

The Psychology of Contract Law: Examining Assumptions of Fairness and Understanding

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Overview & Workshop Goals

- Brief Overview of Contracts Law
 - Elements of a Contract
 - Defenses to Contract Enforcement
- Explore Relationship between Psychology and Contracts Law
- Conduct Basic Legal Analysis

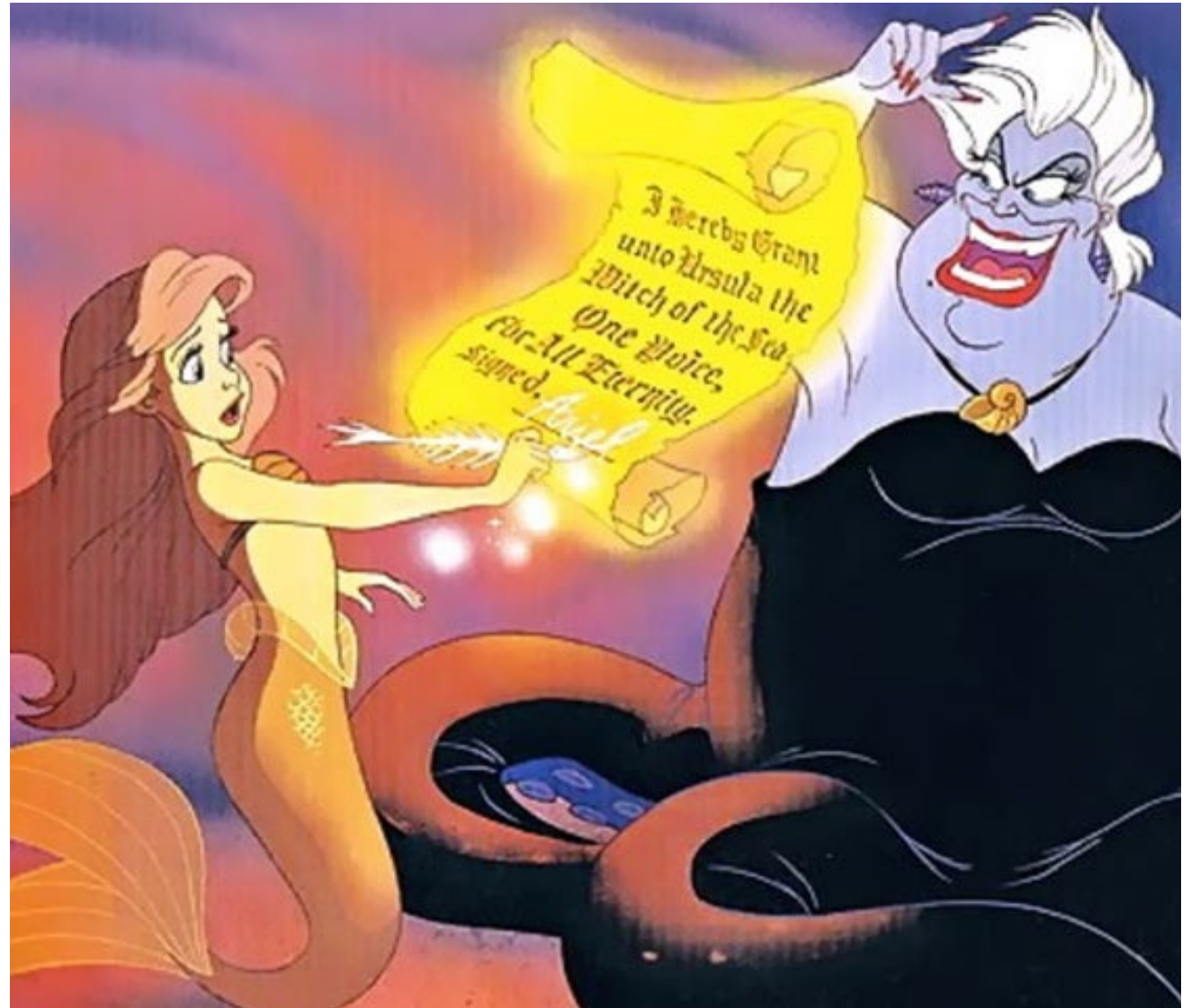
What is a Contract?



<https://www.youtube.com/watch?v=aofWYtwvrww&t=8>

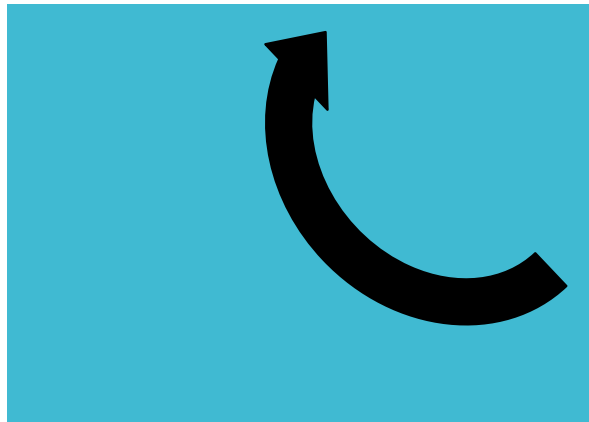
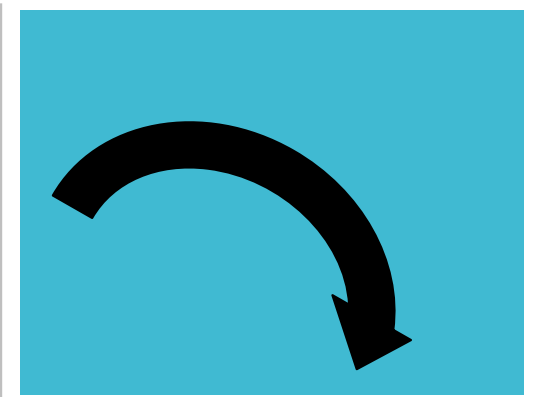
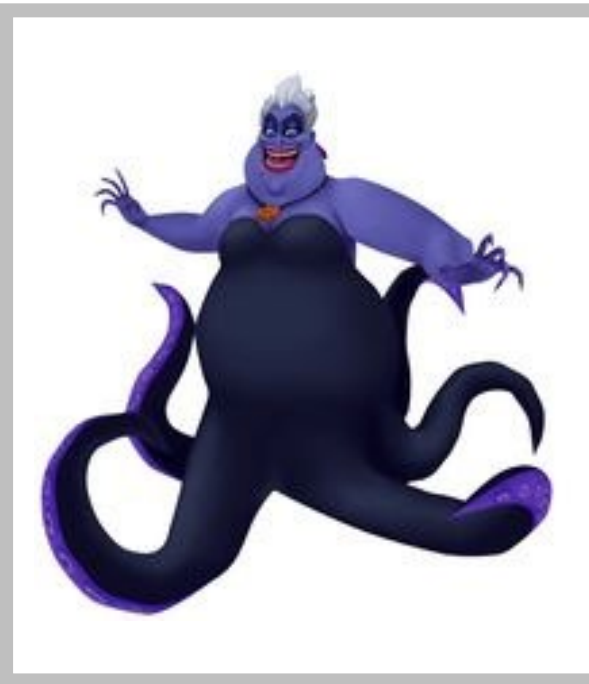
What is a Contract?

An agreement between 2+ persons to exchange something of value



Bilateral Contracts

Contracts between two parties that involve commitments from both parties



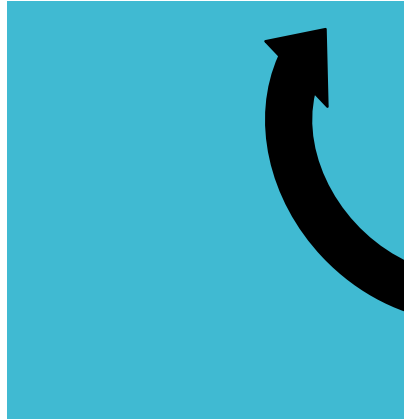
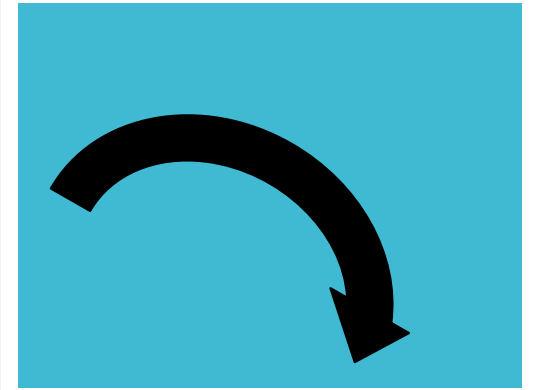
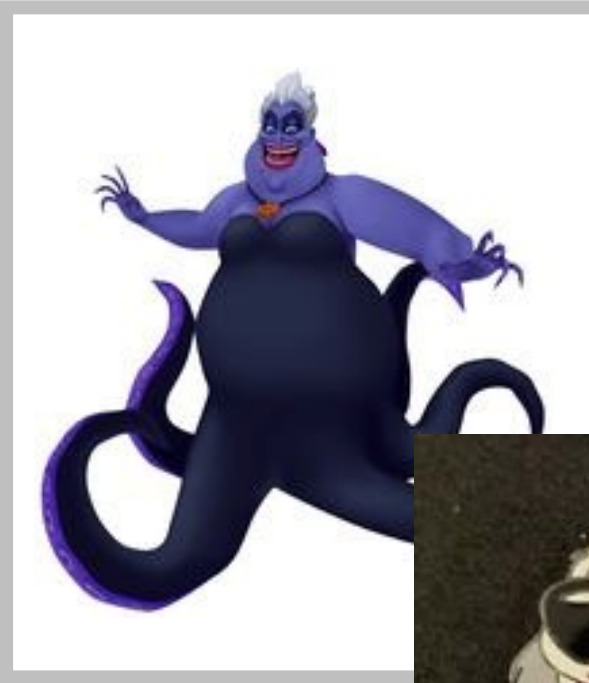
Unilateral Contracts

A contract in which one person makes a promise, but that promise is conditioned on the action of another party



Mutual Assent

Do both parties have the same understanding of the terms of the contract being signed?



“What is a chicken”

~Frigaliment Important Co. v. BNS International Sales Corp. (1960)



“Broiler” Chickens



“Fowl” Chickens

Elements of a Contract

Mutual Assent

Offer

Acceptance

Consideration

Offer

An invitation to enter into a contract

Direct

Complete

Specific

Recipient's Perception



Mutual Assent

Offer

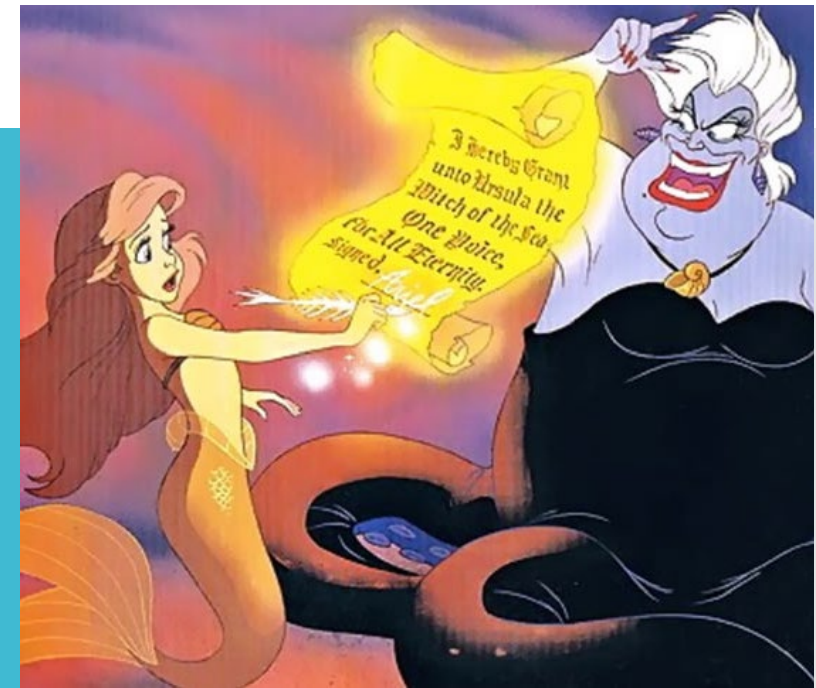
Acceptance

Consideration

Acceptance

Acceptance = a promise or an act that shows approval of a proposed offer

Counteroffer = a rejection of a prior offer followed by the proposal of a new offer



Acceptance

Consideration

Consideration

A “bargained-for” exchange

Quid pro quo

One party gains something and/or
the other party loses something

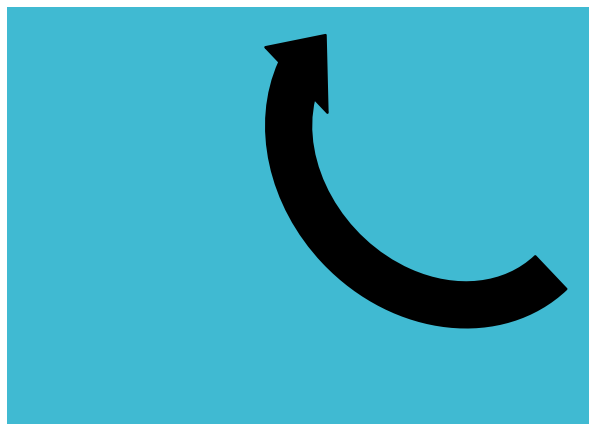
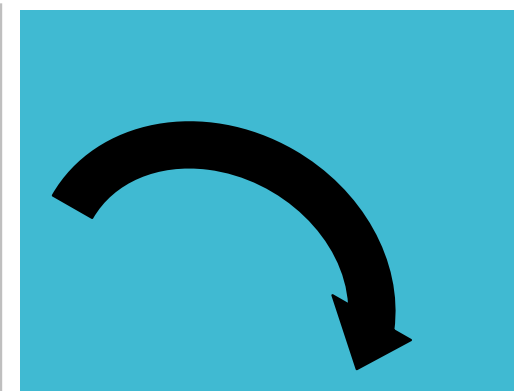
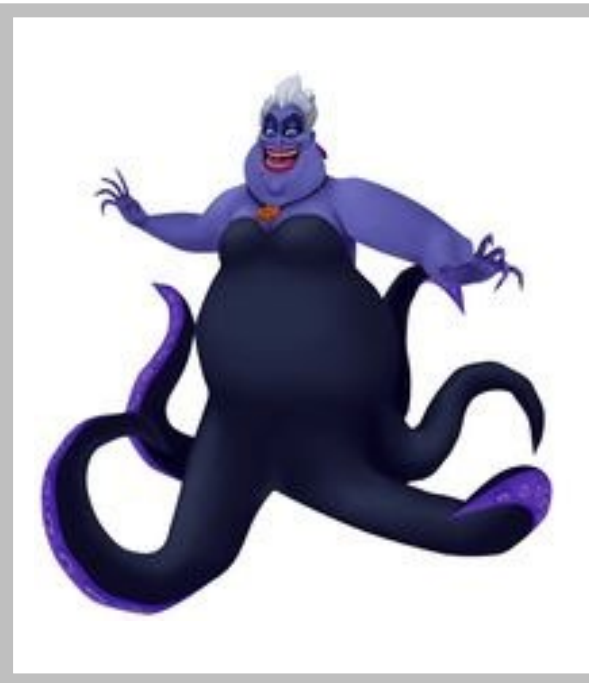
Mutual Assent

Offer

Acceptance

Consideration

Psychology & Consideration



Defenses to Contract Enforcement

Mental Incapacitation

- Contracts are **voidable** if one party was incapacitated at the time of the transaction
- 2 Tests:
 - Cognitive Test
 - Volitional Test

Mental Incapacitation

- Cognitive Test –
 - Was the party able to understand the meaning and effect of the words comprising the contract?
- Volitional Test
 - Was the person unable to act reasonably in the transaction? AND
 - Did the other party have reason to know of her condition

What Is Incapacitation?



What Is
Incapacitation?



What Is Incapacitation?



Why Should We Care

Why Should We (Psychologists) Care?

- Contracts are everywhere
- Psychologists can conduct evaluations and assessments to determine a person's capacity
- Research is needed to examine assumptions underlying contracts law
- Knowing the law informs the questions we can ask and answer

Conducting Legal Analysis (IRAC)

Issue: Statement of the legal issue being considered

Rule: Statement of the relevant rule of law

Analysis: Application of the relevant rule of law to the facts of the case

Conclusion: A summary conclusion of the case

Facts:

Harry Potter, Hermione Granger, Ronald Weasley, and a number of their classmates are unhappy with the Defense Against the Dark Arts (DADA) curriculum being taught at Hogwarts School of Witchcraft and Wizardry. They decide to start a secret club, where Harry will teach his classmates DADA outside of school hours. At their first meeting, Ron buys everyone firewhisky and butterbeer. After toasting the new group, Hermione writes the name of the group (Dumbledore's Army) at the top of a piece of parchment and asks everyone present to sign it. She says that by signing the parchment, they are all agreeing to participate in the club and keep information about who is in the club and what they are doing confidential. A few of the students seem hesitant. One student, Marissa, loudly proclaims that she doesn't want to get detention or cause trouble for her family members who work for the Ministry of Magic. Ultimately, however, everybody signs the piece of parchment. Weeks later, Marissa (one of the club members who signed the parchment), tells a Hogwarts professor about Dumbledore's Army. Hermione is furious and wants to sue Marissa for breach of contract. Will Hermione be successful?



Facts:

Roger and Anita live happily with their dalmatians, Pongo and Perdita. One day, Roger and Anita discover that Perdita is pregnant! The news gets out, and one day Cruella De Vil knocks on their door. Cruella says she wants to purchase the puppies, and Anita responds by saying that the puppies will not be born for another 3 weeks. Cruella says, "Great! Can't wait!" Three weeks later, Cruella returns to purchase the puppies. Cruella pulls out her checkbook and writes Anita a check for twice what the puppies are worth. However, Anita says "Oh, I'm afraid we can't give them up." Roger chimes in and adds, "We're not selling the puppies. You're not getting one. Not one. And that's final." Cruella storms out and drives straight to the courthouse, where she wants to file a claim for a breach of contract. Will Cruella's claim be successful?

