

## CONTRACTS 2017

### SYLLABUS

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### TEXTS

1. PROBLEMS IN CONTRACT LAW: CASES AND MATERIALS (8TH 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."

You must 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 (but not while you are contagious).

## **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 5th, 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 that 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).

## **USEFUL INFORMATION**

Class Meeting Times: Monday through Wednesday, 10:30 - 11:50 a.m..

Office Hours: Monday and Wednesday, 12:00 p.m. – 1:00 p.m., 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 Amanda Parker, who will contact me. Ms. Parker'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.

## **CAPS**

Counseling and Psychological Services (CAPS) can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS ([www.uh.edu/caps](http://www.uh.edu/caps)) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the “Let's Talk” program, a drop-in consultation service at convenient locations and hours around campus. [http://www.uh.edu/caps/outreach/lets\\_talk.html](http://www.uh.edu/caps/outreach/lets_talk.html).

## **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 the Syllabus to class (copy on your computer is fine). Read Text (Knapp, Crystal & Prince 8<sup>th</sup> ed.), pp. 1-41. 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. 41-51 (class discussion will focus on *Lonegran* and the notes). R2 sections 24, 26, 36.
4. O&A continued: pp. 60-75, R2 45, 25.
5. Other Mutual Assent issues: Brief *Harlow & Jones*, 424 F. Supp. 770 (will be emailed to you) and comment; UCC 2-204(1), 2-207(3)), pp. 75-83 (*Walker v. Keith* and notes)

6. Consideration: Text, pp. 98-105; *Kirksey v. Kirksey*, 8 Ala. 131 (1845)(case will be e-mailed). Brief *Hamer* and *Kirksey*. R2d 71, 79.
7. Text, pp. 105-132. Brief *Pennsy* and *Plowman*.
8. *Batsakis v. Demotsis*, 226 S.W.2d 673 (1949)(case will be e-mailed).
9. Promissory Estoppel: Read *Wright v. Newman*, 467 S.E.2d 533 and *Greiner v. Greiner*, 293 P. 759 (cases will be e-mailed).
10. Read pp. 213-240. Brief *King* and *Katz*.
11. Text, pp. 241-50. Brief *Aceves*.
12. Text, pp. 260-270. R2 45, 87(2), and 90. Brief *Baird* and *Drennan*.
13. Text, pp. 251-259 and 270-276. Brief *Berryman* and *Pop's*.
14. Electronic Contracting. Text, pp. 190-207.
15. Restitution in the absence of agreement. Text, pp. 282-292. Restatement of Restitution 116 (quoted on p. 289 of the text) and 117. Brief *Pelo*. And pp. 294-301. Brief *Commerce*.
16. Promissory Restitution, pp. 314-326. Brief *Mills* and *Webb*.
17. Statute of Frauds. Text, pp. 333-363. Brief the three cases.
18. Statute of Frauds: UCC Text, pp. 366-375. Brief *Hart*.
19. TAKE PRACTICE EXAM. We will go over it the following class.
20. Implied Promises: Text, pp. 471-480. Brief *Wood* and *Leibel*. Good Faith: Text, pp. 498-502. Brief *Morin*
21. Good Faith continued: Text, pp. 503-525. Brief *Locke* and *Donahue*.
22. Requirement of Sufficient Certainty: Text, pp. 75-82. Revisit *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. 422-435 (skip note 1 on p. 431). Brief *Taylor*. Contextualist Methodology: Text, pp. 393-401. Brief *Frigaliment*.
24. Whose Meaning? Text, pp. 381-393, 401-411. 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. 381-392, and note 1, p. 431. Brief *Thompson*.
26. Integration continued. Text, pp. 435-462. Brief *Sherrod* and *Nanakuli*.
27. Problems p. 463/ Express Conditions: Text, pp. 785-800. Brief *exXco*.
28. Implied or Constructive Conditions: Text, pp. 809-21. Brief *Jacob & Youngs*.
29. Implied or Constructive Conditions: Text, pp. 821-28. Brief *Sackett*.
30. Defenses and Excuses. Text, pp. 555-583. We will briefly go over minority and mental incapacity, and focus on duress (*Totem Marine*).
31. Undue Influence, Misrepresentation and Nondisclosure: Text, pp. 584-616. Brief *Odorizzi, Syester, Stechschulte*.
32. Unconscionability and Public Policy: Text, pp. 622-632, 662-691. Brief *Williams, Valley Medical* and *In re Baby*. Prepare Problem 7-3 for discussion in class (page 694).
33. Read my article on Unconscionability. (Article will be e-mailed to you).
34. Mistake: Text, pp. 701-723. Brief *Lewanee* and *DePrince*.
35. Mistake: Changed Circumstances: Pp. 724-754. Brief *Waddy* and *Mel Frank*. Problem 8-1.
36. Changed Agreements/Modifications: pp. 757-784. 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. 851-857, 1012-1014.
38. Restrictions on Recovery: Text pp. 874-883, p. 875 note 2 - p. 877, Comment, pp. 939-941. Prob. 10-1, page 941.
39. Practice Assignment: Spot the issues with the standard lease form.
40. Review and hand out Final Exam.