

How to: Case Note

Carlill v Carbolic Smoke Ball Co. [1892] EWCA Civ 1

Facts of the Case

- This should be the **shortest** part of the case note - here we just want you to briefly outline the main facts of the case
- Example:
 - The defendant company, Carbolic Smoke Ball Co., made a product called the 'smoke ball' and marketed it as a cure for influenza and a number of other diseases. The defendant published a number of advertisements in various newspapers offering to pay £100 to anyone who became sick with influenza after using the 'Smoke Ball' as directed. The defendant lodged £1000 in a bank to show their "sincerity in the matter¹".
 - The plaintiff bought the product, used it as directed and subsequently became ill. The company subsequently refused to compensate her.

Decision of the Court

- Condense the judgements into their key points
- Make sure to:
 - Refer to each judge if multiple judges
 - Cite the parts of the judgement where they say the things you're referring to
- Example:
 - Lindley LJ's judgement can be distilled into five main elements. Firstly, the advertisement could not be considered 'mere sales puff' as the defendant lodged money in the bank to show its intention to honour its promise. Secondly, the advertisement was clearly made out to anyone who complied with the instructions laid out, not made to 'no one in particular'

¹ *Carlill v Carbolic Smoke Ball Co.* (1892) EWCA Civ 1 at the page this is to be found in the judgement

- Bowen LJ's judgement differs in focus, albeit coming to the same verdict. His initial focus was on the interpretation of the contract and how this was to be done according to the reasonable person
- AL Smith LJ concurred with the previous judgements but differed in one regard.....

Reason the Decision was Reached

- This is contrasted with the previous section
 - The previous section is a summary of the arguments made by the judges
 - This section involves *analysing* why those decisions were reached
 - Do the judgements come to the same conclusion but for different reasons?
 - Are there any dissenting judgements? Why?
 - Do the judges agree with each other? Why?
- Example
 - A common thread running through the three judgements was that the act of putting the £1000 in a bank and advertising that fact was a gesture of commitment to honour the arrangement on the part of the defendant. This act was inconsistent with a claim that the offer to pay £100 was 'mere sales puff'.

Analysis of Decision

- This is the most important part of the case note, it shows us what you think!
- There are two main limbs to this section:
 - Was the judgement persuasive i.e. did you agree with the judges? If not, why didn't you? Is there anything about their judgement that they didn't explain or any assumptions they made?
 - What are the consequences of this judgement i.e. the legal impact?
 - For *Carlill*, the main significance is the fact that unilateral contracts can be valid especially when actions of the offeror would seem to make it a genuine offer such as the bank deposit.
 - Contrast this with *Leonard v Pepsi Co*; despite the ad of the jet with the amount of pepsi points required, the details were observed to a separate catalogue. This would suggest the ad alone was *not* a unilateral offer.