

**CONTRACTS 5121-801
Fall 2004**

Course Information and Preliminary Syllabus

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BACKGROUND

Contract law is your first-year introduction to the world of deal-making, bargained-for exchange, and trade. This is the world that many transactional lawyers work in, and it—not dispute resolution—is what many clients seek an attorney’s help with. Whether an attorney is drafting a commercial lease, an executive compensation contract, a divorce agreement, a contract for the sale of goods, a loan, or a corporate merger document, he or she relies upon contract law and the foundation for exchange that it provides. But contract law applies more broadly, even when lawyers aren’t drafting tailored contractual language. When you purchase insurance, sign a lease for an apartment, or install a piece of software on your computer, you have entered into a contract. In addition, many other courses in law school—including labor and employment, sales, insurance, construction, commercial law, and family law—build on the basic principles of contract law that we will cover here. It is a foundational course in the truest sense.

Beyond learning the substantive law of contracts, contract doctrine provides an excellent opportunity to develop your skills as a lawyer: making legal and policy arguments, reasoning carefully, reading closely, and analyzing cases and statutes. In this sense it is akin to your other first-year courses.

LOGISTICS

Class Schedule: Class will meet from 8:40-9:50 a.m. on Mondays, Tuesdays, and Thursdays. All regular class meetings will be in Room 156. Please note that several classes on the Syllabus below have been rescheduled. I apologize in advance if this causes inconvenience, and will try to minimize disruption to this schedule as much as unexpected disruption in my own schedule permits.

Required Materials: The casebook for this course is Knapp, Crystal and Prince, Problems in Contract Law: Cases and Materials (5th ed. 2003). (No, a copy of the 4th edition will *not* work.) You should also purchase the softcover publication that I have assigned: Farnsworth & Young, Selections for Contracts (latest edition). These materials should be brought to class every day.

Note: you should become accustomed to referencing the Selections for Contracts book to gain understanding of Restatement and UCC provisions mentioned in cases or in class. In other words, if a case centers on a given code provision, look it up. Read it. Figure out what you don’t understand about it. (Don’t worry as much

if a case just mentions a code provision in passing—those are probably less important.)

Optional Readings: Many students find consulting a hornbook or treatise helpful. Several are on reserve in the library, including E. Allan Farnsworth, Contracts (3d ed. 1999); John Calamari and Joseph Perillo, Contracts (4th ed. 1998); John Murray, Murray on Contracts (4th ed. 2002).

Office Hours: I have office hours on Tuesdays from 10:15-12:00 a.m. Feel free to come by my office at any time, or to talk with me after class. If you would like to schedule an appointment, please do so by email.

I am also happy to go to lunch with students to meet more informally. If possible, I'd prefer to schedule these lunches on Tuesdays at noon, and to meet with groups of three or more students at a time. When you have pulled a group together, just talk to me after class and we'll schedule a time to get together.

Participation, Attendance, and Grading: In this class, much of the learning will take place during our discussions—not from merely memorizing the doctrine. Participation and attendance are thus extremely important. I will be enforcing the 20% rule, and honestly hope that no one will be absent that much. In addition, although I will accept “unprepared” slips (so long as they are on the desk at the front of our room *before* the start of class), please submit no more than three over the course of the semester without talking to me about it. I am reserving the right to count late arrivals as absences, due to their disruptive impact on me and the class.

Your grade will be based primarily on a final exam. The exam will be “limited open book”—meaning that you will be allowed to bring the textbook, the Selections for Contracts supplement, and any notes or outlines *that you have prepared yourself*. *In other words, no commercial outlines, no hornbooks or copies thereof, no outlines you got from a friend, no copies of materials I have created, no outlines substantially created by someone else.* Please keep this in mind as you study during the semester in order to avoid upsetting surprises at exam time.

I am also reserving the right to add class participation points to your final grade or to deduct points based on excessive absences, poor preparation, or a lack of participation in class.

Outlines: I encourage the sharing of outlines among the entire class. As you will quickly learn, there is no substitute for doing your own studying and outlining; seeing someone else's outline is thus no more than a helpful guide. At the same time, sharing outlines can greatly reduce stress during the first year and may give you a sense of how your classmates are studying. There is no obligation to do so, however, and this will in no way be reflected in your grade.

To facilitate the exchange of outlines, the library will have an “outlines” folder on reserve for this class. You may submit a copy of your outline to it for general consumption. You may also post your outline to the Lexis BlackBoard site.

PRELIMINARY SYLLABUS
(Please note: This syllabus is subject to change.)

Chapter 1: An Introduction to the Study of Contract Law

Monday, August 23 pages 1-24
Burch v. Second Judicial District Court of Nevada

Tuesday, August 24
Rollins, Inc. v. Foster (not in textbook)

Chapter 2: Enforcing Promises: Bases of Legal Obligation

2A. Intention To Be Bound: The Objective Theory of Contract

Thursday, August 26 pages 25-40
Ray v. William G. Eurice & Bros., Inc.
Park 100 Investors, Inc. v. Kartes

[NOTE: We will be skipping ahead at this point and covering a part of Chapter 3, then returning to the remainder of Chapter 2.]

Chapter 3: Reaching Agreement: The Process of Contract Formation

3A. Offer and Acceptance: Bilateral Contracts

Monday, August 30 pages 161-177
Lonergan v. Scolnick
Izadi v. Machado (Gus) Ford, Inc.
Normile v. Miller

3B. Offer and Acceptance: Unilateral Contracts

Tuesday, August 31 pages 177-189
Petterson v. Pattberg
Cook v. Coldwell Banker/Frank Laiben Realty Co.

Chapter 2 (REPRISE)

2B. Enforcing Exchange Transactions: The Doctrine of Consideration

Thursday, September 2 pages 40-59
Hamer v. Sidway
Baehr v. Penn-O-Tex Oil Corp.
Dougherty v. Salt

Monday, September 6 – NO CLASS / LABOR DAY

Tuesday, September 7 pages 59-73
Batsakis v. Demotsis
Plowman v. Indian Refining Co.

2C. *Protection of Promisee Reliance: The Doctrine of Promissory Estoppel*

Wednesday, Sept. 8 MAKEUP CLASS 2:00-3:00 pages 73-85
Kirksey v. Kirksey
Greiner v. Greiner
Wright v. Newman

Thursday, September 9 pages 85-101
Allegheny College v. National Chautauqua County Bank
King v. Trustees of Boston University
Problem 2-1

Monday, September 13 pages 101-116
Katz v. Danny Dare, Inc.
Shoemaker v. Commonwealth Bank

2D. *Liability for Benefits Received: The Principle of Restitution*

Tuesday, September 14 pages 116-146
Credit Bureau Enterprises, Inc. v. Pelo
Commerce Partnership 8098
Watts v. Watts

Thursday, September 16 pages 146-160
Mills v. Wyman
Webb v. McGowin
Problem 2-2

Friday, September 17 MAKEUP CLASS 8:00-9:00 TBA
Review and Catch-Up Day

Chapter 3 (REPRISE)

3C. *Limiting the Offeror's Power to Revoke: The Effect of Pre-Acceptance Reliance*

Monday, September 20 NO CLASS

Tuesday, September 21 pages 189-202
James Baird v. Gimbel Bros., Inc.
Drennan v. Star Paving Co.

Wednesday, Sept. 22 MAKEUP CLASS 2:00-3:00 pages 202-221
Berryman v. Knoch
Pop's Cones, Inc. v. Resorts Intl. Hotel, Inc.
Problem 3-1

Thursday, September 23 **NO CLASS**

3E. *Qualified Acceptance: The Battle of Forms*

Monday, September 27 pages 221-240
Princess Cruises, Inc. v. General Electric Co.
Brown Machine, Inc. v. Hercules, Inc.

Tuesday, September 28 pages 240-254
Dale R. Horning Co. v. Falconer Glass
Problem 3-4

3F. *Electronic Contracting*

Wednesday, Sept. 29 MAKEUP CLASS 2:00-3:00 pages 255-270
Hill v. Gateway 2000, Inc.
Klocek v. Gateway, Inc.
Problem 3-5

Thursday, September 30 NO CLASS FALL BREAK

3G. *Postponed Bargaining*

Monday, October 4 NO CLASS

Tuesday, October 5 NO CLASS

Thursday, October 7 pages 270-291
Walker v Keith
Quake Construction

Chapter 4: The Statute of Frauds

4A. *General Principles: Scope and Application*

Monday, October 11 pages 295-325
Crabtree
Winternitz
Alaska Dem. Party v. Rice

4B. *The Sale of Goods Statute of Frauds UCC 2-201*

Tuesday, October 12 pages 325-349
Buffaloe v. Hart
Bazak International

Chapter 5: The Meaning of the Agreement: Principles of Interpretation and the Parol Evidence Rule

5A. *Principles of Interpretation*

Thursday, October 14 NO CLASS

Friday, October 15 MAKEUP CLASS 8:00-9:00 **pages 349-381**

Joyner v. Adams
Frigalment
C&J Fertilizer

5B. *The Parol Evidence Rule*

Monday, October 18 pages 381-407

Tompson v. Libby
Taylor v. State Farm

Tuesday, October 19 pages 407-431

Sherrodd v. Morrison-Knudsen
Nanakuli

Chapter 6: Supplementing the Agreement: Implied Terms, the Obligation of Good Faith, and Warranties

6A. *The Rationale for Implied Terms*

Wednesday, Oct 20 MAKEUP CLASS 12:00-1:00 **pages 431-441**

Wood v. Lucy, Lady Duff-Gordon
Liebel v. Raynor

Thursday, October 21 NO CLASS

6B. *The Implied Obligation of Good Faith*

Monday, October 25 pages 441-483

Locke v. Warner Brothers
Empire Gas
Donahue v. Federal Express Corp.

6C. *Warranties*

Tuesday, October 26 pages 483-507

Bayliner Marine Corp. v. Crow
Caceci v. Di Canio Construction Corp.

Chapter 7: Avoiding Enforcement: Incapacity, Bargaining Misconduct, Unconscionability, and Public Policy

7A. Minority and Mental Incapacity

Thursday, October 28 pages 507-526
Dodson v. Shrader
Hauer v. Union State Bank

7B. Duress and Undue Influence

Monday, November 1 pages 526-543
Totem Marine Tug
Odorizzi

7C. Misrepresentation and Nondisclosure

Tuesday, November 2 pages 543-564
Syester v. Banta
Hill v. Jones

7D. Unconscionability

Thursday, November 4 pages 564-598
Williams v. Walker Thomas
Adkins v. Labor Ready
Cooper v. MRM

7E. Public Policy

Monday, November 8 pages 598-633
Valley Medical Specialists
Borelli
RR v. MH & Another

Chapter 8: Justifications for Nonperformance: Mistake, Changed Circumstances, and Contractual Modifications

8A. Mistake

Tuesday, November 9 pages 633-652
Lenawee County Board of Health
Wil-Fred's Inc.

8B. Changed Circumstances, Impracticability, and Frustration

Thursday, November 11 pages 652-679
Karl Wendt Farm Equipment
Mel Frank Tool

8C. *Modification*

Monday, November 15 pages 679-705
Alaska Packer's Assoc.
Kelsey-Hayes Co.
Brookside Farms

Chapter 9: Rights and Duties of Third Parties

9A. *Rights of Third Parties as Contract Beneficiaries*

9B. *Assignment and Delegation of Contractual Rights and Duties*

Tuesday, November 16 pages 705-725
Vogan v. Hayes AA, Inc.
Zigas

Thursday, November 18 pages 725-743
Herzog
Sally Beauty Co. v. Nexxus

Chapter 11: Expectation Damages

11A. *Computing the Value of Plaintiff's Expectation*

Monday, November 22 pages 807-831
Handicapped Children's Education Board
American Standard

11B. *Restrictions on the Recovery of Expectation Damages*

Tuesday, November 23 pages 831-847
Hadley v. Baxendale
Florafax

Thursday, November 25 NO CLASS - THANKSGIVING

11C. *Restrictions II: Mitigation*

Monday, November 29 pages 847-859
Rockingham
Boehm

11D. *Nonrecoverable Damages*

Tuesday, November 30 pages 866-888
Zapata
Erllich

Thursday, December 2 TBA