.

Minors are bound to contracts they make for necessities, such as food, clothing, medical attention, and housing. They are also bound for educational loans. Minors married to a legal adult (18 years or older) are considered adults.

If a minor misrepresents his or her age, s/he is bound by contracts s/he makes and is not entitled to get out of them. Such is the case here. Though he was 17, he told the salesperson that he was 20. However contrast the following situation: A 17 year old, who looks like he is 20 years old, enters into a similar contract and decides that he wants to cancel. He can cancel this contract. He is entitled to get all the money back that he has paid and he is obligated to return the stereo to Magnolia Hi-Fi. The fact that he looked older than 17 is not enough to change the outcome.

2. Elements of a contract

Father Promises to give daughter \$1000 when she turns 18. On her 18th birthday, she seeks the money.

This is not a valid contract, there is no consideration, i.e. no exchange of value. Remember that the elements of a binding contract include: an offer, an acceptance, mutual agreement on the terms, and consideration (Note however that the values of the items being exchanged do not have to be the same. The law does not protect people from making bad deals).

But in this case, there is clearly no consideration on the part of the daughter. It is merely a gift that the father promised to the daughter. The gift can be withdrawn by the father at anytime.

Outcome may be different had father set some sort of condition that the daughter had to fulfill in order to receive payment.

Distinguish following case: *Hamer v. Sidway*: Uncle promises his nephew that if he would refrain from drinking, using tobacco, swearing, and playing cards or billiards for money until he became 21 years of age, he would pay him a sum of \$5000. The court held that it was sufficient consideration that the nephew restricted his lawful freedom of action and fully performed the conditions imposed.

Note on written and oral contracts: Whether written or oral, a contract must contain elements to be legally binding. Certain kinds of contracts must be in writing to be enforceable (e.g. sale of land or real estate, contracts for the sale of goods priced at \$500 or more, agreements to pay another person's debt, and agreements that cannot be performed within a year from the date of the agreement). Note that the law favors written contracts. For your protection, it is always better to have a written contract. Otherwise, it can be difficult to prove that a party promised to do something. If there is a written contract, a court will not listen to evidence of promises made before the signing of the contract except when the written contract is unclear or one party was tricked into entering the contract.

3. When a contract may be unenforceable:

Novice skier pays for overpriced ski lessons and now wants to get out of payment plan.

Unfortunately for the skier, the law does not protect him from making bad deals. Courts will usually not refuse to enforce a contract simply because it requires someone to pay a very high price for something. The law allows for freedom of contract, and consumers are allowed to make bad deals as well as good ones. Courts are hesitant to interfere with the contracts that parties have made.

On rare occasions however, a court may find a contract (or an unfair clause in a contract) to be void on the basis of unconscionability - i.e. the contract is so unfair, harsh, and oppressive that it should not be enforced. A court is more likely to find a contract unconscionable when 1) the consumer is presented with a contract on a take-it-or-leave-it basis, and 2) there is very uneven bargaining power between the parties (e.g. experienced seller is dealing with an uneducated consumer - gross disparity in knowledge). Give Walker Furniture Case example.

Sheriff captures suspect and seeks the reward.

The sheriff cannot collect the reward because as a sheriff, he has a duty to perform this service. Contrast: Ordinary citizen with no such duty can collect reward.

Jealous mate contracts w/ stranger to stalk his/her significant other and beat up the person that s/he is cheating with.

A contract to engage in an illegal activity or an activity that is against public policy is not legally binding.

e.g. Contract to sell drugs, contract to steal, contract to murder (Wanda Holloway case where Holloway wants to hire someone to kill daughter's rival cheerleader)

Note also other -rounds for not enforcing a contract:

-contracting party was not legally competent (e.g. mentally ill or intoxicated)

-contracts made under duress or fraud

FINAL THOUGHT

Making a contract isn't anything to be taken lightly. In fact, contracts can really get you into hot water if you don't understand the basics.

- **A contract is an agreement between two or more persons to exchange something of value. Each person is legally bound to do what is promised. If one party to a contract does not carry out the promise, the other party is entitled to a remedy.**
- **A legally binding contract must have certain elements. There must be an offer by one party and an acceptance by the other. Then there must be mutual agreement, the two parties must agree exactly to the terms of the contract. In every valid contract, there must be an exchange of consideration. In other words, something of value must be given for something else of value.**

The law of contracts reaches into many aspects of our daily lives. To protect yourself as a consumer, it is important to understand how contracts are formed and how they affect your rights. You should not be too quick to enter into a contract. Be sure you understand and agree with all the terms before you accept; otherwise, it may be too late to back out of the deal.

That's our show for today. Until next time, this is Jenny Springer saying be kind to one another folks.

**“Quit
being**

a HOUND”

I 'm

not

BOUND ! "

BINDING CONTRACT

**“You can’t dash,
fork over the cash!”**