

CONTRACTS

Class 6



UNILATERAL CONTRACTS VS. BILATERAL CONTRACTS

BILATERAL CONTRACTS

- A **bilateral contract** is a promise in exchange for a promise.
 - **Note:** An implied-in-fact contract is a bilateral contract even though it may be established by an action rather than a verbal promise.
- **Bilateral Contract:** Both parties are bound.

UNILATERAL CONTRACTS

- A **unilateral contract** is a promise in exchange for a performance.
- **Unilateral Contract:** only one party is bound by contract.



ACCEPTANCE OF A BILATERAL CONTRACT

- Acceptance must be **communicated** to the offeror.
- UCC § 2-206: Any "reasonable" method of acceptance is valid, including:
 - Verbal acceptance
 - Acceptance by action that implies an acceptance
 - Shipping in response to an order of goods
 - Silence; if the offeree fails to return something that she was supposed to return if she wasn't going to buy it or in another case where silence can reasonably be interpreted to be an acceptance.



THE BATTLE OF THE FORMS

- **Common Law Rule:**
 - **"Mirror Image"** rule: The acceptance has to be to the **exact same terms** as the offer. If the acceptance is different from the offer, it is a **rejection and a counter-offer!**
- **U.C.C. Rule (§2-207)**
 - **Between non-merchants:**
 - An acceptance that is different from the offer is a **valid acceptance** on the terms laid out by the offeror; the additional terms are simply proposals for new contracts.
(unless the acceptance was conditional upon the new terms being part of the contract; in that case, the acceptance is not a valid acceptance)



THE BATTLE OF THE FORMS (CONT.)

- **U.C.C. Rule (§2-207)**
 - **Between Merchants:**
 - The additional terms **DO** become part of the contract,
 - **UNLESS:**
 - a) The offer expressly limits acceptance to the terms of the offer;
 - b) The new terms materially alter the offer; or
 - c) Notification of objection to the new terms is given by the original offeror to the offeree within a reasonable time after notice of them is received.



ACCEPTANCE OF A UNILATERAL CONTRACT

- Acceptance of a unilateral contract must come in the form of performance.
- The performance has to be **intended to be an acceptance of the offer**. If the person doing the performance did not know of the offer, performance is not an acceptance and the offeror is not bound.
- Part performance of a unilateral contract makes the offer irrevocable.
- Mere preparation to perform does not constitute an acceptance.



QUIZ TIME!



THE MAILBOX RULE

- This rule also applies to fax, e-mail etc., but is most important to methods of mail that are not instantaneous.
 - An **Offer** is valid only when received by the offeree.
 - A **Revocation** of the offer by the offeror is valid only when received by the offeree.
 - A **Rejection** of the offer by the offeree is valid only when received by the offeror.
- **BUT**
 - An **Acceptance** of an offer is valid as soon as it is sent by the offeree.



THE MAILBOX RULE (CONT.)

- **Other rules**

- If the offeree first sends a *rejection and then sends an acceptance*:
 - Whichever arrives first applies (no mailbox rule application)
- If the offeree first sends an *acceptance and then sends a rejection*:
 - *Acceptance controls* unless the rejection arrives first, and the offeror detrimentally relied on the rejection.

Sun	Mon	Tues	Wed	Thurs	Fri	Sat
	GG offers		GG revokes	Joe accepts		
	GG offers		Joe rejects	Joe accepts		
	GG offers		Joe accepts	Joe rejects		



CONTRACT INTERPRETATION

- If the terms of the contract are so vague and ambiguous that there was no meeting of the minds, there is no contract.
- If there is an intent to form a contract, and the court needs to interpret the provisions, it will look to:
 1. Course of performance under that same contract.
 2. Course of dealing with the same parties under previous contracts.
 3. Custom and usage in the trade- meaning generally attached to that term.
- If it's totally unclear, the defendant wins the issue because a plaintiff must prove his or her case to prevail in court.

