

Contracts II Syllabus—Spring 2009

Required Texts:

Summers and Hillman, "Contract and Related Obligation: Theory, Doctrine, and Practice," (5th ed.)

Goals of the course:

Contracts I focused on the bases for enforcing promises and the requirements for forming an enforceable promise. Contracts II focuses on the remedies to be provided when enforceable promises are breached, the interpretation of the meaning of promises made, 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 in the Preface to the First Edition of the 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 Missing more than 4 sessions is grounds for being withdrawn from the class.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. I 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 (if you have not already done so as part of Contracts I).
4. **Laptop policy: use of a laptop computer 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:

1. Remedies
The Expectancy Measure pp. 205-226 (top)
Groves v. John Wunder Co.
Peevyhouse v. Garland Coal & Mining Co.
Rock Island Improvement Co. v. Helmerich & Payne, Inc.
Radford v. De Froberville
Problem 3-1
2. Expectancy Damages Cont. pp. 226-245
Thorne v. White
Warner v. McLay
Handicapped Children's Education Bd. v. Lukaszewski
Problems 3-2, 3-3
Cooper v. Clute
Problem 3-4
Neri v. Retail Marine Corp.
Problem 3-5
3. Expectancy Damages Cont.: The Foreseeability Limitation and Mitigation pp. 245-266
Hadley v. Baxendale
Armstrong v. Bangor Mill Supply Corp.
Problem 3-7
Clark v. Marsiglia
Problem 3-8
Schiavi Mobile Homes, Inc. v. Girona
Problem 3-9
Parker v. Twentieth Century-Fox Film Corp.
Olds v. Mapes-Reeves Construction Co.
4. Expectancy Damages Cont.: The Certainty Requirement pp. 266-280
Evergreen Amusement Corp. v. Milstead
Lakota Girl Scout Council, Inc. v. Havey Fund-Raising Mgt, Inc.
Chrum v. Charles Heating and Cooling, Inc.

5. The Reliance Measure and Remedies Under Promissory Estoppel pp. 279-293; 308-319
Chicago Coliseum Club v. Dempsey
Autotrol Corp. v. Continental Water Systems Corp.
Goodman v. Dicker
D&G Stout, Inc. v. Bacardi Imports, Inc.
Walters v. Marathon Oil Co.
Grouse v. Group Health Plan
6. Liquidation of Remedies pp. 294-308
H.J. McGrath Co. v. Wisner
Truck Rent-a-Center, Inc. v. Puritan Farms 2nd, Inc.
Better Food Markets v. American Dist. Telegraph Co.
Problem 3-13
7. Restitution: A Theory of Obligation and a Remedy pp. 319-337
U.S. ex rel Susi Contracting Co. v. Zara Contracting Co.
Bausch & Lomb, Inc. v. Bressler
Osteen v. Johnson
Problems 3-15, 3-16
8. The Remedy of Specific Performance; ADR pp. 337-358
Kitchen v. Herring
Curtice Bros. Co. v. Catts
Pratt Furniture Co. v. McBee
9. Policing Agreements and Promises: Duress, Misrepresentation, Concealment,
Duty to Disclose pp. 522-552
Standard Box Co. v. Mutual Biscuit Co.
S.P. Dunham & Co. v. Kudra
Bates v. Cashman
Gibb v. Citicorp Mortgage, Inc.
Holcomb v. Hoffschneider
Weintraub v. Krobatsch
Problem 5-2
10. Policing Agreements: Public Policy, Inequality of the Exchange pp. 552-575
McCutcheon v. United Homes Corp.
Dwyer v. Jung
Karpinski v. Ingrassi
Problem 5-4
Black Industries, Inc. v. Bush
Jackson v. Seymour

11. Policing Agreements: Unconscionability pp. 575-597
Ryan v. Weiner
Industralease Automated v. R.M.E. Enterprises, Inc.
Jones v. Star Credit Corp.
Waters v. Min Ltd.
12. Policing Standard Form Contracts pp. 598-627
Farifield Leasing Corp. v. Techni-Graphics, Inc.
C & J Fertilizer, Inc. v. Allied Mutual Insurance, Co.
Caspi v. The Microsoft Network
Specht v. Netscape Communications Corp.
13. Some Additional Policing Doctrines and Policing Modifications pp. 627-649
Alaska Packers' Assoc. v. Domenico
Schwartzreich v. Bauman-Basch, Inc.
Angel v. Murray
Flowers v. Diamond Shamrock Corp.
Consolidated Edison Co. v. Arroll
Problems 5-7, 5-8
14. Principles of Contract Interpretation pp. 698-720
Berke Moore Co. v. Phoenix Bridge Co.
Problem 6-4
Turner v. Holdings, Inc. v. Howard Miller Clock Co.
Nanakuli Paving and Rock Co. v. Shell Oil Co., Inc.
Problem 6-5
15. Contract Interpretation: Gap Fillers and Good Faith pp. 720-754
Haines v. City of New York
Haslund v. Simon Property Group, Inc.
Southwest Engineering Co. v. Martin Tractor Co.
Fortune v. National Cash Register Co.
Feld v. Henry S. Levy & Sons, Inc.
Pillois v. Billingsley
16. Express Conditions pp. 755-773
Merritt Hill Vineyards Inc. v. Windy Heights Vineyard, Inc.
Jacob & Young, Inc. v. Kent
Brown-Marx Associates, Ltd. V. Emigrant Savings Bank
17. Express Conditions Continued pp. 773-789
Glaholm v. Hays
Howard v. Federal Crop Ins. Corp.
Problem 7-2
Gibson v. Cranage

Forman v. Benson

Luttinger v. Rosen

Problem 7-3 – hand in prior to class

18. Express Conditions: Excuse and Forfeiture pp. 789-811
E.I. DuPont De Nemours Powder v. Schlottman
Hanna v. Commercial Travelers' Mutual Accident Assoc.
Connecticut Fire Ins. Co. v. Fox
J.N.A. Realty Corp. v. Cross Bay Chelsea, Inc.
Holiday Inns of America, Inc. v. Knight
19. Constructive Conditions pp. 811-821
Cohen v. Kranz
Stewart v. Newbury
Problem 7-6
20. Breach and Duty to Perform pp. 821-838
Plante v. Jacobs
O.W. Grun Roofing v. Cope
Walker & Co. v. Harrison
21. Breach and Duty to Perform Continued pp. 838-859
John v. United Advertising Inc.
CARRIG v. Gilbert-Varker Corp.
K & G Const. Co. v. Harris
Problems 7-8, 7-9
Wilson v. Scampoli
Hubbard v. Utz Quality Foods, Inc.
22. Anticipatory Repudiation pp. 859-875
Hochster v. De La Tour
Hathaway v. Sabin
Magnet Resources, Inc. v. Summit MRI, Inc.
Greguhn v. Mutual of Omaha Insurance Co.
23. Grounds of Rightful Cessation: Mutual and Unilateral Mistake pp. 878-917
Sherwood v. Walker
Problem 8-1
Lenawee County Board of Health v. Messerly
Problem 8-2
Noroski v. Fallet
Problem 8-3
Shrum v. Zeltwanger
Triple A Contractors, Inc. v. Rural Water District No. 4
Donovan v. RRL Corporation

- 24.** Grounds of Rightful Cessation: Impossibility, Impracticability, Frustration of Purpose pp. 918-20; 924-27; 933-57
Taylor v. Caldwell
[Skip Bell v. Carver and Davis v. Skinner]
Canadian Industrial Alcohol Co. v. Dunbar Molasses Co.
[Skip Markovich Land Corp. v. J.J. Newberry Co.]
Mineral Park Land Co. v. Howard
Transatlantic Financing Corp. v. U.S.
Mishara Construction Co. v. Transit-Mixed Concrete Corp.
Krell v. Henry
Lloyd v. Murphy
Problems 8-6, 8-7
- 25.** Third Party Beneficiaries pp. 986-1010
Lawrence v. Fox
Seaver v. Ransom
H.R. Moch Co. v. Rensselaer Water Co.
Alaniz v. Schal Assoc.
Morstain v. Kircher
Rouse v. United States
- 26.** Assignment and Delegation pp. 1011-1035
Crane Ice Cream Co. v. Terminal Freezing & Heating Co.
Problem 11-1
Langel v. Betz
British Waggon Co. and the Parkgate Waggon Co. v. Lea & Co.
Macke Co. v. Pizza of Gaithersburg, Inc.
Utica Mutual Insurance Co. v. Vigo Coal Company, Inc.