

CONTRACTS
FALL 2009 SYLLABUS
Professor John H. Matheson

A. COURSE DESCRIPTION

Contracts is a one-semester course designed to familiarize you with the basic doctrines and theory of the law of contracts and promissory obligations. We will study how contracts are formed, which contracts or other promises the law will enforce, how promissory terms are interpreted, whether a promise has been breached, and what remedies are available when a promise is breached.

The goals of the course go beyond teaching you the specific law of promissory obligations. The contracts course, like each of your first year courses, is designed to help you learn to read, think and speak like a lawyer -- that is, to read cases and other materials critically, to pinpoint the issues raised, to understand the arguments made and apply them to new fact situations. Another purpose is to develop the skills to be a persuasive and intelligent advocate/negotiator/counselor as well as to be able to consider and discuss possible policy alternatives. To this end, we will spend most of our class time discussing and analyzing court decisions and legislative materials and applying what we learn to new fact situations. You will be called upon regularly to participate in this discussion. I encourage you to view this participation as an opportunity to help you develop your analytical and oral skills and to learn the material most effectively.

B. READINGS

The reading assignments will be from Fuller & Eisenberg, Basic Contract Law (8th Ed. 2006), Byrne, Contracts Texts: Restatement 2d Contracts, US UCC Article 2 and the CISG (2008 Ed.)(hereafter "Contract Texts"), and from the Supplemental Materials (hereafter "Supplement") you purchased with this Syllabus. When reading the Fuller & Eisenberg casebook excerpts, please feel obligated to refer to the Contracts Texts book only to review references to the Restatement (Second) of Contracts and the Uniform Commercial Code (UCC), not other cited sources, unless instructed otherwise or you simply are interested in what they say.

C. EVALUATIONS

There is one examination for this course at the end of the semester, on Tuesday, December 22, at 8:30 a.m. The examination will be open book. The exam will be part objective in nature. In addition, there may be one or more written homework assignments throughout the semester. These will be graded on a pass/fail basis. Each failure to complete an assignment on time with a good-faith effort will result in a one-grade level deduction (e.g., from a B+ to a B).

D. MISCELLANEOUS

My office is Room N222, the phone number is 612-625-3879, and my e-mail is mathe001@umn.edu. My office hours are 12:30 – 2:30 p.m. Tuesday and Thursday, or by appointment. I am also in my office at many other times and would be happy to see you at any time except the hour just before class. I will also stay after each class to answer any questions you may have.

E. READING ASSIGNMENTS: The following readings are from Fuller & Eisenberg, except where noted.

I. INTRODUCTION

Assignment 1: Appendix B, pages 1077-84 (read only as background—no need to take notes); Pages 1-4 and pages 190 -198 (top). *Brief* only the first part of Hawkins v. McGee, page 190 (up to “2” at bottom of page 191).

II. ASSENT—OFFER AND ACCEPTANCE

A. The “Meeting of the Minds”: Interpretation and Implication

Assignment 2: Pages 393-396 (top), 367-374 (through Keller), 381 (from Embry)-384.

Assignment 3: Pages 374 (bottom)-375, 406-412.

B. The Mechanics of a Bargain (I) - Offer, Lapse, Rejection and Revocation

Section 1: What Constitutes an Offer

Assignment 4: Pages 413-424

Assignment 5: Leonard v. Pepsico, pages 1-10 in Supplement.

Section 2: Termination of the Offeree’s Power of Acceptance: Lapse, Rejection and Counteroffer

Assignment 6: Pages 424-438.

Section 3: Termination of the Offeree’s Power of Acceptance: Revocation

Assignment 7: Pages 438-442 (top); Crince v. Kulzer, pages 11-12 in Supplement.

C. The Mechanics of a Bargain (II) - Transacting at a Distance

Assignment 8: Pages 456-460; Trinity Homes v. Fang and Roman-Hutchinson, pages 13-16 in Supplement.

Assignment 9: Participants Playing Games with the Mailbox Rule (handout)

D. The Mechanics of a Bargain (III) - Modes of Acceptance

Assignment 10: Pages 461-462 (middle), 466 (bottom)-471(middle); revisit pages 5-7 of Leonard v. Pepsico, in Supplement.

Assignment 11: Pages 491- 501 (top).

Assignment 12: Pages 675 (from Arizona)-691.

E. Preliminary Negotiations, Indefiniteness and Letters of Intent

Assignment 13: Pages 536-545; Norkunas v. Cochran, pages 17-23 in Supplement.

F. Contract Formation in a Form-Contract Setting: The Battle of the Forms

Assignment 14: Pages 72 (from “Note” in the middle)-75 and 641-655.

Assignment 15: Pages 655-664.

G. “Rolling Contracts” or Acceptance as a Process

Assignment 16: Pages 664-672 (up to Klocek v. Gateway).

III. WHAT PROMISES SHOULD THE LAW ENFORCE? - THE DOCTRINE OF CONSIDERATION (AND BEYOND)

A. An Introduction to Consideration (and other bases of enforceability)

Section 1: The Element of Bargain

Assignment 17: Pages 5-13 and 47-51 (bottom).

Section 2: The Element of Form

Assignment 18: Pages 13-23; Restatement Second § 74 in Contracts Texts.

Section 3: The Element of Reliance

Assignment 19: Pages 23-40.

Section 3A: Making Offers Irrevocable: Option Contracts, Express and Implied

Assignment 20: Country Club Oil v. Lee, Ryder v. Wescoat, Salminen v. Frankson and Johnson v. Fitzke, pages 24-32 in Supplement; Restatement Second §§ 37 and 63 in Contracts Texts.

Assignment 21: Pages 442-455 and skim 478-488.

Section 3B: The Employment Relationship

Assignment 22: Pages 104-106; pages 516 (bottom)-535.

Section 3C: The Attorney/Client Relationship

Assignment 23: Togstad v. Vesely, Francis v. Piper, pages 33-42 in Supplement.

B. Some Limits on the Bargain Principle

Section 1: Duress, Unconscionability and Public Policy

Assignment 24: Page 55 (start with Restatement, Second, Contracts §§175-76) through page 72 (top).

Assignment 25: Schlobohm v. Spa Petite and Yang v. Voyagaire Houseboats, Inc., pages 43-54 in Supplement.

Section 2: The Problem of Mutuality

Assignment 26: Pages 86-104.

Section 3: The Performance of a Legal Duty as Consideration: Modification of Contractual Duties

Assignment 27: Pages 107-117 (middle), 123 (bottom)-127 (top), 138-144 (top) and 607 (bottom)-608.

C. Past Consideration

Assignment 28: Pages 151-162.

IV. PERFORMANCE PROBLEMS AND EXCUSES

A. Consequences of Breach: Substantial Performance

Assignment 29: Pages 975-987.

Assignment 30: Pages 988-996 (middle).

Assignment 31: Pages 915-927 (middle).

B. Conditions; Waiver

Assignment 32: Pages 885 and 934-941.

Assignment 33: Pages 945 (bottom)-949 and 144-150.

Assignment 34: Pages 954-961.

C. Anticipatory Repudiation

Assignment 35: Pages 997-1008.

Assignment 36: Pages 1016-1029.

D. Mistake: Nondisclosure

Assignment 37: Pages 732-743 (middle).

Assignment 38: Pages 713-732 (top); 750-757.

E. Changed Circumstances

Assignment 39: Pages 765-779 (middle).

Assignment 40: Pages 802-809.

V. PROBLEMS CONCERNING WRITTEN CONTRACTS

A. Parol Evidence

Assignment 41: Pages 584-593 (to Hatley).

Assignment 42: Alpha Real Estate v. Delta Dental Plan Of Minnesota, pages 55-60 in Supplement; pages 602-608 and UCC § 2-202 in Contracts Texts.

B. Statute of Frauds

Assignment 43: Pages 1031-1048 (top), 1053-1063.

VI. REMEDIES FOR BREACH OF CONTRACT

A. An Introduction to Contract Damages; Expectation Measure

Assignment 44: Pages 190-203; 217-219.

Assignment 45: Pages 220-241.

B. Mitigation

Assignment 46: Pages 266-279.

C. Foreseeability

Assignment 47: Pages 279-292.

D. Certainty

Assignment 48: Pages 292-302.

E. Mental Distress; Liquidated Damages

Assignment 49: Deli v. University of Minnesota, pages 61-63 in Supplement;
pages 308-323.

F. Reliance and Restitution Measures

Assignment 50: Pages 341-350

G. Specific Performance

Assignment 51: Pages 324-335(top); 338 (bottom)-340.