

Contracts

Week 10: “Live” Class

Statute of Frauds

Prof. Martha Ertman
UM Carey School of Law

THIS WEEK'S MAIN POINTS

Statute of Frauds

➤ Common Law:

- Types of contract that must be in writing: Rest. (2d) § 110
- Required contents of the writing: Rest. (2d) § 131
- “Exceptions” or substitutes for the writing (i.e., detrimental reliance)

➤ Application:

- *DePugh v. Mead Corp.*; *Browning v. Poirier*; *Sterling v. Taylor*; *Durham v. Harbin*; *Alaska Dem. Party*; *Gibson v. Arnold*
- Problem 5.1

➤ UCC Art. 2: UCC § 2-201

- Sales of goods contracts that must be in writing: § 2-201(1)
- Required contents of the writing: § 2-201(1)
- “Exceptions” or substitutes for the writing (i.e., confirming merchant memorandum): § 2-201(2) & (3)

➤ Application:

- *Lohman v. Wagner*
- Problems 5.1 & 5.3

THREE QUESTIONS THAT COME UP IN STATUTE OF FRAUDS DEFENSE



#1: Does this contract fall within the Statute of Frauds?

#2: If YES, does a signed writing exist?

#3: If NO, does an exception substitute for a signed writing?

- Reliance
- Admitting contract formed

Q #1: COMMON LAW CONTRACTS THAT MUST BE IN WRITING

Restatement (2d) § 110: Statute of Frauds—Classes of Contracts Covered

- 1) The **following** classes of **contracts** are subject to a statute, commonly called the **Statute of Frauds**, **forbidding enforcement unless** there is a **written memorandum** or an applicable **exception**:
 - a) a contract of an executor or administrator to answer for a duty of his decedent (the **executor** administrator provision);
 - b) a contract to answer for the duty of another (the **suretyship** provision);
 - c) a contract made upon consideration of marriage (the **marriage** provision);
 - d) a contract for the sale of an interest in land (the **land contract** provision);
 - e) a contract that is not to be performed within one year from the making thereof (the **one-year** provision).

Q#2: REQUIRED CONTENTS OF THE WRITING

Rest (2d) § 131: General Requisites of a Memorandum

“Unless additional requirements are prescribed by the particular statute, a **contract within the Statute of Frauds is enforceable** if it is evidenced by any **writing, signed by** or on behalf of the **party to be charged** with, which:

(a) Reasonably **identifies the subject matter** of the contract;

(b) Is sufficient to **indicate** that a **contract** with respect thereto has been **made** between the parties **or offered** by the signer to the other party; and

(c) States with reasonable certainty the **essential terms** of the unperformed promises in the contract.”

The Land Provision: *DePugh v. Mead Corp.*

π Sellers/
DePugh

Permission to excavate & “borrow” clay



Buyer Mead Corp.

\$ & remediation (pond, gravel road, seed & mulch)



π sellers paid for survey, site plans & title search
 Δ buyer did nothing

Writings: (1) **Borrow Agreement** -- unsigned

(2) **10/19 letter**

Seller dispute re: Borrow Agreement & “terminates” rights & obligations

Trial Court granted Δ buyer’s M/Summary Judgment

Issue:

Outcome:

DePugh v. Mead Corp.

π Sellers/
DePugh

Permission to excavate & “borrow” clay



Buyer Mead Corp.

\$ & remediation (pond, gravel road, seed & mulch)

π sellers paid for survey, site plans & title search
 Δ buyer did nothing

Writings: (1) **Borrow Agreement** -- unsigned

(2) **10/19 letter**

Seller dispute re: Borrow Agreement & “terminates” rights & obligations

Trial Court granted Δ buyer’s M/Summary Judgment



Rules:
Analysis:

DePugh v. Mead Corp.

π Sellers/
DePugh

Permission to excavate & “borrow” clay



Buyer Mead Corp.

\$ & remediation (pond, gravel road, seed & mulch)

π sellers paid for survey, site plans & title search
 Δ buyer did nothing

Writings: (1) **Borrow Agreement** -- unsigned

(2) **10/19 letter**

Seller dispute re: Borrow Agreement & “terminates” rights & obligations

Trial Court granted Δ buyer’s M/Summary Judgment

Holding:



The 1-Year Provision: *Browning v. Poirier*

π Howard Browning

Share lottery ticket winnings



Lynn Anne Poirier

Share lottery ticket winnings

1991: romance began

1993: oral agreement to share lottery winnings

2007: Lynn Anne won \$1 million

refused to split proceeds with Howard

Howard sued to enforce her promise to share winnings

Lynne Anne asserted Statute of Frauds prevented enforcement



TC J for Δ Lynn Anne (SoF bar enforcement & no unjust enrichment)

Ct. App. Agreed re: 1 year provision b/c parties intended relationship to last longer than a year but REVERSED on Howard's unjust enrichment claim

Issue:

Outcome:

The 1-Year Provision: *Browning v. Poirier*

π Howard Browning

Share lottery ticket winnings



Lynn Anne Poirier

Share lottery ticket winnings

1991: romance began

1993: oral agreement to share lottery winnings

2007: Lynn Anne won \$1 million

refused to split proceeds with Howard

Howard sued to enforce her promise to share winnings

Lynne Anne asserted Statute of Frauds prevented enforcement



TC J for Δ Lynn Anne (SoF bar enforcement & no unjust enrichment)

Ct. App. Agreed re: 1 year provision b/c parties intended relationship to last longer than a year but REVERSED on Howard's unjust enrichment claim

Rules:

The 1-Year Provision: *Browning v. Poirier*

π Howard Browning

Share lottery ticket winnings



Lynn Anne Poirier

Share lottery ticket winnings

1991: romance began

1993: oral agreement to share lottery winnings

2007: Lynn Anne won \$1 million

refused to split proceeds with Howard

Howard sued to enforce her promise to share winnings

Lynne Anne asserted Statute of Frauds prevented enforcement



TC J for Δ Lynn Anne (SoF bar enforcement & no unjust enrichment)

Ct. App. Agreed re: 1 year provision b/c parties intended relationship to last longer than a year but REVERSED on Howard's unjust enrichment claim

Analysis:

The 1-Year Provision: *Browning v. Poirier*

π Howard Browning

Share lottery ticket winnings



Lynn Anne Poirier

Share lottery ticket winnings

1991: romance began

1993: oral agreement to share lottery winnings

2007: Lynn Anne won \$1 million

refused to split proceeds with Howard

Howard sued to enforce her promise to share winnings

Lynne Anne asserted Statute of Frauds prevented enforcement



TC J for Δ Lynn Anne (SoF bar enforcement & no unjust enrichment)

Ct. App. Agreed re: 1 year provision b/c parties intended relationship to last longer than a year but REVERSED on Howard's unjust enrichment claim

Holding:

PROBLEM 5.1(1) & (2): APPLYING THE ONE-YEAR PROVISION

Does the Statute of Frauds -- Rest. (2d) § § 110 & 130(1) -- require a signed writing for these transactions?

(1) On April 1, 2019, Ali & Blair agree orally that Blair will employ Ali for one year beginning the same day.

(2) On April 1, 2019, Ali & Blair agree orally that Blair will employ Ali for one year beginning May 1, 2019.



PROBLEM 5.1(1) & (2):THE ONE-YEAR PROVISION

Does the Statute of Frauds -- Rest. (2d) § § 110 & 130(1) -- require a signed writing for these transactions?

(1) On April 1, 2019, Ali & Blair agree orally that Blair will employ Ali for one year beginning the same day.

NO. Contract is NOT within Statute of Frauds because performance can be fully rendered before midnight March 31, 2020.

→ No signed writing required for enforcement

(2) On April 1, 2019, Ali & Blair agree orally that Blair will employ Ali for one year beginning May 1, 2019.

YES. Contract IS within Statute of Frauds because the 1-year period starts running at the time the contract is formed, not when performance starts.

→ Enforceable only if signed writing



PROBLEM 5.1(3) & (4): APPLYING THE ONE-YEAR PROVISION

Does the Statute of Frauds -- Rest. (2d) § § 110 & 130(1) -- require a signed writing for these transactions?

(3) Ali & Blair agree orally that Blair will employ Ali during Ali's life.

(4) Ali & Blair agree orally that Blair will employ Ali for 5 years beginning the next day & that either party can terminate the agreement following 30 days written notice..



PROBLEM 5.1(3) & (4): APPLYING THE ONE-YEAR PROVISION

Does the Statute of Frauds -- Rest. (2d) § § 110 & 130(1) -- require a signed writing for these transactions?

(3) Ali & Blair agree orally that Blair will employ Ali during Ali's life.

NO. Not within the Statute of Frauds because Ali could die 6 months into the contract.

Capable of performance in 1 year → signed writing NOT required for enforcement.

(4) Ali & Blair agree orally that Blair will employ Ali for 5 years beginning the next day & that either party can terminate the agreement following 30 days written notice..

NO. Not within the Statute of Frauds because duration uncertain.

Capable of performance within 1year

→ signed writing NOT required for enforcement.



NEXT STEP:

If Signed Writing Required:
Definition of “Signed”

RECALL: CONTENTS OF THE WRITING

Rest (2d) § 131: General Requisites of a Memorandum

“Unless additional requirements are prescribed by the particular statute, a **contract within the Statute of Frauds** is enforceable if it is evidenced by any **writing, signed by** or on behalf of the **party to be charged** with, which:

(a) Reasonably **identifies the subject matter** of the contract;

(b) Is sufficient to **indicate** that a **contract** with respect thereto has been **made** between the parties **or offered** by the signer to the other party; and

(c) States with reasonable certainty the **essential terms** of the unperformed promises in the contract.”

Signature & Essential Terms: *Sterling v. Taylor*

π

Buyer Don Sterling

(1) March 13 letter: property listed by addresses (no city or state)
price "approx. 10.468 X gross income [,] est. income 1.600.000, Price \$16,750.00"
buyer dated & initialed the document but Δ Seller did not

Δ

Seller
Lawrence Taylor

(2) March 15, 2000: buyer letter to Δ Seller : "This letter will confirm our contract of sale of the above buildings"
Mentions deposits, depreciation, taxes but **NOT** price
Buyer claims March 13 letter attached & Δ Seller says it was not
 Δ Seller on March 30 (says just to acknowledge deposits)

(3) April 4 formal purchase agreement
Lists price as \$16,750,000
Signed by Δ Seller but buyer refused to pay claiming price really \$14,404,841

TC GRANTED Δ Seller's M/S/J b/c parties not specify property & price not reasonably certain (no contract formed)

Ct. App. REVERSED: K could be formed b/c extrinsic evidence can determine price & SoF satisfied

Issue:

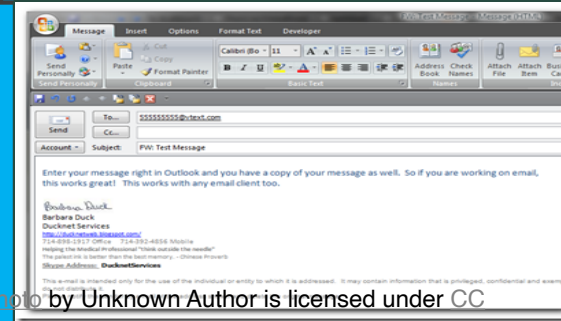
Outcome:

“PAROL” OR “EXTRINSIC” EVIDENCE

Written Agreement

Signature

Parol CANNOT contradict writing
BUT it can “explain” & “supplement”



This Photo by Unknown Author is licensed under CC BY-SA

Oral Extrinsic or “Parol” agreements

Signature & Essential Terms: *Sterling v. Taylor*

π

Buyer Don Sterling

(1) March 13 letter: property listed by addresses (no city or state)
price "approx. 10.468 X gross income [,] est. income 1.600.000, Price \$16,750.00"
buyer dated & initialed the document but Δ Seller did not

Δ

Seller
Lawrence Taylor

(2) March 15, 2000: buyer letter to Δ Seller : "This letter will confirm our contract of sale of the above buildings"
Mentions deposits, depreciation, taxes but **NOT** price
Buyer claims March 13 letter attached & Δ Seller says it was not
 Δ Seller on March 30 (says just to acknowledge deposits)

(3) April 4 formal purchase agreement
Lists price as \$16,750,000
Signed by Δ Seller but buyer refused to pay claiming price really \$14,404,841

TC GRANTED Δ Seller's M/S/J b/c parties not specify property & price not reasonably certain (no contract formed)

Ct. App. REVERSED: K could be formed b/c extrinsic evidence can determine price & SoF satisfied

Rules:

Signature & Essential Terms: *Sterling v. Taylor*

π

Buyer Don Sterling

(1) March 13 letter: property listed by addresses (no city or state)
price "approx. 10.468 X gross income [,] est. income 1.600.000, Price \$16,750.00"
buyer dated & initialed the document but Δ Seller did not

Δ

Seller
Lawrence Taylor

(2) March 15, 2000: buyer letter to Δ Seller : "This letter will confirm our contract of sale of the above buildings"
Mentions deposits, depreciation, taxes but **NOT** price
Buyer claims March 13 letter attached & Δ Seller says it was not
 Δ Seller on March 30 (says just to acknowledge deposits)

(3) April 4 formal purchase agreement
Lists price as \$16,750,000
Signed by Δ Seller but buyer refused to pay claiming price really \$14,404,841

TC GRANTED Δ Seller's M/S/J b/c parties not specify property & price not reasonably certain (no contract formed)

Ct. App. REVERSED: K could be formed b/c extrinsic evidence can determine price & SoF satisfied

Analysis:

Signature & Essential Terms: *Sterling v. Taylor*

π

Buyer Don Sterling

(1) March 13 letter: property listed by addresses (no city or state)
price "approx. 10.468 X gross income [,] est. income 1.600.000, Price \$16,750.00"
buyer dated & initialed the document but Δ Seller did not

Δ

Seller
Lawrence Taylor

(2) March 15, 2000: buyer letter to Δ Seller : "This letter will confirm our contract of sale of the above buildings"
Mentions deposits, depreciation, taxes but **NOT** price
Buyer claims March 13 letter attached & Δ Seller says it was not
 Δ Seller on March 30 (says just to acknowledge deposits)

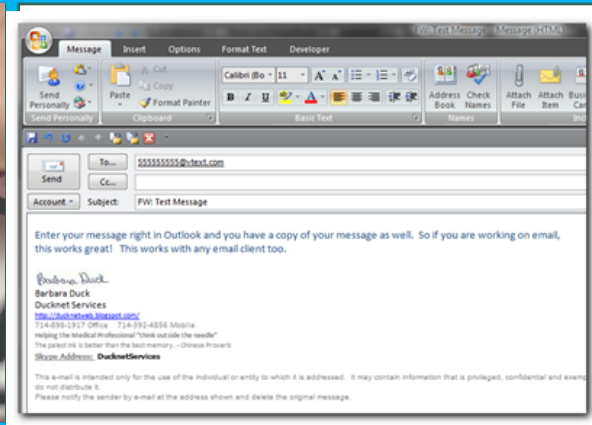
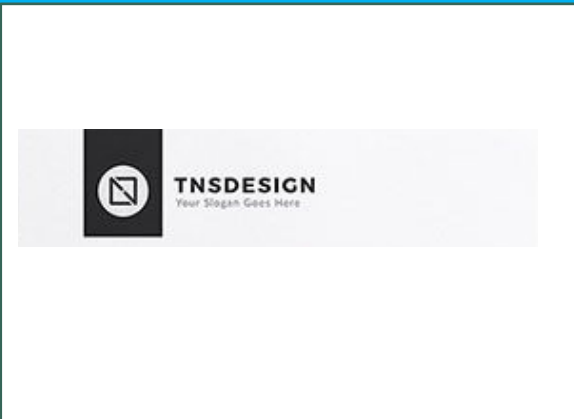
(3) April 4 formal purchase agreement
Lists price as \$16,750,000
Signed by Δ Seller but buyer refused to pay claiming price really \$14,404,841

TC GRANTED Δ Seller's M/S/J b/c parties not specify property & price not reasonably certain (no contract formed)

Ct. App. REVERSED: K could be formed b/c extrinsic evidence can determine price & SoF satisfied

Holding:

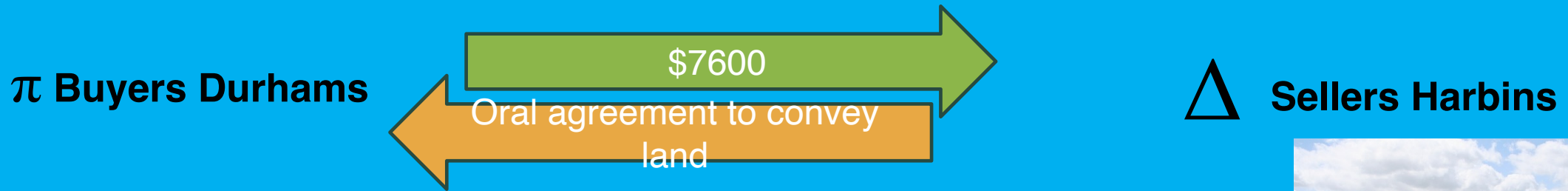
REST (2d) § 134: SIGNATURE



“The signature to a memorandum may be **any symbol** made or adopted with the **intention**, actual or apparent, to **authenticate** the writing as that of the signer.”

- i.e., “John Hancock” on last page of agreement in signature block
- Can also be letterhead, thumbprint, email address sent from, or voice recognition

Signature Requirement: *Durham v. Harbin*



Buyers claim that 2 letters satisfy the SoF:

(1) On Harbin Construction letterhead:

- States terms & acknowledges \$ paid
- Frank Harbin's name on signature block BUT NOT his signature
- Frank not know about the letter (wife Angela typed it)

(2) On Harbin Construction letterhead

- Different terms from letter #1 (modification to buy different land)
- Some \$ returned to Buyers and most applied to other land



TC S/J for Δ s Sellers Harbins (SoF bar enforcement)

Issue:

Outcome:

Signature Requirement: *Durham v. Harbin*



Buyers claim that 2 letters satisfy the SoF:

(1) On Harbin Construction letterhead:

- States terms & acknowledges \$ paid
- Frank Harbin's name on signature block BUT NOT his signature
- Frank not know about the letter (wife Angela typed it)

(2) On Harbin Construction letterhead

- Different terms from letter #1 (modification to buy different land)
- Some \$ returned to Buyers and most applied to other land



TC S/J for Δ s Sellers Harbins (SoF bar enforcement)

Rules:

Analysis:

Signature Requirement: *Durham v. Harbin*



Buyers claim that 2 letters satisfy the SoF:

(1) **On Harbin Construction letterhead:**

- States terms & acknowledges \$ paid
- Frank Harbin's name on signature block BUT NOT his signature
- Frank not know about the letter (wife Angela typed it)

(2) **On Harbin Construction letterhead**

- Different terms from letter #1 (modification to buy different land)
- Some \$ returned to Buyers and most applied to other land

TC S/J for Δ s Sellers Harbins (SoF bar enforcement)

Holding:

RECAP: THREE QUESTIONS IN STATUTE OF FRAUDS ANALYSIS



Contract within the Statute of
Frauds?

i.e., land sale or not capable of performance
within one year



Writing satisfy the Statute?

i.e., no signature from party resisting
enforcement does NOT satisfy the Statute of
Frauds



Exception take the contract out of
Statute of Frauds?

i.e., person seeking enforcement
detrimentally relied
OR person resisting enforcement admits
contract formation

Reliance Exception: *Alaska Democratic Party v. Rice*

π /Employee/Rice



Employer/Alaska
Democratic Party

Facts:

- Rice worked as ED of AK Dems 1987-91 then fired
- Rice went to work for the MD Dems
- May 1992: Chair of AK Dems orally offered Rice a job as ED
 - \$36K a year; 2 years; possible re-appointment; \$4k fringe benefits
- Aug. 1992: Rice offered job on Al Gore VP campaign
- Rice accepted offer to work on Gore campaign
- Sept. or Oct. 1992: Rice accepted AK Dems offer to work as ED
- Nov. 1992: Rice moved to AK
- Feb 5, 1993: AK Dems decided not to hire Rice (official notice to Rice Feb. 15)

π claims promissory estoppel to enforce AK Dems promise of 2-year employment

Δ counters that the Statute of Frauds bars enforcement

TC J for π Rice

Issue:

Outcome:



Reliance Exception: *Alaska Democratic Party v. Rice*

π /Employee/Rice



Employer/Alaska
Democratic Party

Facts:

- Rice worked as ED of AK Dems 1987-91 then fired
- Rice went to work for the MD Dems
- May 1992: Chair of AK Dems orally offered Rice a job as ED
 - \$36K a year; 2 years; possible re-appointment; \$4k fringe benefits
- Aug. 1992: Rice offered job on Al Gore VP campaign
- Rice accepted offer to work on Gore campaign
- Sept. or Oct. 1992: Rice accepted AK Dems offer to work as ED
- Nov. 1992: Rice moved to AK
- Feb 5, 1993: AK Dems decided not to hire Rice (official notice to Rice Feb. 15)

π claims promissory estoppel to enforce AK Dems promise of 2-year employment

Δ counters that the Statute of Frauds bars enforcement

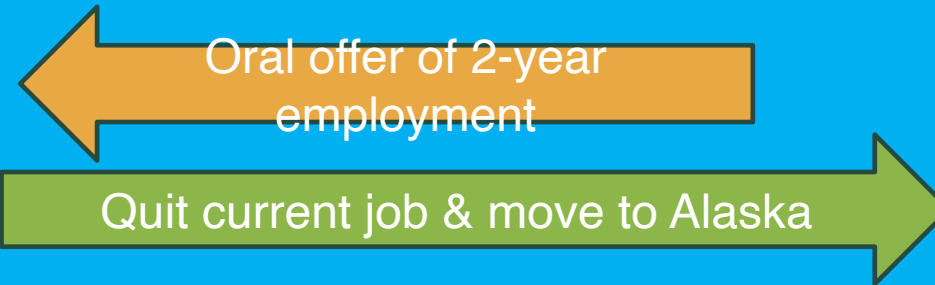
TC J for π Rice

Rules:



Reliance Exception: *Alaska Democratic Party v. Rice*

π /Employee/Rice



Employer/Alaska
Democratic Party

Facts:

- Rice worked as ED of AK Dems 1987-91 then fired
- Rice went to work for the MD Dems
- May 1992: Chair of AK Dems orally offered Rice a job as ED
 - \$36K a year; 2 years; possible re-appointment; \$4k fringe benefits
- Aug. 1992: Rice offered job on Al Gore VP campaign
- Rice accepted offer to work on Gore campaign
- Sept. or Oct. 1992: Rice accepted AK Dems offer to work as ED
- Nov. 1992: Rice moved to AK
- Feb 5, 1993: AK Dems decided not to hire Rice (official notice to Rice Feb. 15)

π claims promissory estoppel to enforce AK Dems promise of 2-year employment

Δ counters that the Statute of Frauds bars enforcement

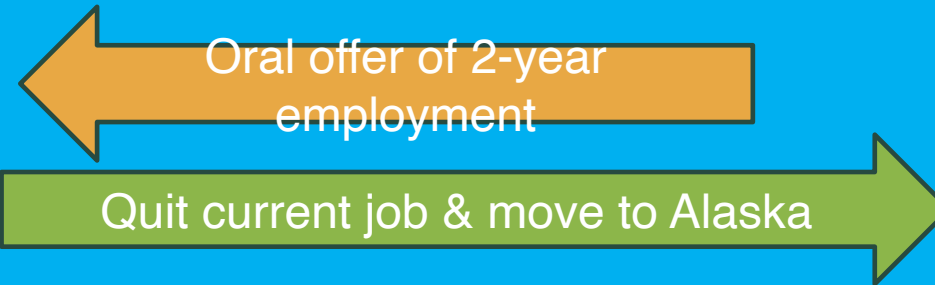
TC J for π Rice

Analysis:



Reliance Exception: *Alaska Democratic Party v. Rice*

π /Employee/Rice



Employer/Alaska
Democratic Party

Facts:

- Rice worked as ED of AK Dems 1987-91 then fired
- Rice went to work for the MD Dems
- May 1992: Chair of AK Dems orally offered Rice a job as ED
 - \$36K a year; 2 years; possible re-appointment; \$4k fringe benefits
- Aug. 1992: Rice offered job on Al Gore VP campaign
- Rice accepted offer to work on Gore campaign
- Sept. or Oct. 1992: Rice accepted AK Dems offer to work as ED
- Nov. 1992: Rice moved to AK
- Feb 5, 1993: AK Dems decided not to hire Rice (official notice to Rice Feb. 15)

π claims promissory estoppel to enforce AK Dems promise of 2-year employment

Δ counters that the Statute of Frauds bars enforcement

TC J for π Rice

Holding:



Admission Exception: *Gibson v. Arnold*

π /Gibson

Case #1: 1998 Conversion case -- settled

- Δ confess judgment & liable \$400K
- Δ sell 640 acres to π & lease back (pay ½ mortgage)
- 10 years payments & agree to execute writing

Δ Arnold

Case #2: To enforce settlement agreement in conversion case

Case #1: 6/18/99: settled in Magistrate's conference

6/25: administrative closing order

7/25: case dismissed with prejudice

Δ refuses to sign final agreement

court refuses to re-open conversion case

Case #2 [This case]: π Gibson sues to enforce settlement agreement

TC J for Δ Arnold in Case #2 b/c SoF bars enforcement (no signature from Δ)

Issue:

Outcome:



Admission Exception: *Gibson v. Arnold*

π /Gibson

Case #1: 1998 Conversion case -- settled

- Δ confess judgment & liable \$400K
- Δ sell 640 acres to π & lease back (pay ½ mortgage)
- 10 years payments & agree to execute writing

Δ Arnold

Case #2: To enforce settlement agreement in conversion case

Case #1: 6/18/99: settled in Magistrate's conference

6/25: administrative closing order

7/25: case dismissed with prejudice

Δ refuses to sign final agreement

court refuses to re-open conversion case

Case #2 [This case]: π Gibson sues to enforce settlement agreement

TC J for Δ Arnold in Case #2 b/c SoF bars enforcement (no signature from Δ)

Rule(s):



Admission Exception: *Gibson v. Arnold*

π /Gibson

Case #1: 1998 Conversion case -- settled

- Δ confess judgment & liable \$400K
- Δ sell 640 acres to π & lease back (pay ½ mortgage)
- 10 years payments & agree to execute writing

Δ Arnold

Case #2: To enforce settlement agreement in conversion case

Case #1: 6/18/99: settled in Magistrate's conference

6/25: administrative closing order

7/25: case dismissed with prejudice

Δ refuses to sign final agreement

court refuses to re-open conversion case

Case #2 [This case]: π Gibson sues to enforce settlement agreement

TC J for Δ Arnold in Case #2 b/c SoF bars enforcement (no signature from Δ)

Analysis:



Admission Exception: *Gibson v. Arnold*

π /Gibson

Case #1: 1998 Conversion case -- settled

- Δ confess judgment & liable \$400K
- Δ sell 640 acres to π & lease back (pay ½ mortgage)
- 10 years payments & agree to execute writing

Δ Arnold

Case #2: To enforce settlement agreement in conversion case

Case #1: 6/18/99: settled in Magistrate's conference

6/25: administrative closing order

7/25: case dismissed with prejudice

Δ refuses to sign final agreement

court refuses to re-open conversion case

Case #2 [This case]: π Gibson sues to enforce settlement agreement

TC J for Δ Arnold in Case #2 b/c SoF bars enforcement (no signature from Δ)

Holding:



Statute of Frauds for Sales of Goods:

UCC § 2-201 &
Art. 1 definitions of "signed,"
"writing," and "record"

SAME THREE QUESTIONS SLIGHTLY DIFFERENT ANSWERS



Contract within the Statute of Frauds?

Sale of goods for **\$500 or more**



Writing satisfy the Statute?

Must be a “writing”

Signed by the party resisting enforcement, &

Showing contract formed & **a quantity**



Exception take the contract out of Statute of Frauds?

2-201(2): confirming merchant memorandum

2-201(3): (a) specially manufactured goods;

(b) admission in court or pleadings; or

(c) Buyer paid for goods OR Seller delivered goods

UCC § 2-201(1): SCOPE OF UCC STATUTE OF FRAUDS & CONTENT OF WRITING

- 1) Except as otherwise provided in this section a contract for the sale of goods for the price of **\$500 or more** is not enforceable by way of action or defense unless there is some **writing** sufficient to **indicate that a contract for sale has been made** between the parties and **signed by the party against whom enforcement is sought** or by his authorized agent or broker. A writing is **not insufficient** because it **omits or incorrectly states a term** agreed upon, **but** the contract is not enforceable under this paragraph beyond the **quantity** of goods shown in such writing.

UCC § 2-201(2) & (3): FOUR EXCEPTIONS CAN SUBSTITUTE FOR SIGNED WRITING

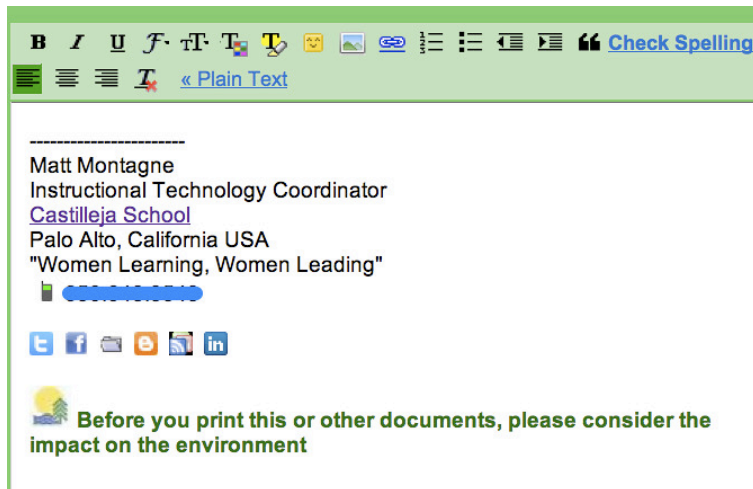
“(2) **Between merchants** if within a reasonable time a **writing** in confirmation of the contract and **sufficient against the sender** is received and the party receiving it has reason to know its contents, it **satisfies** the requirements of subsection

[2-201(1)] against such party **unless written** notice of **objection** to its contents is given within **10 days** after it is received.

(3) A contract which **does not satisfy** the requirements of subsection **[2-201(1)]** but which is valid in other respects is **enforceable**

- a) if the **goods** are to be **pecially manufactured** for the buyer and are not suitable for sale to others in the ordinary course of the seller’s business and the seller, before notice of repudiation is received and under circumstances which reasonably indicate that the goods are for the buyer, has made either a substantial beginning of their manufacture or commitments for their procurement; **or**
- b) if the **party against whom enforcement is sought admits** in his pleading, testimony or otherwise **in court** that a contract for sale was made, but the contract is not enforceable under this provision beyond the quantity of goods admitted; **or**
- c) with respect to **goods** for which **payment** has been made and accepted **or** which have been **received** and accepted (§ 2-606).

UCC ART. 1 DEFINES “RECORD,” “WRITING” & “SIGNED”



UCC § 1-201(b)

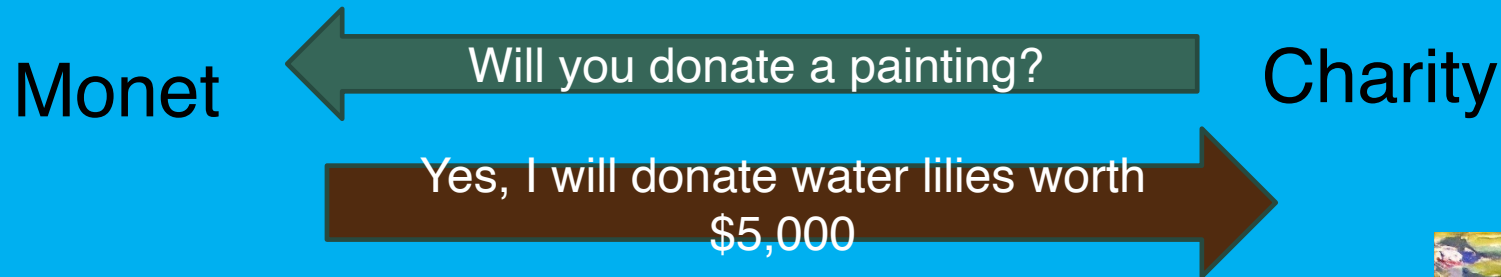
(31) "**Record**" means information that is *inscribed on a tangible medium* or that is *stored in an electronic* or other *medium* & is *retrievable in perceivable form*

(39) "**Signed**" includes any *symbol executed* or adopted by a party with *present intention* to *authenticate* a writing.

(46) "**Written**" or "writing" includes *printing*, typewriting, or *any* other *intentional reduction to tangible form*.

PROBLEM 5.2(1): SCOPE OF UCC STATUTE OF FRAUDS

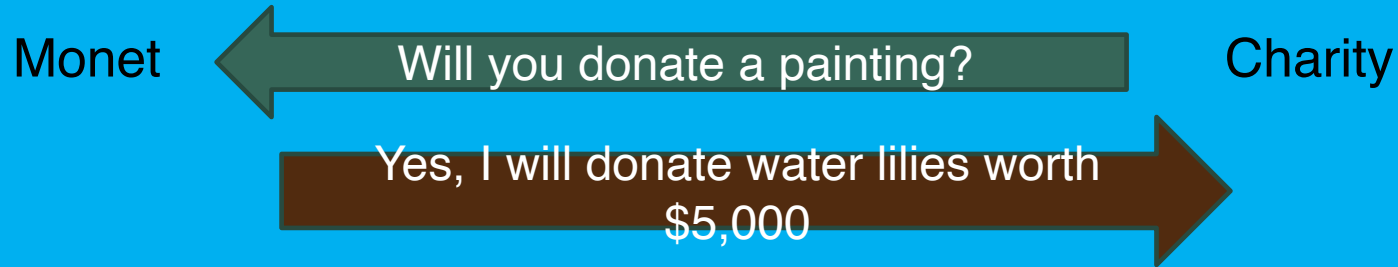
1. Email regarding charity donation.



***Does Statute of Frauds require a signed writing?
If yes, is there one?***



PROBLEM 5.2(1): SCOPE OF UCC STATUTE OF FRAUDS



Does Statute of Frauds require a signed writing? NO.

No sale because passing of title BUT no price.

→ Just a gift, so contract law does not apply & Statute of Frauds irrelevant

UNLESS "price" = tax write off or professional recognition

THEN UCC Art. 2 applies & within the Statute of Frauds b/c price is \$500 or more

If the agreement is within the Statute of Frauds, is there a writing? YES.

Email = record (stored electronically & retrievable in perceivable form)

likely signed (email address)

shows contract formed & includes a quantity (1 painting)

PROBLEM 5.2(2): BASEBALL CARDS TEXT EXCHANGE



Each card is worth \$1,000

***Does Statute of Frauds require a signed writing?
If yes, is there one?***

PROBLEM 5.2(2): BASEBALL CARDS TEXT EXCHANGE



Each card is worth \$1,000

Does Statute of Frauds require a signed writing? YES.

Sale because passing of title for a price (card for card)

Price is \$500 or more (worth of each card) → signed writing required

If yes, is there one? YES.

Text = record & signed IF sender intends to adopt contents by pressing "send" from number

Show contract formed & quantity (1 card)

PROBLEM 5.2(3): WIDGETS FOR \$100 EACH



***Does Statute of Frauds require a signed writing?
If yes, is there one?***

PROBLEM 5.2(3): WIDGETS FOR \$100 EACH



Does Statute of Frauds require a signed writing? YES.

Sale & price of \$500 or more → within Statute of Frauds and writing required.

If yes, is there one? NO.

No writing → Statute of Frauds bars enforcement.

UNLESS exception substitutes for a writing (i.e., goods delivered or paid for)

PROBLEM 5.2(4): TV FOR \$499.99

Chris



I want to buy TV for \$499.99

TV Land

Price is \$499.99 plus sales tax

Does Statute of Frauds require a signed writing?

If yes, is there one?

PROBLEM 5.2(4): TV FOR \$499.99

Chris

I want to buy TV for \$499.99

TV Land

Price is \$499.99 plus sales tax

Does Statute of Frauds require a signed writing? LIKELY YES

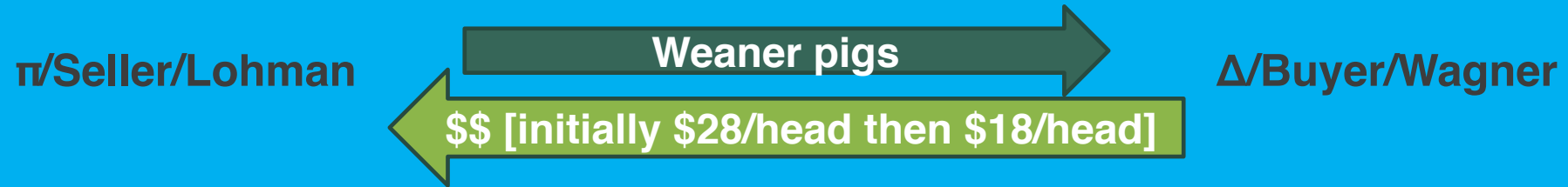
Sale and close call on price

Buyer must pay tax to take title → price is likely over \$500

If yes, is there one? NO

→ Statute of Frauds bars enforcement

LOHMAN V. WAGNER



Seller to renovate facility

Seller asked Buyer for sample agreement

Buyer signed faxed over weaner pig purchase agreement w/ blank for quantity

Seller filled in quantity but did not send filled-in form back to Buyer

Issue:

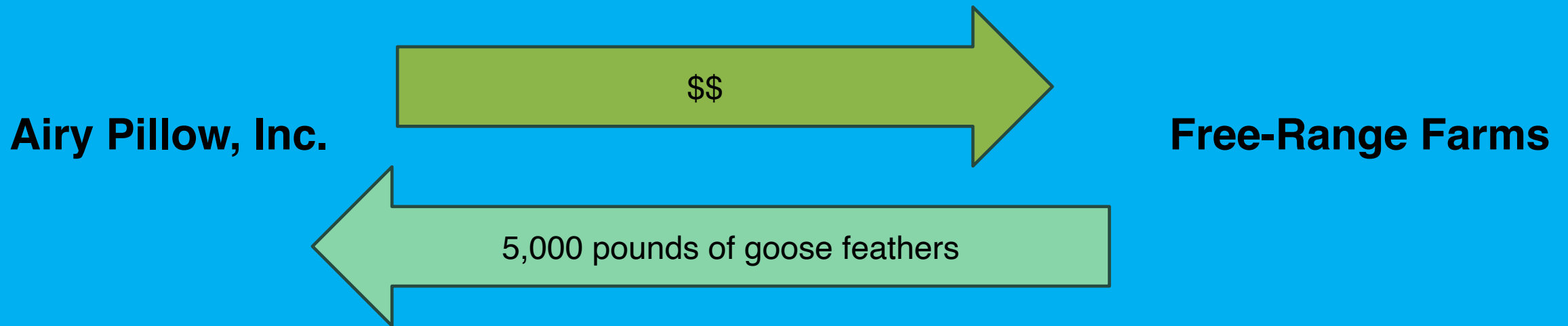
Outcome:

Rule:

Analysis:

Holding:

Drafting Exercise 5.3: Signature Blocks



Draft the signature blocks for the end of the agreement

Adam Aguilares, Vice President for Production signing on behalf of Airy Pillow, Inc.
Bianca Borge, Owner and President signing on behalf of Free-Range Farms

DRAFTING EXERCISE 5.3: SIGNATURE BLOCKS

AIRY PILLOW, INC.

By: Adam Aguilar

Adam Aguilar
Vice President for Production

FREE-RANGE FARMS

By: Bianca Borge

Bianca Borge
Owner & President

DRAFTING EXERCISE 5.3: SIGNATURE BLOCKS WITH TESTIMONIUM CLAUSE

To evidence the parties' agreement to this Agreement's provisions, they have executed and delivered this Agreement on the date set forth in the preamble.

AIRY PILLOW, INC.

By: Adam Aguilar

Adam Aguilar
Vice President for Production

FREE-RANGE FARMS

By: Bianca Borge

Bianca Borge
Owner & President

That's All Folks