

A motorcycle collector and his friend had known each other for years. The collector sent a letter to the friend that said, "I am willing to sell you my oldest motorcycle for \$4,000." The friend sent the collector an email saying, "I accept your offer." The collector owned three motorcycles: a 1985 model, a 1987 model, and a 1992 model. The friend did not know about the 1985 model, which was the one the collector intended to sell. The collector was unaware that the friend intended to buy the 1987 model. When the collector tendered the 1985 model, the friend refused to accept it.

Is the friend likely to prevail in a breach of contract suit against the collector?

- A. No, because by not inquiring further about the meaning of the phrase "oldest motorcycle," the friend assumed the risk of being mistaken.
- B. No, because neither the friend nor the collector had reason to know of the other's interpretation of the words "oldest motorcycle."
- C. Yes, because the friend had no reason to know of the collector's meaning and the collector could have avoided the confusion by more careful drafting.
- D. Yes, so long as a reasonable person in the friend's position would have considered the letter as referring to the 1987 model.

### Explanation:

A **misunderstanding** occurs when the parties to a contract attach **different meanings** to the **same term**. When a misunderstanding involves a **material term**, whether a valid contract is formed depends on who knows or has reason to know about the misunderstanding:

- **neither party OR both parties** – in which case **no contract** is formed because there is no meeting of the minds
- **one party** – in which case a **valid contract** is formed, and the **unknowing party's meaning** of the term **controls**

Here, the friend accepted the collector's offer to sell the "oldest motorcycle" the collector owned. The friend did not know about the 1985 model (the one the collector intended to sell), and the collector did not know that the friend intended to buy the 1987 model. Since neither party knew nor had reason to know of the other's interpretation of "oldest motorcycle," no contract was formed and the friend is unlikely to prevail.

**(Choice A)** A party's failure to know or discover facts before entering into a contract—eg, the friend's failure to inquire about the meaning of "oldest motorcycle"—does not qualify as an **assumption of the risk** that would prevent a party from avoiding a contract due to mistake.

**(Choices C & D)** The friend's interpretation of "oldest motorcycle" would control, and the friend would prevail, only if the collector knew or had reason to know of the friend's interpretation. Neither a reasonable person's interpretation nor the collector's ability to avoid the confusion by more careful drafting is relevant.

### Educational objective:

If neither (or both) of the parties to a contract know or have reason to know about a misunderstanding involving a material term, no contract is formed. But if one party knows or has reason to know, a valid contract is formed and the unknowing party's meaning of the term controls.

### References

- Restatement (Second) of Contracts § 20 (Am. Law Inst. 1981) (effect of misunderstanding).

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## Misunderstanding

