

## RESEARCH MEMORANDUM

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TO:	John Anderson	CLIENT:	ABC Ltd.
FROM:	Philip Roberts	MATTER:	Rail Service
DATE:	September 21, 2010	FILE NO:	12345
RE:	The Formation of a Partnership		

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### SUMMARY

The circumstances in this matter involve a commercial arrangement without a written contract. You asked me to consider whether the parties to the arrangement could be held to constitute a partnership.

### FACTS

ABC Ltd. ("ABC") has commenced an action against Speedy Rail Ltd. ("Speedy"), alleging the existence of an unwritten contract based on conduct, and its wrongful termination by Speedy.

Pursuant to the alleged contract, Speedy provided railway services to a ferry service which was provided by ABC. ABC provided the ramp which assisted in loading and unloading the rail cargo onto ABC's ferries. Speedy provided rail service to the ABC for approximately 12 years.

The parties did not share profits, did not own any property jointly or in common, did not pool their returns, did not have a common organization or resource structure, nor did they hold themselves out as a single, unified business or enterprise. In addition, the parties did not exercise or have a right to any mutual managerial control over each other's behaviour.

Speedy terminated its service to the ABC ramp on December 29, 2009.

In addition to the breach of contract issue, we are considering advancing the alternative argument that ABC, and Speedy had formed a partnership, from which Speedy wrongfully withdrew.

# Memorandum Economics Papergrade1november 2013

**Michal Rosen-Zvi**



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