

Hear it From the Judge

Judge Randall J. Slieter

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8th Judicial District Judge

Olivia, MN

Is my Oral Contract Enforceable?

It is very common that individuals reach agreements with each other known as contracts. These agreements involve many different situations. For example, agreements to provide day care of children, to sell a car, to purchase an item at a garage sale, borrow money from the bank, and to buy a house are all contracts. Even the agreement to marry is a contract.

Contracts do not have to be written to be enforceable. An oral contract is considered legally equal to a written contract. Whether your agreement is in writing is less important than the terms of the contract. Why, if this is so, does your lawyer recommend you place your agreement in written form? This is because seldom do two people agree on the critical terms of a contract, especially when a person has not followed the agreement.

What are the parts of a contract? To be a legal contract, there must be three parts: 1. An offer from one to another; 2. An acceptance of that offer by another party (or, in situations involving negotiations, a counter offer) and 3. Some form of benefit received by both parties to the contract. If all these parts are present, the contract is valid even if it is not in writing. The problem which occurs, however, is proving what the terms of the oral contract are when parties to the contract disagree.

In the unfortunate situation that two people disagree about a contract, one of the persons may decide to start a court proceeding to ask the Judge or a jury to decide whether the other person has broken - legally know as breached - the contract. The person who brings this court action has the obligation to prove all of the above parts of a contract. Therefore, if any one of the parts is not proven, the case is dismissed.

For instance, in a Conciliation Court hearing it is common that the buyer of a house from seller may claim that an agreement was reached that seller would make certain improvements to the house to be bought. However, if this agreement was not in the written purchase agreement, and the seller convinces the Court that though the parties discussed this term, they never reached a final contract, the case is dismissed.

In another situation the seller sold his TV to a buyer who agreed to pay seller after the seller delivers the TV. The agreement was oral and the buyer has not paid for the TV which is now de-

livered. This oral contract will be enforced and the buyer will be ordered to pay seller the amount agreed upon.

There are some situations in which the law requires an agreement to be in writing (I recommend you discuss this with your lawyer). This law is called the Statute of Frauds. However, in most situations, your oral agreement is equally binding as a written agreement, though harder to prove