

ASPEN PARALEGAL SERIES

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Basic Contract Law for Paralegals  
Ninth Edition



Wolters Kluwer

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Chapter 9

# THIRD PARTY CONTRACTS

# Learning Objectives

After studying this chapter you will be able to:

- List the different types of third party contracts
- Discuss third party creditor beneficiary contracts
- Discuss third party donee beneficiary contracts
- Distinguish between an intended and an incidental beneficiary
- Define a contractual assignment
- Discuss the effect of an assignment on the original contracting parties
- Indicate how a gratuitous assignment may become irrevocable
- Differentiate between an assignment and a novation
- Distinguish a delegation from an assignment
- Explain the effect of the UCC on third party contracts

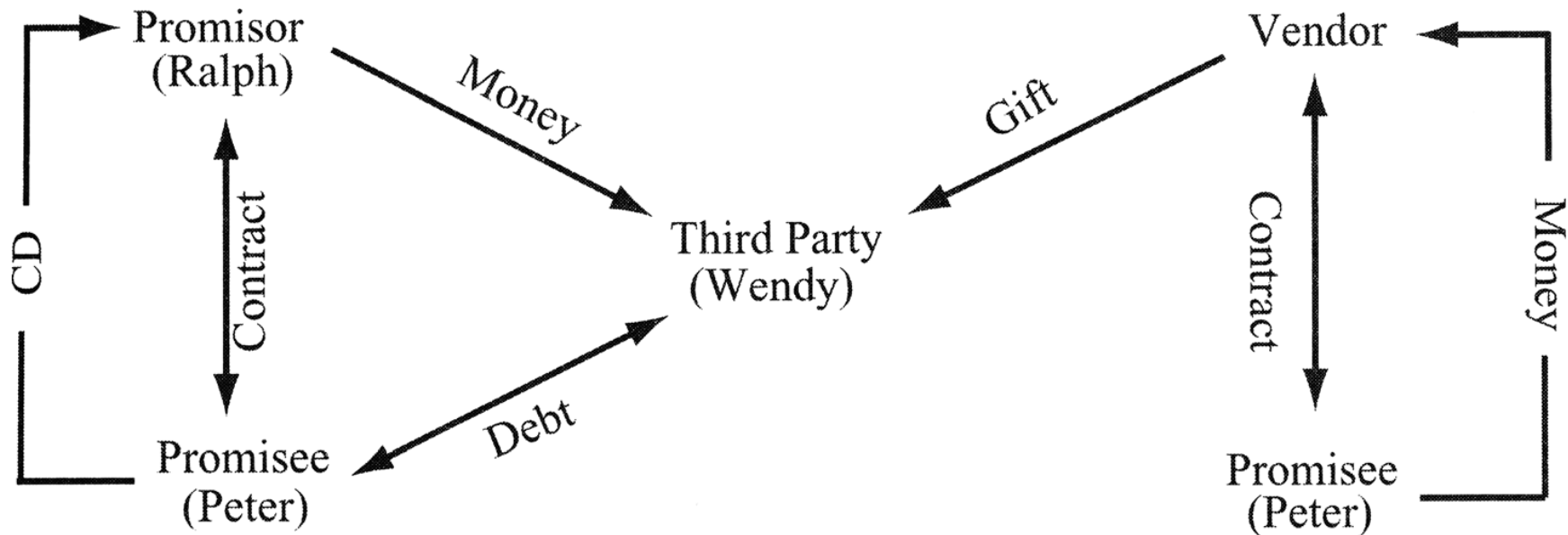
# Third Party Beneficiary Contracts

- Agreements in which the original intent of one of the contracting parties, when entering into the contractual agreement, is to have the promised-for consideration pass not to her, but to some outside person

# Two Types of Third Party Beneficiary Contracts

- ▶ **Third party creditor beneficiary contract:** the purpose is to extinguish a debt or obligation owed to some third party
- ▶ **Third party donee beneficiary contract:** the purpose is to confer a gift on a third person

## Third party donee beneficiary contract



# Third Party Beneficiary Contracts

<i>Creditor Beneficiary</i>	<i>Donee Beneficiary</i>
Created to extinguish debt	Created to confer gift
Rights vest with detrimental reliance	Rights vest on knowledge
Can sue promisor or promisee	Can sue promisor only
Promisor/promisee can defend by asserting any claim he has against the other contracting party	Promisor can defend by asserting any claim he has against promisee

# Assignment

- An assignment is the transfer of a promisee's rights under an existing contract
  - Assignments come into existence after the original contract is created
  - A promisee may not assign his rights without the consent, express or implied, of the promisor



# Situations in which a Gratuitous Assignment Becomes Irrevocable

- There are five situations in which a gratuitous assignment may become irrevocable:
  1. delivery of a token chose;
  2. writing;
  3. estoppel;
  4. performance; and
  5. novation.

# Delegation

- Unlike third party beneficiary contracts and assignments, a delegation does not involve a transfer of rights.
- In a delegation, the promisor of a contract authorizes another person to perform some duty owed by the promisor under the contract.
- In other words, the promisor delegates someone to assist him in fulfilling his contractual obligations.
- The delegated person has absolutely no rights under the contract, unlike third party beneficiaries or assignees, nor does she have any obligations under the contract.
- The delegate's only obligation is to the promisor, and the promisor remains totally liable under the contract.