

Contracts
Syllabus—Fall 2009
Professor Butterfoss

Required Texts:

- Charles L. Knapp, Nathan M. Crystal & Harry G. Prince, *Problems in Contract Law: Cases and Materials* (6th ed. 2007) (“Casebook”).

Goals of the course:

Contracts I focuses on the bases for enforcing promises (consideration and related theories), the requirements for forming an enforceable promise (offer and acceptance), and the interpretation of the meaning of promises made. Contracts II will focus on the remedies to be provided when enforceable promises are breached, the determination of whether a promise has been breached, and excuses for failures to perform duties established by a contract.

The goals of the course mirror the goals set out by Professors Summers and Hillman in the Preface to the First Edition of their casebook:

--understand the leading rules and principles governing contract and related obligations, including the substantive reasons behind these rules and principles.

--develop substantially the basic lawyer skills required to plan, draft, interpret, counsel, litigate, and negotiate in this field

--understand and deploy general theories of the nature, functions, and limits of contract and related law

--develop the general analytical and critical abilities and attitudes (including a keen regard for facts) that typify the good lawyer

--learn not only the deficiencies of, but also some of what is best about, American contract law, including its intellectual richness and what it teaches us about ourselves and our society

Class rules and information:

1. Regular and punctual class attendance is required. Missing more than 3 sessions is grounds for being withdrawn from the class. Be in your seats ready to begin class at 9:30. Late arrivals are disruptive to the class.
2. Your grade will be determined by a written exam at the end of the semester. also reserve the right, consistent with Academic Rule 1-107(C)(5) to increase grades based on consistent and high quality class participation, and to lower grades based

on excessive absences, consistent late arrivals, or lack of preparation or effort in class, **or violation of the computer use policy (see #4 below).**

3. You are required to register on the TWEN course page. Instructions on how to do so will be provided during the first class session.
4. **Laptop policy: use of a laptop during class for purposes unrelated to class (such as checking email, participating in chat rooms, surfing the web, etc.) is prohibited. If you are discovered utilizing the computer for purposes unrelated to class, your grade for the semester may be lowered by one-half grade.**

Assignments:

[Prepare Assignment 1. for the first class on Thursday, August 20]

1. Casebook 1-33

- Chapter 1: An Introduction to the Study of Contract Law
- Chapter 2: Enforcing Promises: Bases of Legal Obligation
 - Mutual Assent – Intention to be Bound: The Objective Theory of Contract
 - *Ray v. William G. Eurice & Bros., Inc.* (Md. Ct. App. 1952) (p. 23)

2. Casebook 33 - 51

- Chapter 2: Enforcing Promises, cont'd
 - Offer and Acceptance: Bilateral Contracts
 - *Lonergan v. Scolnick* (Cal. Dist. Ct. App. 1954) (p. 34)
 - *Izadi v. Machado (Gus) Ford, Inc.* (Fla. Dist. Ct. App. 1989) (p. 38)
 - *Normile v. Miller* (N.C. 1985) (p. 44)

3. Casebook 51 - 70

- Chapter 2: Enforcing Promises, cont'd
 - Offer and Acceptance: Unilateral Contracts
 - *Petterson v. Pattberg* (N.Y. Ct. App. 1928) (p. 53)
 - *Cook v. Coldwell Banker/Frank Laiben Realty Co.* (Mo. Ct. App. 1998) (p. 58)
 - Other Methods of Reaching Mutual Assent
 - *Harlow & Jones, Inc. v. Advance Steel Co.* (E.D. Mich. 1976) (p. 64)

4. Casebook 71 - 93

- Chapter 2: Enforcing Promises, cont'd
 - Consideration
 - *Hamer v. Sidway* (N.Y. Ct. App. 1891) (p. 72)
 - *Pennsy Supply, Inc. v. Am. Ash Recycling Corp. of Penn.* (Penn. Sup. Ct. 2006) (p.78)
 - *Dougherty v. Salt* (N.Y. Ct. App. 1919) (p. 87)

5. Casebook 93 – 108

- Chapter 2: Enforcing Promises, cont'd
 - Consideration
 - *Batsakis v. Demotsis* (Tex. Ct. Civ. App. 1949) (p. 93)
 - *Plowman v. Indian Refining Co.* (E.D. Ill. 1937) (p. 99)

6.. Casebook 108 - 128

- Issues in Applying the Concept of Mutual Assent
 - *James Baird Co. v. Gimbel Bros., Inc.* (2d Cir. 1933) (p. 109)
 - *Drennan v. Star Paving Co.* (Cal. 1958) (p. 112)
 - *Berryman v. Knoch* (Kan. 1977) (p. 122)

7. Casebook 128 - 143

- *Pop's Cones, Inc. v. Resorts Int'l* (N.J. Sup. Ct. 1998) (p. 128)

8. Casebook 143-167

- Chapter 2, Contractual Obligation, cont'd
 - Qualified Acceptance: The “Battle of the Forms”
 - *Princess Cruises, Inc. v. General Electric Co.* (4th Cir. 1998) (p. 144)
 - *Brown Machine, Inc. v. Hercules, Inc.* (Mo. Ct. App. 1989) (p. 153)

9. Casebook 167-193

- Chapter 2, Contractual Obligation, cont'd
 - Postponed Bargaining: “Agreements to Agree”
 - *Walker v. Keith* (Ky. Ct. App. 1964) (p. 168)
 - *Quake Construction, Inc. v. American Airlines, Inc.* (Ill. 1990) (p. 177)

10. Casebook 193-214

- Chapter 2, Contractual Obligation, cont'd
 - Electronic Contracting
 - *Brower v. Gateway 2000, Inc.* (NY Ct. App.) (p. 195)
 - *Register.com, Inc. v. Verio, Inc.* (2d Cir. 2004) (p. 204)

11. Casebook 215-237

- Chapter 3, Liability in the Absence of Bargained-for Exchange
 - Promissory Estoppel
 - *Kirksey v. Kirksey* (Ala. 1845) (p. 217)
 - *Greiner v. Greiner* (Kan. 1930) (p. 218)
 - *Wright v. Newman* (Ga. 1996) (p. 222)
 - *King v. Trustees of Boston University* (Mass. 1995) (p. 229)

12. Casebook 237-253

- Chapter 3, Liability in the Absence of Bargained-for Exchange
 - Promissory Estoppel
 - *Katz v. Danny Dare, Inc.* (Mo. Ct. App. 1980) (p. 238)
 - *Shoemaker v. Commonwealth Bank* (Penn. Sup. Ct. 1997) (p. 244)

13. Casebook 253-273

- Chapter 3, Liability in the Absence of Bargained-for Exchange
 - Restitution
 - *Credit Bureau Enters., Inc. v. Pelo* (Iowa 2000) (p. 255)
 - *Commerce P'ship 8098 Ltd. P'ship v. Equity Contracting Co.* (Fla. Ct. App. 1997) (p. 266)

14. Casebook 273-302

- Chapter 3, Liability in the Absence of Bargained-for Exchange
 - Restitution
 - *Watts v. Watts* (p. 273)
 - Promissory Restitution
 - *Mills v. Wyman* (p. 286)
 - *Webb v. McGowin* (p. 291)

Handout – Excerpts from *Where's Emily Litella When You Need Her: The Unsuccessful Effort to Craft a General Theory of Obligation of Promise for Benefit Received*

15. Casebook 303-323

- Chapter 4, Statute of Frauds
 - General Principles
 - *Crabtree v. Elizabeth Arden Sales Corp.* (p. 306)
 - *Winternitz v. Summit Hills Joint Venture* (p. 314)

16. Casebook 323-348

- Chapter 4, Statute of Frauds
 - General Principles
 - *Alaska Democratic Party v. Rice* (p. 323)
 - Sale of Goods
 - *Buffaloe v. Hart* (p. 336)

17. Casebook 349-370

- Chapter 5, Interpretation and the Parol Evidence Rule
 - Principles of Interpretation
 - *Joyner v. Adams* (p. 352)
 - *Frigaliment Importing Co. v. B.N.S. Int'l Sales Corp.* (p. 361)

18. Casebook 370-385

- Chapter 5, Interpretation and the Parol Evidence Rule
 - Principles of Interpretation
 - *C&J Fertilizer, Inc. v. Allied Mutual Ins. Co.* (p. 370)

19. Casebook 385-394

- Chapter 5, Interpretation and the Parol Evidence Rule
 - Parol Evidence Rule
 - *Thompson v. Libby* (p. 385)

20. Casebook 394-410

- Chapter 5, Interpretation and the Parol Evidence Rule
 - Parol Evidence Rule
 - *Taylor v. State Farm Mutual Auto. Ins. Co.* (p. 394)

21. Casebook 410-434

- Chapter 5, Interpretation and the Parol Evidence Rule
 - Parol Evidence Rule
 - *Sherrodd, Inc. v. Morrison-Knudsen Co.* (p. 410)

- *Nanakuli Paving & Rock Co. v. Shell Oil Co.* (p. 418)

22. Casebook 437-442

- Chapter 6, Supplementing the Agreement
 - The Rationale for Implied Terms
 - *Wood v. Lacy, Lady Duff-Gordon* (p. 438)

23. Casebook 434-435 (Problem 5-2)

24. Casebook 442-462

- Chapter 6, Supplementing the Agreement
 - *Leibel v. Raynor Mfg. Co.* (p. 442)
 - *Seidenberg. V. Summit Bank* (p. 451)

25. Casebook 462-480

- Chapter 6, Supplementing the Agreement
 - *Morin Building Prods. Co. v. Baystone Constr., Inc.* (p. 465)
 - *Locke v. Warner Bros., Inc.* (p. 470)

26. Casebook 480-497

- Chapter 6, Supplementing the Agreement
 - *Donahue v. Federal Express Corp.* (p. 480)