

Contracts And The Law

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All too often, parties to a contract go to court to enforce a non-complying party to fulfill promises made prior to the signing of an agreement, but not included in the final agreement. Most of these cases could have been avoided with careful planning prior to the execution of the contract. However, in most of these cases, the non-complying party will prevail.

A contract is defined as an agreement between two or more persons which creates an obligation to do or not to do a particular thing. An essential rule in contract law is known as the "parole evidence rule." Under this rule, when parties put their agreement in writing with the absence of fraud or mistake, all previous oral agreements merge in the writing and the contract as written cannot be modified or changed by oral or spoken evidence. Therefore, unless a promise or understanding is included in the final agreement, the promise or understanding will not be enforced.

What should one do prior to entering into a contract with another person? It is very important to plan carefully. Discuss and outline with the other party what the purpose and intention of the agreement will be. Make sure all aspects of the agreement are understood by all parties. For instance, if the contract is for services rendered, then identify exactly what services are being rendered. When and for how long will they be rendered? What will the compensation be for the services? Once all terms of the agreement are understood, have an attorney prepare a contract which includes the entire intention and desires of the parties involved. Take note; a contract which is properly thought out and written will be an excellent foundation for proper compliance and will prevent many headaches down the road.