Solution and Answer Guide

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Chapter 15: The Statute of Frauds—Writing Requirement

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# Critical Thinking Questions in Cases

Case 15.1

1. Why does the Statute of Frauds require that a contract for a sale of land contain a sufficient description of the property?

Solution

A contract for a sale of land is not enforceable unless it is in writing. Land is real property and includes all physical objects that are permanently attached to it, such as buildings. Generally, a contract for a sale of land is enforceable under the Statute of Frauds if the contract describes the property being transferred with sufficient definiteness for it to be identified.

The purpose of the writing requirement is to prevent fraud in real estate deals. A party cannot normally obtain possession of real property by asserting that there was an oral agreement to affect its transfer.

Because each parcel of land is unique, a sufficient description will uniquely identify it. For example, in the *Sloop* case, the court held that the contract’s designation of the property by street address met this requirement. The court also read the deed and the contract together as one instrument “in the eyes of the law,” and the deed contained a more formal, legal description of the property by metes and bounds.

1. Suppose that the court in the Sloop case had not construed the deed and the contract as one instrument but as separate documents. How might that have affected the result? Explain.

Solution

In the *Sloop* case, the court construed the deed and the contract executed by Sloop and the Kikers as one instrument. The effect of this construction was an outcome in favor of the sellers. The court enforced the contract and its provision for the buyer’s forfeit of the down payment.

If the court had interpreted the deed and the contract differently, however, the result might have been a return to Sloop (the buyer) of her down payment. Of course, the Kikers (the sellers) would have retained their house and land. But Sloop would have been allowed to renege on the sale, as well as to have resided on the premises for an extended period of time without paying for the privilege. This result would seem to be unjust.

Ultimately, the result in this case might have been the same even if the court had not construed the deed and the contract together, however. One of the contentions of Sloop (the buyer) on appeal was that the contract did not contain a sufficient description of the property, as required by the Statute of Frauds. But the court held that “if a contract furnishes a means by which realty can be identified—a key to the property’s location—the Statute of Frauds is satisfied.” In the *Sloop* case, the court ruled that the designation in the contract of the premises by its street address met this requirement.

Case 15.2

1. Could Moore have presented leases purportedly entered into as a result of his performance under the compensation agreement to provide a property description sufficient to satisfy the Statute of Frauds? Why or why not?

Solution

No. Moore could not have used subsequently executed leases to bring the compensation agreement into compliance with the Statute of Frauds. He could have shown the court leases that were allegedly entered into as a result of his performance under the agreement. But the documents could not have been used to supplement the terms of the contract and thereby provide a property description sufficient to meet the requirement of the Statute of Frauds. Parol evidence cannot be used to supply the essential elements of a contract. In the case of a property description, extrinsic evidence might be used for the purpose of identifying the property with reasonable certainty from the information contained in the contract, but not for the purpose of supplying the description of the property.

Furthermore, documents that were not in existence at the time of the signing of a contract will not satisfy the Statute of Frauds.

1. What If the Facts Were Different? Suppose that Moore had filed his suit against Lane instead of Bearkat and that the court had held the compensation agreement to be enforceable. Would Lane have been liable on the agreement? Explain.

Solution

No. If Moore had filed his suit against Lane instead of Bearkat, Lane would not have been liable on the compensation agreement to pay Moore, even if the court had held the agreement to be enforceable. Under the Statute of Frauds, Lane was not a party to the agreement. In the facts of the question, he would have been the party against whom enforcement was sought, but he had not signed the agreement. Nor would Lane have been liable under other possible theories; for instance, Bearkat and Lane were not partners, Bearkat hired Moore without Lane’s knowledge, and Lane did not ratify the agreement.

Case 15.3

1. Why is evidence of a prior negotiation or agreement that contradicts or varies the terms of a written agreement inadmissible in a court under the parol evidence rule?

Solution

Evidence of a prior negotiation or agreement that contradicts or varies the terms of a written agreement is inadmissible in a court under the parol evidence rule in order to provide finality to a claim.

It can be argued, though, that because of the constantly changing nature of relationships between contracting parties, it is difficult to pinpoint precisely when there is a complete expression of an agreement. Under that view, parol evidence of negotiations that take place at any time between the parties to a deal should be admissible to modify, explain, or supplement the written terms.

As indicated by the list of exceptions, most state courts do not apply the parol evidence rule strictly and generally permit the introduction of parol evidence at trial.

1. Suppose that the written terms of the deal between Habel and Capelli had referred to other documents, such as unpaid invoices for Capelli’s purchases, to be included as part of their alleged agreement. Would the result have been different? Discuss.

Solution

Yes, it is possible that the result in the *Habel* case would have been different if the written terms of the deal between the parties had referred to other documents to be included as part of their alleged agreement. This possibility is especially likely if the documents included such items as unpaid invoices for Cappelli’s purchases, which could support Habel’s claim of forbearance.

When a document makes clear that all mutual promises are recited within its terms, parol evidence cannot be used to vary or add to those terms. In this case, of course, the document declared that any mutual promises of “consideration” were stated within it. Lacking from those statements was an expression of, or reference to, some detriment or obligation by Habel.

Habel argued that forbearance was consideration, and offered to prove his forbearance with evidence extrinsic to the written terms. But the court concluded that it could not consider such evidence under the parol evidence rule. Thus, the alleged contract failed for a lack of consideration.

A reference to outside documents and an allusion to their inclusion in the written terms could have supported a different conclusion by the court to review those documents. This review might have contributed to an interpretation that consideration did in fact exist in the circumstance of forbearance on Habel’s part. And the court might have held the contract to be enforceable.

# Chapter Review

Practice and Review

Evelyn Vollmer orally agreed to loan Danny Lang $150,000 to make an investment in a local nightclub. The loan was to be repaid from the profits received from the investment. Their agreement was never memorialized in writing, however. Eighteen months later, Lang had paid only $15,000 on the loan from the profits from the business. Vollmer filed a lawsuit alleging breach of contract. Using the information presented in the chapter, answer the following questions.

1. Lang claimed that repayment of the loan would “almost certainly” take over a year and that his agreement with Vollmer was therefore unenforceable because it was not in writing. Is he correct? Explain.

Solution

No, he is not correct. Even if it is unlikely that the nightclub would earn enough profits to pay the entire loan off within a year, it is possible. The test for determining whether an oral contract is enforceable under the one-year rule is whether performance is possible within that time, not whether it is likely. Only when performance is objectively impossible during the one-year period does the contract fall within the Statute of Frauds.

1. Suppose that a week after Vollmer gave Lang the funds, she sent him an e-mail containing the terms of their loan agreement with her named typed at the bottom. Lang did not respond to the e-mail. Is this sufficient as a writing under the Statute of Frauds?

Solution

No. Although an e-mail would constitute a writing, it still must be signed by the party against whom enforcement is sought (Lang). Because the e-mail was from Vollmer and not signed by Lang, it is not a sufficient writing. If, however, Lang had responded to the e-mail and typed his name at the bottom of his response, it would likely be sufficient.

1. Assume that at trial the court finds that the contract falls within the Statute of Frauds. Further assume that the state in which the court sits recognizes every exception to the Statute of Frauds discussed in the chapter. What exception provides Vollmer with the best chance of enforcing the oral contract in this situation?

Solution

In this situation, Vollmer best argument to enforce the contract is partial performance. Lang had been making payments on the loan from the Nightclubs profits, which shows that there was an agreement to make payments on the loan from the profits.

1. Suppose that at trial, Lang never raises the argument that the parties’ agreement violates the Statute of Frauds, and the court rules in favor of Vollmer. Then Lang appeals and raises the Statute of Frauds for the first time. What exception can Vollmer now argue?

Solution

Admission. She can argue that by not raising the defense of Statute of Frauds in the trial, Lang essentially admitted to the existence of the contract.

Practice and Review: Debate This

1. Many countries have eliminated the Statute of Frauds except for the sale of real estate. The United States should do the same.

Solution

Certainly, unfair situations arise concerning the enforceability of contracts or contract modifications because they were not evidenced by a writing or record. By eliminating the defense provided by the Statute of Frauds, there would be fewer unjust decisions that are based on the lack of a writing or record.

In contrast, the requirement of a writing or record for certain contracts to be enforceable does avoid the “she said, I said” arguments that could be used after the fact when a simple oral contract was made. In other words, unjust judicial decisions are avoided, too, if the Statute of Frauds is a requirement before certain contracts can be enforced.

Issue Spotters

1. GamesCo orders $800 worth of game pieces from Midstate Plastic, Inc. Midstate delivers, and GamesCo pays for, $450 worth. GamesCo then says it wants no more pieces from Midstate. GamesCo and Midstate have never dealt with each other before and have nothing in writing. Can Midstate enforce a deal for the full $800? Explain your answer.

Solution

No. Under the UCC, a contract for a sale of goods priced at $500 or more must be in writing to be enforceable. In this case, the contract is not enforceable beyond the quantity already delivered and paid for.

1. Paula orally agrees to work with Next Corporation in New York City for two years. Paula moves her family to the city and begins work. Three months later, Paula is fired for no stated cause. She sues for reinstatement and back pay. Next Corporation argues that there is no written contract between them. What will the court say?

Solution

The court might conclude that under the doctrine of promissory estoppel, the employer is estopped from claiming the lack of a written contract as a defense. The oral contract may be enforced because the employer made a promise on which the employee justifiably relied in moving to New York, the reliance was foreseeable, and injustice can be avoided only by enforcing the promise. If the court strictly enforces the Statute of Frauds, however, the employee may be without a remedy.

Business Scenarios and Case Problems

1. **The One-Year Rule.** On May 1, by telephone, Yu offers to hire Benson to perform personal services. On May 5, Benson returns Yu’s call and accepts the offer. Discuss fully whether this contract falls under the Statute of Frauds in the following circumstances: (See *The Writing Requirement*.)
2. The contract calls for Benson to be employed for one year, with the right to begin performance immediately.

Solution

Under the Statute of Frauds, any contract that cannot be performed within one year from the date of entering into the contract (time of acceptance), without breaching the terms, needs a writing to be enforceable. Under this rule, the following decisions are made:

The one‑year period is measured from the day after the contract is made. Because Benson has the right to begin the one‑year contract immediately, it is possible to perform the contract within one year. Therefore, the contract falls outside the Statute of Frauds and can be legally enforced without a writing.

1. The contract calls for Benson to be employed for nine months, with performance of services to begin on September 1.

Solution

The one‑year period here begins with the formation of the contract, so it is measured from the day after the contract is made, May 6. Because performance is for nine months and cannot begin until September 1, however, the contract cannot be fully performed until midnight on May 31. Thus, the contract is impossible to perform within the one‑year period and therefore comes under the Statute of Frauds. A writing is required for enforceability.

1. The contract calls for Benson to submit a written research report, with a deadline of two years for submission.

Solution

The likelihood or probability of a person performing according to the terms of a contract within a year is irrelevant to the question of whether such performance is possible. If it is possible for Benson to submit the written research report within one year, beginning May 6, the contract is outside the Statute of Frauds and legally enforceable without a writing—despite the fact that Benson is permitted two years to submit the report.

1. **Statute of Frauds.** Gemma promises a local hardware store that she will pay for a lawn mower that her brother is purchasing on credit if the brother fails to pay the debt. Must this promise be in writing to be enforceable? Why or why not? (See *The Writing Requirement*.)

Solution

In this situation, Gemma becomes what is known as a *guarantor* on the loan. That is, she guarantees the hardware store that she will pay for the mower if her brother fails to do so. This kind of collateral promise, in which the guarantor promises to become responsible *only* if the primary party does not perform, must be in writing to be enforceable.

There is an exception, however. If the main purpose in accepting secondary liability is to secure a personal benefit—for example, if Gemma’s brother bought the mower for her—the contract need not be in writing. The court will determine from the circumstances of the case whether the main purpose was to secure a personal benefit and thus, in effect, to answer for the guarantor’s own debt.

1. **Collateral Promises.** Mallory promises a local hardware store that she will pay for a lawn mower that her brother is purchasing on credit if the brother fails to pay the debt. Must this promise be in writing to be enforceable? Why or why not? (See *The Writing Requirement*.)

Solution

In this situation, Mallory becomes what is known as a *guarantor* on the loan. That is, she guarantees the hardware store that she will pay for the mower if her brother fails to do so. This kind of collateral promise, in which the guarantor promises to become responsible *only* if the primary party does not perform, must be in writing to be enforceable. There is an exception, however. If the main purpose in accepting secondary liability is to secure a personal benefit—for example, if Mallory’s brother bought the mower for her—the contract need not be in writing. The assumption is that a court can infer from the circumstances of the case whether the main purpose was to secure a personal benefit and thus, in effect, to answer for the guarantor’s own debt.

1. **Promises Made in Consideration of Marriage.** After twenty-nine years of marriage, Robert and Mary Lou Tuttle were divorced. They admitted in court that before they were married, they had signed a prenuptial agreement. They both acknowledged that the agreement had stated that each would keep their own property and anything derived from that property. Robert came into the marriage owning farmland, while Mary Lou owned no real estate. During the marriage, ten different parcels of land, totaling about six hundred acres, were acquired, and two corporations, Tuttle Grain, Inc., and Tuttle Farms, Inc., were formed. A copy of the prenuptial agreement could not be found. Can the court enforce the agreement without a writing? Why or why not? [*In re Marriage of Tuttle,* 2015.WL 164035 (Ill.App. 5 Dist. 2015.] (See *The Writing Requirement*.)

Solution

No. The court cannot enforce the Tuttles’ prenuptial agreement without a writing.Aprenuptial agreement isanagreement made before marriage that defines each partner's ownership rights in the other partner's property. A prenuptial agreement must be in writing to be enforceable.

In this problem, the Tuttles admitted in court that they had signed a prenuptial agreement before they were married, and they agreed on the general term. But a copy of the agreement could not be found. Thus, there was no way to confirm their testimony and no way to accurately determine whether the alleged term was fair.

In the actual case on which this problem is based, the court held that the Tuttles’ prenuptial agreement was not enforceable, because no copy could be produced, and divided the marital assets “in just proportions.” On Robert’s appeal, a state intermediate appellate court affirmed the decision and the division of property. “In order to accurately follow the terms of a prenuptial agreement, the writing is necessary.”

1. **Business Case Problem with Sample Answer—The Parol Evidence Rule.** Rimma Vaks and her husband, Steven Mangano, executed a written contract with Denise Ryan and Ryan Auction Co. to auction their furnishings. The six-page contract provided a detailed summary of the parties’ agreement. It addressed the items to be auctioned, how reserve prices would be determined, and the amount of Ryan’s commission. When a dispute arose between the parties, Vaks and Mangano sued Ryan for breach of contract. Vaks and Mangano asserted that, before they executed the contract, Ryan had made various oral representations that were inconsistent with the terms of their written agreement. Assuming that their written contract was valid, can Vaks and Mangano recover for breach of an oral contract? Why or why not? [*Vaks v. Ryan,* 2014 Mass.App.Div. 37 (2014)]. (See *The Parol Evidence Rule*.) **—For a sample answer to Problem 15–5, go to Appendix E.**

Solution

Vaks and Mangano may not recover for breach of an oral contract. Under the parol evidence rule, if there is a written contract representing the complete and final statement of the parties’ agreement, a party may not introduce any evidence of past agreements. Here, the written agreement was an integrated contract because the parties intended it to be a complete and final statement of the terms of their agreement. Vaks and Mangano therefore may not introduce evidence of any inconsistent oral representations made before the contract was executed.

1. **Promises Made in Consideration of Marriage.** Before their marriage, Linda and Gerald Heiden executed a prenuptial agreement. The agreement provided that “no spouse shall have any right in the property of the other spouse, even in the event of the death of either party.” The description of Gerald’s separate property included a settlement from a personal injury suit. Twenty-four years later, Linda filed for divorce. The court ruled that the prenuptial agreement applied only in the event of death, not divorce, and entered a judgment that included a property division and spousal support award. The ruling disparately favored Linda, whose monthly income with spousal support would be $4,467, leaving Gerald with only $1,116. Did the court interpret the Heidens’ prenuptial agreement correctly? Discuss. [*Heiden v. Heiden,* 2015 WL 849006 (Mich.App. 2015)] (See *The Writing Requirement*.)

Solution

No. The court did not interpret the Heidens’ prenuptial agreement correctly. A unilateral promise to make a monetary payment or to give property in consideration of marriage must be in writing. And this requirement applies to prenuptial agreements, which may define each partner’s ownership rights in their separate and joint property. In interpreting these agreements, basic contract principles apply. The terms must be enforced as written, and unambiguous words and phrases should be construed according to their plain and ordinary meaning.

The prenuptial agreement between Linda and Gerald Heiden provided that “no spouse shall have any right in the property of the other spouse, even in the event of the death of either party.” The description of Gerald's separate property included a settlement from a personal injury suit. On their divorce, the court interpreted the agreement to apply only in the event of death, not divorce, and entered a judgment that included a property division and spousal support award reflecting this interpretation. But the court was not correct. The use of the word “even” indicated that the Heidens intended to keep their property separate in all events, including death and, in the circumstances here, divorce. Thus, the property division and spousal support award should not have taken into account Gerald's settlement from a personal injury suit.

In the actual case on which this problem is based, on the Heidens’ divorce, the court interpreted and applied the prenuptial agreement as stated in the facts. A state intermediate appellate court reversed, on the reasoning set out above.

1. **The Statute of Frauds.** Michael Brannon filed a suit in an Ohio state court against Derrick and Nancy Edman, claiming breach of an alleged oral contract for the sale of certain real property in Akron. Brannon asserted that he moved onto the property and made significant improvements to the house, investing time and money in anticipation of receiving ownership of the property after all of the payments had been made. Brannon asserted that he diligently made the payments, and the Edmans accepted them, crediting each against the remaining balance, until about half of the price had been paid. But when he attempted to make a payment in the third year of his occupancy, the Edmans refused it and threatened him with eviction. The Edmans argued that the Statute of Frauds barred Brannon’s claim. Is this alleged contract enforceable? Explain. [*Brannon v. Edman*, 2018 -Ohio- 70, WL 357458 (9th Dist. 2018)] (See *The Writing Requirement*.)

Solution

Yes. If Brannon can prove his assertions, his alleged oral contract with the Edmans is enforceable. All states require certain types of contracts to be in writing and signed by the party against whom enforcement is sought, but there are exceptions. For example, in a case involving an oral contract for the transfer of an interest in land, a court may evaluate whether justice would be better served by enforcing the deal when partial performance has occurred. Thus, if the putative purchaser has taken possession, paid part of the price, and made significant improvements to the property, the court may grant specific performance.

Here, Brannon filed a suit against the Edmans, alleging breach of an oral contract for the sale of a house and lot. Brannon claimed that he moved onto the property, resided there for three years, and made significant improvements to the house, investing time and money in reliance on receiving ownership of the property after all of the payments were made. Brannon asserted that he diligently made the payments, and the Edmans accepted them, until about half of the price was paid. When Brannon attempted to make a payment in the third year of his residency, however, the Edmans refused it and threatened eviction. If proved, these occurrences would clearly support the enforcement of an oral contract on the ground of partial performance.

In the actual case on which this problem is based, the court dismissed Brannon’s complaint. A state intermediate appellate court reversed. “We conclude [Brannon’s assertions] are sufficient to withstand a motion to dismiss based on the affirmative defense of the statute of frauds as there are allegations which if proven would support part performance.”

1. **A Question of Ethics—Exceptions to the Writing Requirement.** Madeline Castellotti was the sole shareholder of Whole Pies, Inc., which owns John’s Pizzeria in New York City. Her other assets included a 51 percent interest in a real estate partnership, a residence on Staten Island, and various bank accounts. When Madeline’s son, Peter Castellotti, was going through a divorce, Madeline wanted to prevent Peter’s then-wife Rea from benefiting from any of Madeline’s assets. With this purpose in mind, she removed Peter from her will, leaving her daughter Lisa Free as the sole beneficiary. Lisa orally agreed to provide Peter with half of the income generated by the assets after their mother’s death if his divorce was still pending and to transfer half of the assets after the divorce was final. In reliance on those promises, Peter agreed to pay the property taxes for the estate. Madeline died and Peter paid the taxes, but Lisa reneged on the deal. Peter filed a suit in a New York state court against his sister to recover. [*Castellotti v. Free*, 138 A.D.3d 198, 27 N.Y.S.3d 507 (1 Dept. 2016)] (See *Exceptions to the Writing Requirement*.)
2. Should the court enforce the promise? On what legal theory?

Solution

Yes, the court should enforce Lisa’s promise to transfer half of the income generated by her mother’s assets before her death and half of those assets after her death to Lisa’s brother Peter. The facts in the circumstances described in this problem satisfy the requirements for a cause of action based on a theory of promissory estoppel.

An oral contract that is otherwise unenforceable under the Statute of Frauds may be enforced on a theory of promissory estoppel. In that circumstance, a court will prevent a promisor from refusing to comply with the terms of a deal that, for example, is not evidenced in writing. The requirements for the application of this theory include the following:

* + 1. A clear, definite promise.
    2. The promisor’s expectation that the promisee will rely on the promise.
    3. The promisee’s reasonable reliance on the promise, as shown by taking some action or refraining from acting.
    4. Reliance on the part of the promise that is definite and results in substantial detriment.
    5. Enforcement of the promise to avoid injustice.

In this problem, Madeline Castellotti’s son Peter was going through a divorce from his then-wife Rea. Madeline wanted to prevent Rea from benefiting from any of Madeline’s assets, so she removed Peter from her will. This left her daughter Lisa Free as sole beneficiary. Lisa orally agreed to provide Peter with half of the income generated by the assets after their mother’s death if his divorce was still pending, and to transfer half of the assets to him after the divorce was final. In reliance on those promises, Peter agreed to pay the property taxes for the estate. Madeline died and Peter paid the taxes, but Lisa backed out on the deal.

These facts meet all the requirements for an action based on a theory of promissory estoppel. There was an unambiguous promise by Lisa to provide Peter with half of the income generated by the assets during the pendency of Peter’s divorce, and to transfer half of the assets on the finality of the divorce. Peter reasonably and detrimentally relied on those promises by paying the property taxes for Madeline’s estate, suffering damages. The only way to avoid injustice to Peter would be to enforce Lisa’s promise—otherwise, Lisa would be allowed to keep all of the assets and Peter would suffer the loss of the funds that paid the estate’s taxes.

In the actual case on which this problem is based, in Peter’s suit against his sister to recover half of the assets of their mother’s estate, Lisa asserted that the Statute of Frauds barred his claim. The court dismissed the complaint. A state intermediate appellate court reversed on the basis of the theory of promissory estoppel.

1. If the court enforces the promise, should Rea get a share of what Peter and his mother and sister were “hiding”? Discuss.

Solution

Peter’s failure to disclose his ultimate right to receive half of the assets of Madeline’s estate in the future could have impacted the financial issues in his divorce from Rea. Rea would not have been entitled to a simple half of Peter’s share—an inheritance is generally considered to be a spouse’s separate property. But if Rea had known that Peter would later receive half of Madeline’s estate, she might have sought, and might have been granted, more financial assets in the divorce proceeding. For example, any award by the court of spousal maintenance and child support might have been greater.

It might be noted that there is nothing illegal about Madeline’s act of changing her will or the agreement between Peter and Lisa with respect to the distribution of Madeline’s assets. Madeline was free to leave her property to whomever she pleased, and the siblings were free to enter into an agreement to redistribute that inheritance. There is no statute, rule, or regulation violated by the siblings’ agreement.

There is also no indication that Peter fraudulently concealed or transferred any property owned by him or titled in his name, either before or during his divorce from Rea. The assets that might be alleged to have been “hidden”—half of the shares in Whole Pies, the real estate partnership, the house on Staten Island, and the bank accounts—were never in Peter’s possession. At best, there is a claim that Peter attempted to delay the receipt of his half of the estate, which he was never legally entitled to in the first place, and did not disclose this potential revenue source to Rea.

Critical Thinking and Writing Assignments

1. Time**-Limited Group Assignment—The Writing Requirement.** Jason Novell, doing business as Novell Associates, hired Barbara Meade as an independent contractor. The parties orally agreed on the terms of employment, including payment of a share of the company’s income to Meade, but they did not put anything in writing. Two years later, Meade quit. Novell then told Meade that she was entitled to $9,602—25 percent of the difference between the accounts receivable and the accounts payable as of Meade’s last day of work. Meade disagreed and demanded more than $63,500—25 percent of the revenue from all invoices, less the cost of materials and outside processing, for each of the years that she had worked for Novell. Meade filed a lawsuit against Novell for breach of contract. (See *The Writing Requirement*.)
2. The first group will evaluate whether the parties had an enforceable contract.

Solution

The parties had an enforceable contract. Meade would not have to prove the existence of a contract, despite its terms being part of an oral agreement, because—based on the facts stated in the problem—she would assert it in her complaint and Novell would admit to its existence in his answer and presumably at trial. They disagree only about its terms.

1. The second group will decide whether the parties’ oral agreement falls within any exception to the Statute of Frauds.

Solution

The parties’ oral agreement falls within the admissions exception to the Statute of Frauds. The pleadings—in which Meade would assert, and Novell would admit, the existence of a contract would establish that at the time the parties formed an oral contract.

1. The third group will discuss how the lawsuit would be affected if Novell admitted that the parties had an oral contract under which Meade was entitled to a share of the company’s income, but claimed that they had agreed she would receive only 15 percent of the income from invoices, not 25 percent.

Solution

If a party against whom enforcement of an oral contract is sought admits under oath that a contract was made, it will be enforceable at least to the extent of the terms admitted.

Thus, if Novell admitted that Meade was entitled to a share of the company’s income, but claimed that they had agreed she would receive only 15 percent of the income from invoices, not 25 percent, as she alleged, the court would most likely enforce a contract for at least that amount. If Meade could additionally prove that she was entitled to a greater amount because that was the term to which Novell and she had agreed, the court would likely find a contract for that amount.