I. Introduction

Welcome to the University of Houston Law Center! This semester, we will explore the rules and doctrines of the law of contracts. Over the course of the semester, you will learn to distinguish legally enforceable promises from unenforceable ones. Moreover, you will understand the ethical and professional issues that relate to contracts and will be able to integrate what you have learned in this class with the other practical and analytical skills necessary to practice law. Specifically, the course will address the following questions:

(1) What makes a promise legally enforceable and how do courts interpret and enforce those promises?
(2) Did the parties perform according to the contract? If a party has breached, what defenses may that party raise?
(3) What are the legal remedies for a breached contract?

I’m very excited to be your professor this term. As I want the class to be as engaging and as useful as possible, I encourage questions and welcome feedback. Please feel free to contact me with questions regarding the readings, your assignments, or just the course in general. I look forward to spending the semester with you!

II. Logistics

Required Texts


FARNSWORTH, SANGER, COHEN, BROOKS AND GARVIN, SELECTIONS FOR CONTRACTS (ed. 2013) (“Supplement” in Reading Assignments).

Class Hours

We will meet Mondays, Tuesdays, and Wednesdays, from 10:30-11:50 AM, in 211 TUII.
Office Hours
I will hold office hours on Mondays from 1:00-2:30 PM and by appointment.

Course Policies

Accommodation:
If you have a disability and require an accommodation, I encourage you to contact the Center for Students with Disabilities and to forward the Center all required documentation immediately if you’ve not done so already. I encourage you to speak to me as well. All students should let me know what I can do to maximize your learning potential, participation, and general access during this course. I want to make the course material accessible, and I want you to succeed as a student. If any aspects of the course or the assignments pose accessibility problems, we can discuss alternatives.

Attendance:
You are expected to attend all class sessions. Please see “Attendance” under the “Course Requirements” section. I will circulate a sign-in sheet in class. It is your responsibility to sign in. Falsifying attendance violates the Law Center’s Honor Code and is, therefore, grounds for disciplinary action.

Seating Assignments:
After the first week of class, I will create a seating chart. You must sit in your assigned seat the remainder of the semester. Please fill the front and middle rows first.

Course Website:
I will post any assignments not found in our required texts on Blackboard. You can log on through the UH website (http://www.uh.edu/blackboard/). If you have difficulty accessing Blackboard, please contact IT immediately. The Student Support number is 713.743.1411.

Tutor:
Our tutor for the semester will be Sarah Roark. You can reach her at sroark@central.uh.edu.

III. Course Requirements

This course has three key requirements: (1) attending class sessions; (2) preparing for class (including completing any assigned problems or exercises) and participating in class discussions (see below for on-call policy); and (3) completing a four-hour exam.

(1) Attendance. You are expected to arrive on time and prepared for all of our class sessions. Pursuant to the Law Center’s policy, you must attend at least 80% of all class meetings; however, you should strive to attend 100%. In other words, you can miss no more than eight classes, but you should aim to attend all of them. Missing more than eight classes will result in your being dropped from the course. Additionally, you are also expected to remain in your seat throughout the class
period, barring an emergency or a prior commitment that you have discussed with me. As future lawyers, I expect you to conduct yourselves with respect and professionalism. Please use your judgment.

(2) **Class Preparation and Participation.** Both preparing for class and participating in our discussions are absolutely essential to your success as a law student. To that end, I expect you to have read any assigned materials carefully and thoughtfully and to have completed any assigned problems or exercises before class. **Class participation is part of your grade.** I will call on students randomly each day to discuss the assigned material. Because I recognize that law school can be busy and stressful, each student has three “passes” throughout the semester. To use a pass, you must notify me before class begins. If you have not used one of your passes and are unprepared when I call on you on two occasions, I will lower your grade by one step (e.g., from a B to a B-). Students with outstanding participation will be eligible for an upward adjustment of one step. However, being unprepared even once will make you ineligible for the grade bump.

(3) **Exam.** Finally, you will complete a four-hour exam. During the exam you may consult three kinds of items: (1) your casebook and supplement, (2) any printed additional course reading and materials (including PowerPoints), and (3) your course notes/outline. More details regarding the exam format and content will be discussed as the exam date approaches. As indicated below, I will give you an ungraded midterm to test your understanding of the material we have covered up until that point.

**IV. Course Reading**

*These reading assignments are subject to change based on the pace of our discussion. I will announce any changes in class, over email, and on Blackboard.*

**I. Introduction to Course Concepts**

**Week One—Contract as Legally Enforceable Promise**

**August 24**

Introduction (CB, pp. 1-4)


**August 25**

Introduction (CB, pp. 4-14, pp. 21-23)

Meaning of Terms (Supplement, pp. 16-17)

What Is a Case Brief?

*Assignment: Brief Bayliner Marine Corp. v. Crow* (bring hard copy to class)
August 26
Introduction (CB, pp. 14-21, pp. 27-31)
Remedies in General (Supplement, p. 189)

II. Forming Contracts: The Bargaining Process

Week Two—Consideration
August 31
Consideration Fundamentals (CB, pp. 31-33; Supplement, pp. 32-35)
Categories of Agreements (CB, pp. 34-38, pp. 42-46)
Exchange Requirement (CB, pp. 48-51)

September 1
Bargain Requirement (CB, pp. 58-59)
Employment as Consideration (CB, pp. 61-70 (skip problem))
Exchange of Promise for Promise (Supplement, pp. 36-37)
Promises as Consideration (CB, pp. 71-75 (skip problem))

September 2
Real Estate Contracts (CB, pp. 76-80)
Introduction to the UCC (Supplement, pp. 263-64)
Contracts for the Sale of Goods (CB, pp. 80-85 (skip problem), pp. 86-91)
Output Requirements and Exclusive Dealings (Supplement, pp. 316-17)

Week Three—Alternatives to Consideration & Offer
September 7
NO CLASS (LABOR DAY HOLIDAY)

September 8
Introduction to Reliance (CB, pp. 92-94)
Promissory Estoppel (CB, pp. 95-100 (skip problems); Supplement, pp. 47-52)
Restitution (CB, pp. 112-16, pp. 117-22 (skip problems))

September 9
Theories of Assent (CB, pp. 125-31)
Formation in General (Supplement, pp. 303)
Introduction to Offer (CB, pp. 140-43 (read problem), pp. 145-47)
Advertisements as Offers (CB, pp. 148-51 (read problem))
Sale by Auction (Supplement, p. 328)

Week Four—Offer (cont’d) & Acceptance
September 14
Introduction to Acceptance (CB, pp. 156-60)
Acceptance in Unilateral Contracts (CB, pp. 166-70 (skip problem))
( cont’d on next page)
Offer and Acceptance in Formation (Supplement, pp. 305-306)
Shipment of Goods as Acceptance (CB, pp. 170-74)
Silence (CB, pp. 175-76; Supplement, pp. 31-32)

September 15
Significance of Contract Formation (CB, pp. 176-77)
Termination of Power to Accept (CB, pp. 177-80 (read problem))
Revocation by Communication & Indirect Communication (Supplement, p. 24)
Limiting Revocation (CB, pp. 181-84 (read problem))
Option Contracts (Supplement, p. 20)
Firm Offers (CB, pp. 184-86; Supplement, pp. 303-304)
Restatement § 45 (CB, pp. 186-187 (read problem); Supplement, pp. 24-26)

September 16
Revocability and Reliance (CB, pp. 187-92)
Promise Reasonably Inducing Action or Forbearance (Supplement, pp. 47-52)
Option Contract (Supplement, pp. 43-44)
Rejection (CB, pp. 194-95)
Mailbox Rule (CB, pp. 195-98; Supplement, pp. 29-31)
Mailbox Rule Problem Set

Week Five—Acceptance (cont’d)
September 21
NO CLASS

September 22
NO CLASS

September 23
Mirror Image Rule (CB, pp. 199-205)
Additional Terms in Acceptance & Confirmation (Supplement, pp. 306-308)
Contract Formation Under Article 2 (CB, pp. 206-13)
Different Terms (CB, pp. 217-19)

Week Six—Precontractual Liability & Statutes of Fraud
September 28
Precontractual Liability (CB, pp. 234-41)
Preliminary Agreements (CB, pp. 252-57)

September 29
Introduction to Statutes of Fraud (CB, pp. 273-80)
One-Year & Lifetime Clauses (CB, pp. 280-81 (skip problem), pp. 287-89)
Interests in Real Property (CB, pp. 290-92; Supplement, pp. 60-61)
Suretyship Clause (CB, pp. 292-94)
September 30
Writing Requirement (CB, pp. 299-302 (skip problem))
Form (CB, pp. 302-303 (skip problem))
Signing (CB, pp. 308)
Sale of Goods (CB, pp. 310-12)
Formal Requirements: Statute of Frauds (Supplement, pp. 299-301)
Exceptions (CB, pp. 312-15, pp. 323-25, pp. 328-33 (skip problems))

III. Interpreting Contracts: Limitations and Obligations of Contracts

Week Seven—Mid-Term & Defenses to Contract Formation
October 5
NO CLASS—STUDY DAY FOR THE MID-TERM!

October 6
MID-TERM

October 7
Capacity (CB, pp. 340-46)
Overreaching (CB, pp. 356-61 (skip problem), pp. 363-68)
Modification, Recission, & Waiver (Supplement, pp. 309-10)
Concealment & Misrepresentation (CB, pp. 387-95 (skip problems))
Promissory Fraud (CB, pp. 400-403)

Week Eight—Contract Interpretation
October 12
Introduction to Contract Interpretation (CB, pp. 405-406)
Parol Evidence (CB, pp. 406-20 (skip problems); Supplement, p. 302, p. 107)

October 13
Interpreting Ambiguous Contracts (CB, pp. 433-34, pp. 436-39 (read problem))

October 14
Extrinsic Evidence in Commercial Context (CB, pp. 440-58 (skip problems);
Supplement, p. 98, pp. 277-79)

Week Nine—Contract Interpretation (cont’d)
October 19
Objective Interpretation (CB, pp. 459-67 (skip problem))
Filling Contractual Gaps (CB, pp. 467-70)
October 20
Implied Warranties (CB, pp. 470-481 (skip problem); Supplement, p. 324-27)
Exclusion & Modification (CB, pp. 482-86; Supplement, pp. 328-31)
Express Warranties (CB, pp. 486-87; Supplement, pp. 322-24)
Good Faith (CB, pp. 487; Supplement, pp. 279-80, p. 99)

October 21
Introduction to the Limits of Bargains (CB, pp. 489-90)
Adequacy of Consideration (Supplement, p. 38)
Unfairness (CB, pp. 490-93)
Standardized Agreements (CB, pp. 501-10 (skip problem), pp. 510-17; Supplement, pp. 104-106)

Week Ten—Unconscionability & Defenses to Breach

October 26
Unconscionability (Supplement, pp. 312-13; CB, pp. 522-35 (skip problems), pp. 538-40)
Class Action Arbitration Clauses (CB, pp. 546-50)

October 27
Introduction to Defenses (CB, pp. 841-42)
Unilateral Mistake (CB, pp. 842-49; Supplement, pp. 76-78)
Mutual Mistake (CB, pp. 849-50, pp. 853-56; Supplement, pp. 70-76)
Sale of Goods (CB, pp. 856-58)

October 28
Impracticality (CB, pp. 870-77; Supplement, pp. 359-63)
Frustration of Purpose (CB, pp. 899-902 (read Problem 1))

IV. Remedies & Performance

Week Eleven—Specific Performance & Measuring Expectation

November 2
Introduction to Remedies (CB, pp. 617-18)
Specific Relief (CB, pp. 618-34; Supplement, pp. 374-75)

November 3
Fixed Costs (CB, pp. 642-52 (skip problem))
Buyer’s Remedies (Supplement, pp. 370-74)

November 4
Lost Profits (CB, pp. 652-56 (skip problems))
Seller’s Remedies (Supplement, pp. 365-70)
Seller’s Remedies Problem Set
Week Twelve—Limitations on Damages

November 9
Avoidability (CB, pp. 674-78 (skip problems), pp. 682-87 (skip problem); Supplement, p. 197)
Cost of Completion (CB, pp. 661-64)

November 10
Foreseeability (CB, pp. 687-94 (skip problem); Supplement, pp. 197-203)
Certainty (CB, pp. 703-709)

November 11
Liquidated Damages (CB, pp. 709-11 (skip problem), pp. 718-24 (skip problem); Supplement, pp. 375-76)

Week Thirteen—Performance

November 16
Conditions versus Duties (CB, pp. 725-28, pp. 733-40 (skip problems); Supplement, pp. 109-12)

November 17
Mutual Obligation (Supplement, pp. 377-78)
Tender (Supplement, pp. 343-44, p. 346, p. 348)
Mitigating Doctrines (CB, pp. 756-62 (skip Problems 2 & 3)

November 18
Perfect Tender Rule (CB, pp. 762-63; Supplement, p. 350)
Rejections (CB, p. 766; Supplement, p. 346, pp. 350-51, pp. 353-54, p. 359)
Divisibility (CB, pp. 767-69)

Week Fourteen—Performance (cont’d) & Course Review

November 23
Suspending Performance (CB, pp. 779-86 (skip problem); Supplement, pp. 124-29, pp. 132-36, pp. 354-58)
Anticipatory Repudiation (CB, pp. 799-80 (skip problem); Supplement, p. 358)

November 24
Exam Review

Final Exam
December 8, 9:00 AM-1:00 PM