

A father went to a music store to inquire about purchasing a violin and private music lessons for his daughter. Based on the store owner's recommendation, the father agreed to purchase a violin for \$1,500. At the same time, the store owner orally agreed to give the daughter four lessons per month for the next six months at a rate of \$50 per lesson. The father and the store owner then signed a contract for the sale of the violin. A provision in the contract stated: "This writing reflects the entire agreement of the parties, and there are no other agreements or understandings not set forth herein." The father paid \$1,500 to the store owner and took possession of the violin.

Prior to the daughter's first lesson, the store owner signed a contract to play with the city symphony orchestra, and she notified all her customers that she would no longer be providing private lessons.

If the father sues the store owner for breach of contract, will he be likely to prevail?

- A. No, because the parties' agreement regarding the music lessons is inconsistent with the express language of the written contract.
- B. No, because the parties' agreement regarding the music lessons violates the statute of frauds.
- C. Yes, because contemporaneous agreements are admissible to prove the existence of additional terms that are consistent with a fully integrated writing.
- D. Yes, because the parties' agreement regarding the music lessons was collateral to the contract for the sale of the violin.

## Explanation:

A **written contract** that contains a merger clause is presumed to be **completely integrated**—ie, a final expression of the parties' agreement as to *all* terms. As a result, the **parol evidence rule** generally **bars** any evidence of **prior or contemporaneous agreements or negotiations**, regardless of whether they are consistent with the terms of the contract as written. But this rule **does not apply** when such evidence is offered to prove the existence of a **collateral agreement**—ie, a separate contract supported by separate [consideration](#).

Here, the written contract for the sale of the violin contained a merger clause (complete integration presumed). However, the parties' contemporaneous oral agreement regarding violin lessons created a *separate* contract that was supported by *separate* consideration (ie, lessons in exchange for \$50 per lesson). As a result, the parol evidence rule does not bar evidence of this collateral agreement. And since the store owner repudiated the agreement by notifying the father that she would no longer be providing the lessons, he will likely prevail.

**(Choice A)** The written contract was silent as to music lessons, so the parties' oral agreement regarding the music lessons was *consistent* with (ie, did not contradict) the express language of the written contract.

**(Choice B)** Under the statute of frauds, a contract for the *sale of goods* for \$500 or more must be in writing to be enforceable. But this would not prevent the father from prevailing in his breach-of-contract claim for the store owner's failure to provide a *service* (violin lessons).

**(Choice C)** Parol evidence is admissible to prove the existence of consistent additional terms only if the contract at issue is *partially* integrated—ie, a final expression as to some, but not all, of the terms (not seen here). But evidence of the parties' oral agreement is still admissible here because it represents a collateral agreement.

## Educational objective:

Even where a contract is completely integrated (eg, as evidenced by a merger clause), parol evidence can be used to prove the existence of a separate collateral agreement supported by its own consideration.

## References

- Restatement (Second) of Contracts § 216 cmt. c (Am. Law Inst. 1981) (explaining that a collateral contract is not barred by an integrated one).

## Admissibility of prior agreements or negotiations

