

Chapter 18

Third Party Rights

Chapter Objectives

By the end of this chapter, you should be able to:

- Define privity.
- Identify the rights of third-party beneficiaries.
- Describe the legal rights and obligations of parties to assignments and delegations.
- Identify the restatement rule for liability to third parties.
- Distinguish between intended and incidental beneficiaries.

Why Do Third Party Rights Matter?



Scenario: Nick obtains a loan from Northwest bank to buy a condo. Northwest Bank sends a letter stating that it has transferred its rights to receive payments to Central Bank. To whom does Nick have to make his monthly mortgage payments to now?

Assignments

- Privity of contract
- Transfer of contract rights to a third person

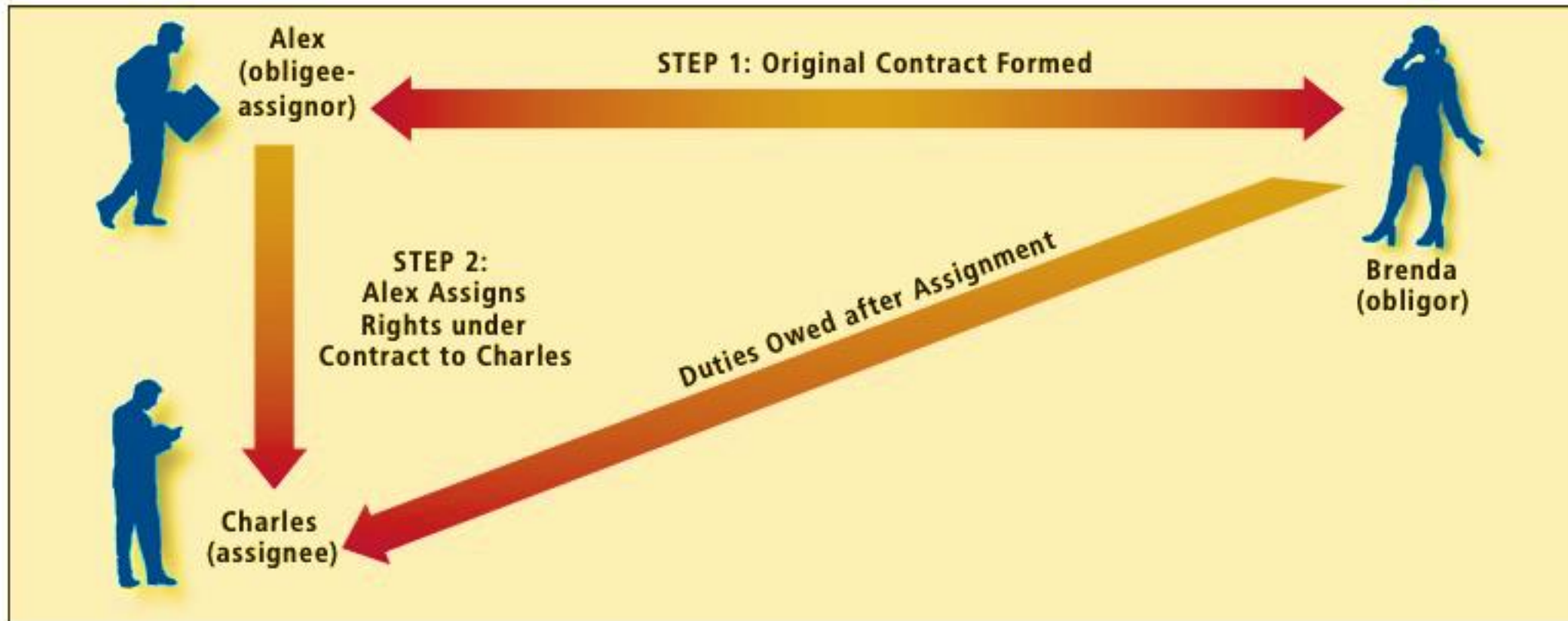
– **Example 18.1** Kendra



Effect of an Assignment

- Extinguishes the rights of the assignor
- Assignee takes rights subject to defenses

Exhibit 18-1 Assignment Relationships



JP Morgan Chase Bank N.A. v. McNeill

Polling Question



The contract between McNeill and Rodeo Ford provided that “any change to [it] must be in writing[,] and we must sign it.” Based on this provision, should the court have ruled in favor of McNeill?

Yes

No

Explain your reasoning to another person or classmate.

Rights that Cannot be Assigned

- When a statute expressly prohibits assignment
- When a contract is personal in nature
 - **Example 18.4 Anton** 
- When an assignment significantly changes the obligor's risk or duties
 - **Example 18.5 Alice** 

Knowledge Check 1

Rights cannot be assigned (1) when a statute expressly prohibits assignment, (2) when a contract is personal in nature, and (3) when an assignment significantly changes the obliger's risk or duties.

True

False

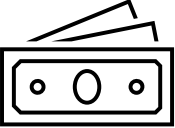
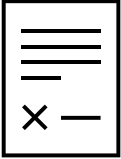
When Contract Prohibits Assignment

1. Contract cannot prevent assignment of right to receive funds.
2. Ownership rights in real estate often cannot be prohibited because such a prohibition or alienation is contrary to public policy in most states.
3. Negotiable instruments (such as checks and promissory notes) cannot be prohibited.
4. For the sale of goods, right to receive payments on an account (or damages) for breach of contract may be assigned, even though the sales contract prohibits such an assignment.

– **Example 18.6** Ramirez



Notice of Assignment

- Priority issues
 - **Example 18.7** Jason 
- Potential for discharge by performance to wrong party
 - **Example 18.8** Alexis 

Delegations

- Parties can transfer delegated duties.
- But some duties cannot be delegated when:
 1. Performance depends on personal skill or talents of obligor.
 2. Special trust has been placed in the obligor.
 3. Performance by third party will vary materially from obligee's expectations.
 4. Contract expressly prohibits delegation.

Exhibit 18-2 Delegation Relationships



Mirandette v. Nelnet, Inc.

Polling Question

The U.S. Court of Appeals for the Sixth Circuit reversed the district court's dismissal of Mirandette's suit.

- Did the U.S. Court of Appeals for the Sixth Circuit remand the case for the lower court to consider Mirandette's payment-on-receipt theory?

Yes

No

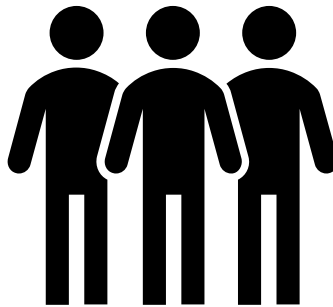
Explain your reasoning to another person or classmate.

“Assignment of All Rights”

- Phrase can create both:
 - **Assignment of Rights** and **Delegation of Duties**
- “I assign the contract”
- “I assign all my rights under the contract”
- Assignor liable, if assignee fails to perform contractual obligations

Third Party Beneficiaries

- Intended beneficiary
- Party who made promise to benefit third party is the promisor
- **Classic Case example 18.14** Holly, Lawrence, and Fox



Bozzio v. EMI Group, Ltd.

Polling Question

In this case, the promisor was Capital Records. The promisee was Missing Persons, Inc., a corporation formed by the band members to receive the band's royalties.

- Could the third-party beneficiary sue for breach of contract, when the promisee lacked the capacity to bring the suit?

Yes

No

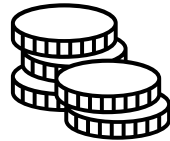
Explain your reasoning to another person or classmate.

Types of Intended Beneficiaries

- Creditor beneficiary
 - **Case Example 18.15** Sharmalee



- Donee beneficiary
 - **Example 18.16** Ben

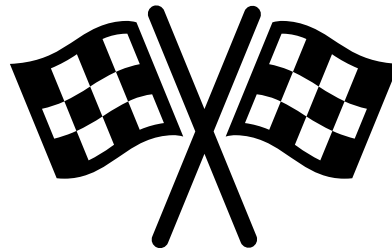


Group Breakout Discussion Activity: Creating Scenarios When the Rights of an Intended Beneficiary Vest

1. When third party demonstrates express consent to agreement, such as by sending a letter, a note, or an e-mail acknowledging awareness of, and consent to, the contract.
2. When third party materially changes position in detrimental reliance on contract, such as when a donee beneficiary contracts to have a home built in reliance on receipt of funds promised in a donee beneficiary contract.
3. When conditions for vesting are satisfied. For instance, rights of a beneficiary under a life insurance policy vest when insured person dies.

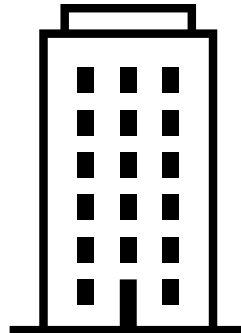
Incidental Beneficiaries

- Third party receives benefit despite contract having other priorities
- Unintentional benefit, thus incidental beneficiary cannot sue
- Only intended beneficiaries acquire contractual legal rights
- **Classic Case Example 18.17** Grand Prix Spectators



Identifying Intended versus Incidental Beneficiaries

1. Performance rendered directly to third party
 2. Third party has the right to control details of performance
 3. Third party expressly designated as beneficiary in contract
- **Case Example 18.18** DASNY v. Samson and Perkins



Knowledge Check 2

Which of the following is a true statement?

- A. Incidental beneficiaries do not receive benefits despite the contract having other priorities.
- B. Incidental beneficiaries cannot sue.
- C. Intended beneficiaries do not acquire contractual legal rights.
- D. None of the above.

Knowledge Check Video: Third Party Rights



Third party rights



Knowledge Check Video Question

A third party beneficiary cannot sue the promisor directly.

- True
- False

Video Debrief: Third Party Rights

Name some scenarios where third party beneficiaries would be involved, and the types of rights they could exercise.

Self-Assessment

1. What concepts did you find difficult, and thus need to review?
2. How might the topics in this chapter come up in the future in your personal (or work) life?
3. How can you use your personal (or work) experience to contribute for a class discussion on the topics in this chapter?
4. Which topics would you like to independently learn more about?

Summary

Now that the lesson has ended, you should have learned how to:

- Define privity.
- Identify the rights of third-party beneficiaries.
- Describe the legal rights and obligations of parties to assignments and delegations.
- Identify the restatement rule for liability to third parties.
- Distinguish between intended and incidental beneficiaries.