

An employer encourages "wellness" on the part of his employees and supports various physical fitness programs to that end. Learning that one of his employees was a dedicated jogger, the employer promised to pay her a special award of \$100 if she were to run one mile in less than six minutes on the following Saturday. The employee thanked him and did in fact run a mile in less than six minutes on the day specified. Shortly thereafter, however, the employer discovered that for more than a year the employee had been running at least one mile in less than six minutes every day as part of her personal fitness program. He then refused to pay the \$100.

In an action by the employee against the employer for breach of contract, which of the following best summarizes the probable decision of the court?

- A. The employee wins, because running a mile in less than six minutes is a significantly demanding enterprise.
- B. The employee wins, because she ran the specified mile as requested, and her motives for doing so are irrelevant.
- C. The employer wins, because it is a compelling inference that his promise did not induce the employee to run the specified mile.
- D. The employer wins, because the employee's running of the specified mile was beneficial, not detrimental, to her in any event.

## Explanation:

### Elements of valuable consideration

**Bargained-for exchange** Each party's willingness to enter agreement must be induced by other party's act/promise

**Legal detriment** Each party must relinquish legal right by either:  
performing (or promising to perform) act that is not legally required *or*  
refraining (or promising to refrain) from performing legally permissible act

Forming a valid contract requires **consideration**—ie, a **bargained-for exchange** of promises or performance. This requires each party to:

**perform or promise to perform some act that is not legally required** *or*  
refrain or promise to refrain from performing some legally permissible act.

Here, the employer promised to pay the employee \$100 if she were to run a mile in less than six minutes on the following Saturday, and the employee ran the mile as requested. This exchange (employer's promise for employee's performance) provided the necessary consideration to form a binding contract—regardless of the employee's motives for running the mile. Therefore, the court should decide that the employee wins.

**(Choice A)** The fact that running a mile in less than six minutes is a significantly demanding enterprise is irrelevant to determining whether bargained-for consideration exists.

**(Choice C)** Although the employee runs at least one mile in less than six minutes every day, this does *not* give rise to an inference that the employer's promise did not induce her to run the specified mile.

**(Choice D)** The employee suffered a *legal* detriment (as is required for consideration) by running the specified mile because she was not legally required to perform this act.

### Educational objective:

Contracts must be supported by consideration—ie, a bargained-for exchange of promises or performance—which requires each party to (1) perform or promise to perform an act that is not legally required or (2) refrain or promise to refrain from performing some legally permissible act.

### References

Restatement (Second) of Contracts § 71 (Am. Law Inst. 1981) (bargained-for exchange as consideration).

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