



Agency Law

Educational Objectives

After learning the content of this assignment, you should be able to:

1. Explain how an agency relationship can be created by each of the following:
 - Appointment
 - Estoppel
 - Ratification
2. Describe an agent's authority in terms of the following:
 - The scope of authority granted (actual or apparent)
 - The third party's duty to ascertain scope of authority
3. Describe the principal-agent relationship in terms of the following:
 - Duties an agent owes to the principal
 - Remedies a principal has for an agent's breach of duties
 - Duties a principal owes to an agent
 - Remedies an agent has for a principal's breach of duties
4. Describe the various means by which parties can terminate agency relationships.
5. Describe the potential contractual rights and liabilities of a principal and its agent in terms of the following:
 - A third party's rights against a principal
 - A principal's rights against a third party
 - An agent's liability to a third party
 - An agent's rights against a third party



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Educational Objectives, continued

6. Describe the potential tort liability of a principal and its agent in terms of the following:
 - Respondeat superior liability of the principal for the agent's torts
 - Direct liability of the principal for the agent's torts
 - Principal's liability for torts of independent contractors
 - Principal's liability for agent's misrepresentations
 - Agent's liability for agent's own torts

Outline

- ▶ **Agency Creation**
 - A. Appointment
 - B. Estoppel
 - C. Ratification
- ▶ **Agent's Authority**
 - A. Scope of Authority
 - 1. Actual Authority
 - 2. Apparent Authority
 - B. Duty to Ascertain Scope of Authority
- ▶ **Agent's Duties and Remedies**
 - A. Agent's Duties to Principal
 - 1. Loyalty
 - 2. Obedience
 - 3. Reasonable Care
 - 4. Accounting
 - 5. Information
 - B. Principal's Remedies
 - C. Principal's Duties to Agent
 - 1. Agreed-On Period of Employment
 - 2. Compensation
 - 3. Reimbursement for Expenses
 - 4. Indemnity for Losses
 - D. Agent's Remedies
- ▶ **Agency Termination**
 - A. Just Cause
 - B. Lapse of Time
 - C. Accomplishment of Purpose
 - D. Revocation
 - E. Renunciation
 - F. Death or Incapacity
 - G. Changed Circumstances
- ▶ **Contractual Rights and Liabilities**
 - A. Third Party's Rights Against a Principal
 - B. Principal's Rights Against a Third Party
 - C. Agent's Liability to a Third Party
 - D. Agent's Rights Against a Third Party
- ▶ **Tort Liability of Principal and Agent**
 - A. Principal's Liability for Agent's Torts
 - 1. Respondeat Superior Liability
 - 2. Direct Liability
 - 3. Liability for Independent Contractor's Torts
 - 4. Liability for Agent's Misrepresentations
 - B. Agent's Liability for Own Torts



Studying before sleeping helps you retain material better than studying before undertaking other tasks.



For each assignment, you should define or describe each of the Key Words and Phrases and answer each of the Review and Application Questions.

Educational Objective 1

Explain how an agency relationship can be created by each of the following:

- Appointment
- Estoppel
- Ratification

Key Words and Phrases

Agency

Agent

Principal

Power of attorney

Agency by estoppel

Ratification



Review Questions

- 1-1. Identify the usual method of creating an agency.

- 1-2. Explain how an agency by estoppel can be created even though the principal has done nothing to create the agency.

- 1-3. Contrast ratification with estoppel as it relates to the law of agency.

Educational Objective 2

Describe an agent's authority in terms of the following:

- **The scope of authority granted (actual or apparent)**
- **The third party's duty to ascertain scope of authority**

Key Words and Phrases

Actual authority

Express authority



Implied authority

Apparent authority

Review Questions

- 2-1. Compare an agent's express and implied authority.

- 2-2. Contrast apparent authority with actual authority.

- 2-3. Explain a third party's duty to ascertain the scope of an agent's authority.



Application Question

- 2-4. Brittany has been employed by High End Jewelry for two weeks as a sales clerk. Brittany is permitted to make transactions when customers pay by cash or major credit card. She is not permitted to extend store credit. All applications for store credit go to Helen, the sales manager, for approval. Brittany's friend Jodie comes into the store and admires a diamond tennis bracelet that costs \$1,500. Brittany tells Jodie she will let her have it for a deposit of \$50 and a completed credit application for the balance of \$1,450. Brittany tells Jodie she can pay \$25 per month. Jodie, who has no job except for babysitting, completes the credit application. Is High End bound to extend the credit to Jodie for the bracelet?

Educational Objective 3

Describe the principal-agent relationship in terms of the following:

- Duties an agent owes to the principal
- Remedies a principal has for an agent's breach of duties
- Duties a principal owes to an agent
- Remedies an agent has for a principal's breach of duties

Key Word or Phrase

Ministerial duties



Review Questions

- 3-1. List the duties an agent owes to a principal.

- 3-2. List three exceptions to the rule that an agent cannot delegate to another the authority granted by a principal.

- 3-3. List the duties a principal owes to an agent.

- 3-4. Describe the agent's remedies for a principal's breach of duties.



Educational Objective 4

Describe the various means by which parties can terminate agency relationships.

Review Questions

- 4-1. How does a principal revoke an agency?

- 4-2. List three ways in which an agency may be terminated by death or incapacity.

- 4-3. Under what circumstances does appointment of a second agent to accomplish the authorized agency purpose terminate the original agency?



Educational Objective 5

Describe the potential contractual rights and liabilities of a principal and its agent in terms of the following:

- A third party's rights against a principal
- A principal's rights against a third party
- An agent's liability to a third party
- An agent's rights against a third party

Key Words and Phrases

Disclosed principal

Partially disclosed principal

Review Questions

- 5-1. Explain why a third party can sue an undisclosed principal once that principal's existence becomes apparent.
- 5-2. Describe the circumstances under which a third party's rights against a principal are discharged.



5-3. Describe the rights of a third party who pays money to an agent who has no authority to collect it.

5-4. Explain why an agent is liable to a third party for a fraudulent or malicious act that harms the third party.

Educational Objective 6

Describe the potential tort liability of a principal and its agent in terms of the following:

- Respondeat superior liability of the principal for the agent's torts
- Direct liability of the principal for the agent's torts
- Principal's liability for torts of independent contractors
- Principal's liability for agent's misrepresentations
- Agent's liability for agent's own torts

Key Words and Phrases

Employee

Independent contractor

Respondeat superior



Joint and several liability

Review Questions

- 6-1. Describe the two conditions that must be met in order for the torts of an agent to be vicariously attributed to the principal.

- 6-2. Describe the elements required to determine whether an employee was acting within the scope of his or her employment when a tort was committed.

- 6-3. Describe the principal's responsibility for hiring, training, and supervising agents.

- 6-4. Identify three exceptions to the rule that a principal is not liable for the torts of agents that are independent contractors.

