

An innkeeper, who had no previous experience in the motel or commercial laundry business and who knew nothing about the trade usages of either business, bought a motel and signed an agreement with a laundry company for the motel's laundry services. The agreement was for a term of one year and provided for "daily service at \$500 a week." From their conversations during negotiation, the laundry company owner knew that the innkeeper expected laundry services seven days a week. When the laundry company refused to pick up the motel's laundry on two successive Sundays and indicated that it would never do so, the innkeeper canceled the agreement.

The laundry company sued the innkeeper for breach of contract. At trial, clear evidence was introduced to show that in the commercial laundry business "daily service" did not include service on Sundays.

Is the laundry company likely to succeed in its action?

- A. No, because the laundry company knew the meaning the innkeeper attached to "daily service," and therefore the innkeeper's meaning will control.
- B. No, because the parties attached materially different meanings to "daily service," and therefore no contract was formed.
- C. Yes, because the parol evidence rule will not permit the innkeeper to prove the meaning he attached to "daily service."
- D. Yes, because the trade usage will control the interpretation of "daily service."

### Explanation:

A **misunderstanding** occurs when the parties to a contract attach **different meanings** to the **same term**. If the misunderstanding involves a **material term**, most often there is no contract because there is no meeting of the minds. But if **one party knows** or has reason to know about the misunderstanding, then a **valid contract** will be formed based on the meaning of the **term as understood** by the **unknowing party**.

Here, the laundry company agreed to provide "daily service" to the innkeeper's motel. The innkeeper included Sundays in "daily service" but the laundry company—per trade usage in the commercial laundry business—did not, so the parties attached different meanings to the term. Since the laundry company *knew* that the innkeeper expected laundry services seven days a week, including Sundays, the innkeeper's understanding of "daily service" will control. Therefore, the laundry company is unlikely to succeed **(Choice B)**.

**(Choice C)** The **parol evidence rule** generally bars evidence of a prior oral or written agreement to modify or contradict the terms of a final written agreement. However, parol evidence is *admissible* to establish an ambiguous term—eg, when, as here, a term is subject to a misunderstanding.

**(Choice D)** Trade usage can be used to show that a word or phrase has a particular meaning—eg, that "daily service" does not include Sundays in the commercial laundry business. But trade usage will not control when, as here, a party knows that the other party attaches a different meaning to the term.

### Educational objective:

When one party to a contract knows or has reason to know that the other party attaches a different meaning to a material term, then the *unknowing* party's meaning of the term will control.

### References

- Restatement (Second) of Contracts § 201 (Am. Law Inst. 1981) (whose meaning prevails when a misunderstanding occurs).

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## Misunderstanding

