

Brian Blum's Contracts: Examples & Explanations

Brian Blum's textbook "Contracts: Examples & Explanations" Excerpts:

The following excerpts are selected as what we deem to be the most important basic concepts that apply in our course of dealings with debt eradication procedures, criminal set off technology, and any Secured Party Creditor or Commercial processes, or any other legal matters with or without attorney's:

In colloquial speech, people often talk of "signing a contract." Strictly speaking, this is inaccurate terminology. The contract is the legal relationship between the parties, and the document that is [often] signed is actually the record or memorial of that contract. **[page 57, Brian Blum, Contracts: Examples and Explanations, Fourth Edition.]**

In determining whether or not a person agreed to a contract or specific contractual terms, the person's manifested conduct by words or action is given more weight than her testimony about her actual intentions. An emphasis on the objective appearance of assent is important not only because of evidentiary considerations (that is, it is easier to prove because it is observable) but also because one of the fundamental values of contract law is that a person should be held accountable for words or acts reasonably manifesting intent to contract, and that the other party, acting reasonably, should be entitled to rely on the manifestation of assent. **[Brian Blum's textbook "Contracts: Examples & Explanations", Fourth Edition, page 10]**

The principles of accountability and reliance qualify the value of voluntariness - volition is not measured by the true and actual state of mind of a party, but by the state of mind as made apparent to the outside world. Even if a person does not really wish to enter a contract, if she behaves as if the contract is desired and intended, that conduct is binding, and evidence of any mental reservation is likely to be disregarded. **[Brian Blum's textbook "Contracts: Examples & Explanations", page 11, Fourth Edition]**

Because the purpose of this rule is to protect the offeree from imposition, it only applies if the offeree does not wish to be bound by her silence. If the offeree intends to accept by remaining silent, she may rely on this mode of acceptance, which was, after all, authorized by the offeror.

Therefore, an offeror who invites acceptance by silence assumes a risk of uncertainty. The meaning of the silence depends on the offeree's subjective intent, and the offeror cannot be sure if the failure to reject is an acceptance. **[Brian Blum's textbook "Contracts: Examples & Explanations", Fourth Edition, page 75]**

There are two situations in which silence binds the offeree, even in the absence of intent to accept. First, silence operates as acceptance if the offeror proffers property or services with the offer, and the offeree, having a reasonable opportunity to return or refuse them, exercises ownership rights over the property or accepts the benefit of the service. **[Brian Blum's textbook "Contracts: Examples & Explanations", Fourth Edition, page 75]**

When there is a duty to speak or respond, silence or inaction can be deemed as acceptance, only in those narrow circumstances when there is a duty to speak or respond. **[Brian Blum's textbook "Contracts: Examples & Explanations" Fourth Edition, page 74]**

Silence may operate as acceptance if prior dealings between the parties or other circumstances make it reasonable for the offeror to expect the offeree to give notice of rejection. In the absence of specification in the offer, the acceptance takes effect as soon as it is put out of the offeree's possession. **[Brian Blum's textbook "Contracts: Examples & Explanations", Fourth Edition, page 75]**

If acceptance by mail is permissible, acceptance occurs as soon as the offeree deposits a properly stamped and addressed acceptance in the mailbox. The burden is on the offeree to prove proper dispatch, so the offeree should make a good record of the mailing to avoid evidentiary problems. The offeree must also ensure that the letter is correctly addressed, stamped, and otherwise properly prepared for delivery. Provided that the acceptance was properly mailed before lapse of the offer, it does not matter that it was received after the offer terminated or was never received at all. The law allocates the risk of uncertainty and of lost or delayed mail to the offeror. This is often referred to as the mailbox or deposited acceptance rule. It is not confined to communication through the post office and applies whenever a non-instantaneous medium of communication is used. **[Brian Blum's textbook "Contracts: Examples & Explanations", Fourth Edition, page 76]**

The "mailbox" rule applies only to acceptances. A rejection or counteroffer sent by the offeree, and a revocation sent by the offeror, is effective only on receipt. **[Brian Blum's textbook "Contracts: Examples & Explanations", Fourth Edition, page 77]**

Any serious student of Contract Law should pick up a copy of Brian Blum's textbook "Contracts: Examples & Explanations":

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