

## EXAMPLE OF THE "IRAC"\* APPROACH TO EXAM ANSWERS

### QUESTION:

Moe tells Curly: "Meet me at the Harbor Restaurant tomorrow and I will buy you lunch." Curly shows up at the restaurant the next day, meets Moe, but Moe refuses to spring for lunch. Is Moe's promise to pay enforceable?

### ANSWER:

#### ISSUE

Whether Moe's promise is enforceable depends upon whether or not it is supported by consideration. Otherwise, it is simply an unenforceable gratuitous promise.

#### RULE

Consideration is any act or forbearance which is of benefit to the promisor or detriment to the promisee. Consideration must arise in the context of a bargained for exchange.

#### ANALYSIS

Resolution of this question depends upon whether the facts show that Moe was bargaining for Curly's appearance at the restaurant or was merely stating what Curly would have to do in order to place himself in the position to receive a gift. Arguably, Curly suffered detriment when he went to the restaurant because he did that which he was not legally obligated to do. Although courts will normally not inquire into the sufficiency of the detriment, a small detriment, especially in a social situation, is indicative of a gift making state of mind as opposed to contract making state of mind on the part of the promisor. The theory is that a promisor is unlikely to bargain for a small detriment. However, if it can be shown that Moe promised Curly the free lunch because he wanted to induce him to appear at the restaurant, then legal consideration is present. If a performance is bargained for there is no further requirement of a benefit to the promisor or a detriment to the promisee.

#### CONCLUSION

Here, there are no facts showing a motive for Moe to induce Curly to appear at the restaurant. Thus I would conclude that this is merely a promise to make a gift at sometime in the future and is hence unenforceable.

\*Issue, Rule,  
Analysis,

Conclusion

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