

CONTRACTS FALL 2012

SYLLABUS

Professor Darren Bush
Office: TUII-126
Office Phone: 713.743.3346
Dbush@central.uh.edu

TEXTS

1. PROBLEMS IN CONTRACT LAW: CASES AND MATERIALS (7TH ED.) by Knapp, Crystal and Prince.
2. The second text is a companion text to the casebook that includes sections of the Restatement of Contracts 2d, the Convention on Contracts for the International Sale of Goods (the CISG), and the Uniform Commercial Code (the UCC). The UCC is state legislation, drawn up by a team of scholars and experts, and adopted, at least partially, by every state's legislature. In this sense, it is "national" -- although it is not federal legislation. Conversely, the Restatement is not legislation at all; it is a compilation of generally accepted contract principles. Although not "law" in the sense of legislation, it can be very persuasive with judges and, as you will see as you read the cases, it is frequently cited in judicial opinions.
3. RECOMMENDED: **Contracts: Examples & Explanations** by Brian Blum.

CLASS PARTICIPATION AND ATTENDANCE

Attendance: The Law Center Student Handbook reads in part: "The Law Center has a minimum 80% attendance policy for students. Any student who attends fewer than the minimum percentage of classes may be dropped automatically from the class. Faculty members are free to impose stricter attendance standards. Faculty members may consider those who come in late or leave early as absent, or may decline to let a late student attend that day."

It is important that you come to class unless you have a legitimate reason for not doing so. Illness is a legitimate reason. Out of consideration for your colleagues, do not come to class if you are ill. I will keep track of attendance and I expect you to do the same. Absences in violation of law center policy may be sanctioned by a reduction in the final grade or, in egregious cases, by involuntary withdrawal from the class.

Participation: I expect everyone to have read and thought about the problems and the cases and other readings assigned for each day's class. This is for your benefit, as learning is not a passive endeavor. It is also for my benefit, so that I can see how you're thinking about the class, and to know where I've been unclear in my presentation.

Illness or other issues: If you miss class due to illness or for any other reason, please get notes from your colleagues. If someone asks you for notes for a missed day of class, I expect you to do the human thing and share with them the notes for that day. This is different than being asked for your notes for every day of the course. You may also discuss what you missed with me, but please do so as soon as possible after you have returned from your illness.

EXAMS AND GRADING

I will give a practice exam toward the midpoint of the course. It will be ungraded but we will go over the exam in class.

There will be one final exam on December 20, 2012, from 9 a.m. to 1 p.m. Your exam will be comprehensive in nature. Typically, I hand out the final exam question on the last scheduled day of class meeting. At that point, you are tasked to prepare an *outline* of an exam answer which you will then use to write an answer. You will be allowed to bring to the exam whatever (inanimate) objects bring you comfort, except (i) those prohibited by law and University Policy; (ii) commercial outlines, and; (iii) outlines created by other students (apart from any group outlines created by students consisting entirely of members of this course).

Exceptional class participation may result in the award of "push points." The award of push points could push the grade over into the next highest category: for example, with push points, a B- would become a B.

USEFUL INFORMATION

Class Meeting Times: Monday, Tuesday, and Thursday, 10:30 – 11:50 a.m.

Class Location: BLB 213.

Office Hours: Monday and Tuesday, 9:30 a.m. – 10:20 and by appointment. I am frequently around the law center. To schedule an appointment, simply e-mail me. I carry my cell phone habitually and generally will get back to you rather rapidly. You may also leave a message with Martina Morale, who will contact me. Ms. Morale's telephone number is 713.743.2156.

CENTER FOR STUDENTS WITH DISABILITIES

The University of Houston, when possible and in accordance with 504/ADA Guidelines, will attempt to provide reasonable academic assistance to students who request and require it. Please contact the Center for Students with Disabilities at 713.743.5400 for more information.

ACADEMIC ENRICHMENT PROGRAM

The Law Center Student Handbook reads: "The Academic Enrichment Program (AEP) is designed to provide academic support, counseling, and advice to first year students. In order to assist new students with developing the skills necessary for successful completion of law school, AEP offers open tutorial programs in the fall and spring. Second and third year law students with strong academics serve as Academic Enrichment Tutors, for first year fall classes.

The tutors meet regularly, with first year students in the open sessions, to assist them with enhancing their law school study skills.”

My teaching assistant’s name and contact information will be provided to you the first day of class.

READING ASSIGNMENTS

1. Read and bring to class the Syllabus (copy on your computer is fine). Read Text (Knapp, Crystal & Prince 7th ed.), pp. 1-43. Be prepared to brief *Ray v. Eurice & Bros.* Read Restatement (Second) of Contracts [R2] Sections 1, 2, 4, 17(1), and 20. Cf. (means “compare”) section 20 with section 153.
2. Brief *Lucy v. Zehmer*, 84 S.E.2d 516 (Va. 1954). The case will be e-mailed to you.
3. Timing Issues: Offer & Acceptance, pp. 43-54 (class discussion will focus on *Lonegran* and the notes). R2 sections 24, 26, 36.
4. O&A continued: pp. 61-67 (*Petterson* and notes); R2 45, 25; Comment, pp. 71-72.
5. Other Mutual Assent issues: Brief *Harlow v. Jones*, 424 F. Supp. 770 (will be emailed to you) and comment; UCC 2-204(1), 2-207(3)), pp. 73-82 (*Walker v. Keith* and notes)
6. Consideration: Text, pp. 97-104; pp. 209-212. Brief *Hamer* and *Kirksey*. R2d 71, 79.
7. Text, pp. 104-134. Brief *Pennsy* and *Plowman*.
8. *Batsakis* and *Plowman*
9. Promissory Estoppel: Read *Wright v. Newman*, 467 S.E.2d 533 and *Greiner v. Greiner*, 293 P. 759.
10. Read pp. 219-235. Brief *King* and *Katz*.
11. Text, pp. 228-41. Brief *King*, *Katz* and *Aceves*.
12. Text, pp. 248-260. R2 45, 87(2), and 90. Brief *Baird* and *Drennan*.
13. Text, pp. 261-274. Brief *Berryman* and *Pop’s*.
14. Electronic Contracting. Text, pp. 190-206.
15. Restitution in the absence of agreement. Text, pp. 276-278. Restatement of Restitution 116 (quoted on p. 282 of the text) and 117 (will be e-mailed to you); Note 2, pp. 285-288. Brief *Commerce v. Equity*, pp. 288-295.

16. Promissory Restitution, pp. 308-321. Brief *Mills* and *Webb*.
17. Statute of Frauds. Text, pp. 325-356. Brief the three cases.
18. Statute of Frauds: UCC Text, pp. 359-371. Brief the case.
19. Go over practice exam
20. Implied Promises: Text, pp. 457-468. Brief *Wood* and *Leibel*. Good Faith: Text, pp. 484-489. Brief *Morin*
21. Good Faith continued: Text, pp. 489-509. Brief *Locke* and *Donahue*.
22. Requirement of Sufficient Certainty: Text, pp. 73-82. Brief *Walker*. Ambiguous Terms/No Mutual Assent. Read and brief *Raffles v. Wichelhaus*. 159 Eng. Rep. 375 (1864)(The Peerless Case)(will be emailed to you).
23. Ambiguity Prong of the PER: Text, pp. 416-431 (skip note 1 on p. 424). Brief *Taylor*. Contextualist Methodology: Text, pp. 385-393. Brief *Frigaliment*.
24. Whose Meaning? Text, pp. 374-85, 393-405. Brief *Joyner* and *C & J Fertilizer*.
25. Integration Prong of the PER; Read and brief *Mitchell v. Lathe*, 160 N.E. 646 (1928). Text, pp. 404-416, and note 1, p. 424. Brief *Thompson*.
26. Integration continued. Text, pp. 431-453. Brief *Sherrod* and *Nanakuli*.
27. Problems p. 453/ Express Conditions: Text, pp. 787-800. Brief *Oppenheimer*.
28. Express Conditions (hold over from last week); Implied or Constructive Conditions: Text, pp. 809-21. Brief *Jacob & Youngs*.
29. Implied or Constructive Conditions: Text, pp. 821-28. Brief and *Sackett*.
30. Defenses and Excuses. Text, pp. 533-563. We will briefly go over minority and mental incapacity, and focus on duress (*Totem Marine*).
31. Undue Influence, Misrepresentation and Nondisclosure: Text, pp. 563-595. Brief *Odorizzi, Syester, Hill*.
32. Unconscionability and Public Policy: Text, pp. 599-613, 639-653. Brief *Williams* and *Valley Medical*. Prepare Problem 7-3 for discussion in class (page 663).
33. Read my article on Unconscionability. (Article will be e-mailed to you).
34. Mistake: Text, pp. 667-688. Brief *Lewanee* and *Wil-fred's*.

35. Mistake: Changed Circumstances: Pp. 688-717. Brief *Karl Wendt* and *Mel Frank*. Problem 8-1.
36. Changed Agreements/Modifications: pp. 717-44. Brief *Alaska Packers, Kelsey-Hayes* and *Brookside Farms*. Also read excerpt from Threedy's article on *Alaska Packers* (article will be e-mailed to you).
37. Contract Remedies: Text, pp. 847-853, 1013-1015.
38. Restrictions on Recovery: Text pp. 874-79, p. 871 note 2 - p. 873, Note 3 p. 979, Comment, pp. 937-941. Prob. 11-1, page 941.