

Contracts I Syllabus

(subject to change)

Fall 2023
Tuesday & Thursday 1:30 to 2:45
Room 202
Law 511 Section § 001

Prof. Drennan
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“The music or the lyrics? What usually comes first is the contract.” – Ira Gershwin
“The duty of government is to prevent crime and preserve contracts.” William Lamb
“What the big print giveth, the small print taketh away.”

Office Hours: Wednesdays from 3:30 pm to 5:30 pm, and by appointment (may be by phone or zoom).

Required Materials: Problems in Contract Law: Cases and Materials, by Knapp, Crystal, and Prince (9th ed. 2019), part of the Aspen Casebook Series (the “Knapp Casebook”)

As indicated in the Projected Reading Schedule, we also will cover a significant amount of “Bonus Material” from the TWEN page for the course.

Course Description: This course is an introduction to the U.S. law relating to contracts. The introductory overview will include (i) fundamentals of analyzing judicial opinions; (ii) how to create legal arguments; (iii) considering some promises that the law does not enforce; and (iv) a review of the sources of contract law. The next part of the course – often considered the core of this semester -- will examine in some detail three necessary elements for creating legally enforceable contracts, namely offer, acceptance, and consideration. We will then explore two doctrines – promissory estoppel and restitution -- that may allow one party to have enforceable rights against the other even though all the elements for a contract were not satisfied. We will then consider situations when an agreement must be in writing to be enforceable, followed with an analysis of situations when evidence of prior oral or written agreements will not be admissible because the parties memorialized their agreement in writing and failed to include the terms of the prior agreement. Throughout the semester we will consider the policy considerations that motivate the legal rules.

Attendance Policy: Attendance will be taken at the beginning of each class. Under the Rules of the School of Law, a first year student may not accumulate absences in a course numbering in excess of twice the credit hours for the course during the semester. Thus, because we meet twice a week, the maximum number of absences in this course is four (4) classes. The Rules provide for three options if a student accumulates absences in excess of the allowable number. The professor may recommend that: (a) the student

be given the lowest possible grade; (b) the student be given a “W”; or (c) the student be allowed to continue in the course with a grade reduction.

Recording of Classes: Students and the professor may record classes from their regular location in the classroom, unless the professor announces in class that this policy has been changed. Recordings of the class may not be shared with persons who are not enrolled in this class without the professor’s prior consent. The professor may use the zoom platform to record classes and may share recordings with members of the Law School’s IT department or as otherwise necessary. Classes may also be recorded (and shared with others as required) for ADA compliance purposes. The law school administration may also record classes.

Exams & Grading: There will be a one-hour, closed book, midterm exam for this class, which will be during the week devoted to 1st year class midterm exams (scheduled for Oct. 9 to Oct. 13 when this Syllabus was prepared). Also, there will be a final, three-hour, closed book, exam, during the period devoted to final exams (scheduled from Tuesday, Dec. 5 to Friday, Dec. 15). It is anticipated that 10% of your final grade will be based on the midterm exam, and 90% of your grade will be based on the final exam.

Writing Assignment: We will have a writing assignment to comply with the writing-across-the-curriculum requirement and the requirement to have a Bar exam-type assessment. Satisfactory completion of this assignment is required to be eligible to take the final exam and complete the course.

Emergency Procedures: We ask that you become familiar with **Emergency Preparedness@SIU**. Emergency response information is available on posters in buildings on campus, on the Emergency Preparedness@SIU website, and through text and email alerts. To register for alerts, visit: <http://emergency.siu.edu/>.

Disability Policy: SIU Carbondale is committed to providing an inclusive and accessible experience for all students with disabilities. Disability Support Services coordinates the implementation of accommodations. If you think you may be eligible for accommodations but have not yet obtained approval please contact DSS immediately at 618-453-5738 or disabilityservices.siu.edu. You may request accommodations at any time, but timely requests help to insure accommodations are in place when needed. Accommodations and services are determined through an interactive process with students and may involve consideration of specific course design and learning objectives in consultation with faculty. Please send approved accommodations to your faculty through the DSS online portal.

Saluki Cares: The purpose of Saluki Cares is to develop, facilitate, and coordinate a university-wide program of care and support for students in any type of distress – physical, emotional, financial, or personal. By working closely with faculty, staff, students and their families, SIU will continue to display a culture of care and demonstrate to our students and their families that they are an important part of the

community. For information on Saluki Cares: (618) 453-2461 or siucares@siu.edu, <http://salukicare.siu.edu/>. Associate Dean Doug Lind (dlind@siu.edu, 618-453-8713) and Assistant Dean Judi Ray (judiray@siu.edu, 618-453-8135) are available at the School of Law to help students access university resources.

Workload Expectation: The American Bar Association standards for accrediting law schools contain a formula for calculating the amount of work that constitutes one credit hour. According to ABA Standard 310(b)(1), a “credit hour” is an amount of work that reasonably approximates: (1) not less than one hour of classroom or direct faculty instruction and two hours of out-of-class student work per week for fifteen weeks, or the equivalent amount of work over a different amount of time. This is a 3-credit hour class, meaning that we will spend two 75-minute blocks of time together each week (scheduled for Tuesday and Thursday). The amount of assigned reading and out of class preparation should take you about 6 hours for the week. All told, applying the ABA standard to the number of credits offered for this class, you should plan on spending at least 9 hours per week (3 in class and 6 preparing for class) on course-related work.

Plagiarism: Plagiarizing another’s work, in whole or in part, is a violation of the Honor Code and can lead to serious penalties, including expulsion. An Honor Code investigation must also be reported to the Bar Examiners, even if you are cleared of any violation. The Honor Code defines plagiarism as: passing off another’s ideas, words, or work as one’s own, including written, oral, multimedia, or other work, either word for word or in substance, unless the student author credits the original author and identifies the original author’s work with quotation marks, footnotes, or other appropriate designations in such a way as to make clear the true author of the work.

Ban on Collaboration/AI in Writing Assignment: You are not allowed to obtain help from any other person (including any other student) or from generative artificial intelligence (including, but not limited to, ChatGPT) on the writing assignment in this course. This ban on collaboration includes obtaining written materials from any other person or generative artificial intelligence and communicating with any other person about the assignment. If you violate the ban on collaboration policy, you will fail to successfully complete the assignment and will not be entitled to take the final exam in the course. You also may be found in violation of the Honor Code, which can lead to serious penalties, including expulsion. An Honor Code investigation must also be reported to the Bar Examiners, even if you are cleared of any violation. When in doubt about how to proceed, ask me.

Ban on Collaboration/AI on Exams: Both the midterm exam and the final exam for this course are closed book. You may NOT consult materials of any kind, with any person other than the proctor, nor access any other resource, including, but not limited to generative artificial intelligence. Failure to comply with this rule will result in a failing grade on the exam. You also may be found in violation of the Honor Code, which can

lead to serious penalties, including expulsion. An Honor Code investigation must also be reported to the Bar Examiners, even if you are cleared on any violation.

Safety Awareness Facts and Education: Title IX makes it clear that violence and harassment based on sex and gender is a Civil Rights offense subject to the same kinds of accountability and the same kinds of support applied to offenses against other protected categories such as race, national origin, etc. If you or someone you know has been harassed or assaulted, you can find the appropriate resources here: <http://safe.siu.edu>

Additional Information Regarding Contract Law and the Course

Role of Contract Law in the Economy and Society: Contracts facilitate the free flow of goods and services in a market economy. Contracts allow us to benefit from the goods and services of others. The gardener, the cable TV company, the internet service producer, and many other individuals and entities are willing to provide goods and services to consumers because these providers can enforce their customers' obligations to pay if certain conditions are satisfied. In addition, contracts allow property owners to use their property efficiently. This contributes to the economic growth of the nation. For example, if you own recording equipment you may agree to use the equipment to tape weddings for hire because you know that you can force your customers to pay for the goods and services provided if certain conditions exist.

The Nature and Source of Contract Law: With important exceptions (such as the Uniform Commercial Code, also known as the "UCC") contract law is largely judge-made law or "common law." This is in contrast to statutory law enacted by legislative bodies. As a predominantly common law system, contract law developed over time by courts issuing opinions in resolving specific disputes between particular parties without guidance from a legislative body. These courts—generally appellate courts rather than trial courts—provide written opinions explaining and justifying their decisions for a particular party in a particular dispute. These written judicial opinions—which typically make up most of the content of law school casebooks such as ours and fill law libraries and electronic databases—serve as "precedents" guiding other courts in deciding factually-similar disputes in the future. We will study the typical procedures for analyzing a court opinion to understand what it means as precedent. Further, we will synthesize cases, that is, reading a series of judicial opinions dealing with similar disputes together to see how the common law system of precedents molds and shapes legal rules over time.

Student Learning Objectives: At the end of this course, students will be able to:

- Analyze a judicial opinion to isolate the legal rules.
- Identify various types of situations in which a promise may be broken, but the legal system will not grant money damages or a specific performance remedy to the injured party.
- Identify the necessary elements of an enforceable contract and make effective arguments whether those necessary elements are present in a particular factual situation.

- Assess whether the terms of an advertisement will be binding on a seller if a customer wishes to enforce the terms of the advertisement.
- Distinguish between a promise to make a gift in the future (which is not legally binding) and an offer to enter into a legally binding contract.
- Identify other legal approaches for recovering money damages for the breaking of a promise even when a contract does not exist.
- Determine whether an agreement must be in writing to be legally enforceable.
- Analyze whether prior oral or written agreements will be enforceable if the parties subsequently enter into a written agreement that does not contain some of the prior understandings.
- Analyze whether various contract law doctrines and systems provide buyers and others with appropriate access to justice when they are aggrieved; such doctrines and systems will include whether consumers can rely on an ad to be an offer that may create a binding contract; whether a party must believe they are making a contract in order to be legally bound to the deal; and whether prior oral or written understandings may be nullified by a subsequent signed writing.

Contracts I – Fall 2023

Projected Reading Schedule

(subject to change)

Except as otherwise noted, all references below are to the Knapp Casebook. There may be additional materials posted on the course TWEN page from time to time.

Class #1: (Tuesday, 8/22/23): Introduction/Offers

- Bonus Material for Class #1 (“Ads, Offers, Jokes, Jests, Puffing, and Bluffing” including the “Pepsi Points” case) [Note: The Bonus Material will be provided on the TWEN page for the course under the heading “Course Materials.”]
- Review of this Syllabus

Class #2: (Thursday, 8/24/23): Introduction/General

- Knapp Casebook pages 1 to 12 top (Note: In Problem 1-1 on pages 4-5, you only need to read (B) (4), (7), (8), (9) & (10))
- Bonus Material for Class #2 (including the summary of the *Cooper v. Smith* case and the *Feldman v. Google* case)

Class #3 (Tuesday, 8/29/23): Introduction/General

- Bonus Material for Class #3 (including the *Carnival Cruise Lines, Inc.* case).
- Knapp Casebook pages 12 bottom to 18 top
- We SKIP Knapp Casebook pages 18 bottom to 34

Class #4 (Thursday, 8/31/23): Offer & Acceptance

- Knapp Casebook pages 35 to 51 middle (including the *Ray* case and *Loneragan v. Scolnick*), but SKIP Note #4 on page 45, SKIP Note #6 beginning on page 45 bottom, and SKIP Note #3 beginning at the bottom of page 50.
- No Bonus Material for Class #4

Class #5 (Tuesday, 9/5/23): Offer & Acceptance

- Knapp Casebook pages 51 middle to 59 top (including *Normile v. Miller*)
- Bonus Material (including the *Izadi* case)

Class #6: (Thursday, 9/7/23): Offer & Acceptance plus Remedies (briefly)

- Knapp Casebook pages 59 to 60 middle (on “remedies for breach of contract”)
- Knapp Casebook pages 60 middle to 75 (including *Cook v. Coldwell Banker* and *Sateriale v. R.J. Reynolds Tobacco*)
- Distribute writing assignment? [writing assignment due Thursday 9/14/23?]
- No Bonus Material for Class #6

Class #7: (Tuesday, 9/12/23): Offer & Acceptance

- CATCH-UP IF NECESSARY
- Bonus Materials for Class #7 (including the case of *Cassinari v. Mapes*, 542 P.2d 1069 (Nev. 1975))
- Knapp Casebook pages 77 middle to 86 middle (including *Walker v. Keith*)
- [WE SKIP pages 86 middle to 101 middle]

Class #8: (Thursday, 9/14/23): Consideration

- [Writing Assignment Due?]
- Knapp Casebook pages 101 middle to 102 middle
- Bonus Material for Class #8 (including the case of *Hamer v. Sidway*, 27 N.E. 256 (N.Y. 1891)) [Note: We skip the version of *Hamer v. Sidway* in the Knapp Casebook because it includes some old doctrine and terminology.]
- SKIP Casebook pages 102 middle to 107 top
- Knapp Casebook pages 107 top to 115 middle (including *Pennsy Supply*)

Class #9: (Tuesday, 9/19/23): Consideration

- Knapp Casebook pages 115 middle to 120 middle (including *Dougherty v. Salt*)
- Knapp Casebook pages 129 middle to 139 top (*Dohrmann v. Swaney*)
- No Bonus Material for Class #9

Class #10: (Thursday, 9/21/23): Consideration

- Knapp Casebook pages 120 middle to 129 middle (including *Plowman*)
- Bonus Material for Class #10 (including the case of *Petition of Schaeffner*, 410 N.Y.S.2d 44 (1978))
- SKIP Knapp Casebook pages 139 to 147 middle

Class #11: (Tuesday, 9/26/23): UCC Contract Formation/UCC Battle-of-the-Forms

- Knapp Casebook pages 147 middle to 154 bottom (including *Jannusch v. Naffziger* case)
- SKIP pages 154 bottom to 163 bottom
- Knapp Casebook pages 163 bottom to 174 middle (including the *Princess Cruises* case)
- No Bonus Material for Class #11

Class #12: (Thursday, 9/28/23): UCC Battle-of-the-Forms

- Knapp Casebook pages 174 middle to 193 top (including *Brown Machine v. Hercules* and *Paul Gottlieb* cases) (but SKIP Note #4 on page 192) [Prof. notes the statement at page 191 (Note #3): “UCC § 2-207 is very complicated, and difficult to interpret and apply”]
- SKIP pages 193 & 194
- No Bonus Material

Class #13: (Tuesday, 10/3/23): UCC—Electronic Contract Formation

- Knapp Casebook pages 195 to 218 middle (including the *DeFontes v. Dell* and *Long v. Provide Commerce* cases)
- SKIP pages 218 middle to 224
- No Bonus Material

Class #14: (Thursday, 10/5/23): Promissory Estoppel

- Knapp Casebook pages 225 & 226
- SKIP pages 227 to 228 bottom
- Knapp Casebook pages 228 bottom to 236 bottom (including *Harvey v. Dow*)
- Bonus Material for Class #14 (including the case of *Cohen v. Cowles Media Co.*, 479 N.W.2d 387 (Minn. 1992))
- SKIP pages 236 bottom to 264 bottom
- Knapp Casebook pages 264 bottom to 265 bottom

THE MIDTERM EXAMS ARE SCHEDULED FOR THE WEEK OF OCT. 9 to OCT. 13—The exact day of our midterm had not been announced when this Syllabus was prepared—If it is scheduled for this week, we will count the midterm exam as Class #15]

[Note: Arrangements will be made to make up the class we will miss during midterm week. It is anticipated that this make up class will be counted as Class #16, and the general topic will be Promissory Estoppel & Option Contracts:]

- Bonus Material for Class #16 (including the case of *Grouse v. Group Health Plan, Inc.*, 306 N.W.2d 114 (Minn. 1981))
- Knapp Casebook pages 265 bottom to 274 top (including *Berryman v. Kmoch*)
- SKIP pages 274 top to 284

Class #17: (Tuesday, Oct. 17, 2023): Promissory Estoppel

- Bonus Material for Class #17 (including the case of *Pavel Enterprises*, 674 A.2d 521 (Md. 1996))

- Knapp Casebook pages 285 to 293 bottom (including the *Pop's Cones* case)
- SKIP pages 293 bottom to 294 bottom
- Knapp Casebook pages 294 bottom to 296 top (Statutory Limits on the Power of Revocation -- UCC merchant's firm offer)

Class #18: (Thursday, Oct. 19, 2023)—Restitution:

- Knapp Casebook page 296 bottom to 297 middle – Introduction to Restitution
- SKIP Casebook 297 middle to 307 middle
- Bonus Material for Class #18 (including the case of *Credit Bureau Enterprises, Inc. v. Pelo*, 608 N.W.2d 20 (Iowa 2000) and Notes (We will be studying this version of the case rather than the version of the *Pelo* case in the Casebook—the version in the Casebook does not integrate the updates in Restatement of Restitution (3rd) from 2011.)
- Knapp Casebook pages 307 middle to 315 middle (including *Commerce Partnership*)

Class #19: (Tuesday, Oct. 24, 2023)—Restitution/Promissory Restitution:

- Knapp Casebook pages 315 middle to 327 bottom (including the case of *Watts v. Watts*)
- Knapp Casebook pages 327 bottom to 340 top (including *Mills v. Wyman* and *Webb v. McGowin*) (but Skip Notes 3 & 4 on pages 338 & 339)
- SKIP pages 340-344
- No Bonus Material for Class #19

Class #20: (Thursday, Oct. 26, 2023)—Statute of Frauds:

- Bonus Material for Class #20 (including the case of *Dickens v. Quincy College*, 615 N.E.2d 381 (Ill. App. 1993))
- Knapp Casebook pages 345 to 356 (including *Crabtree*) (but SKIP Note #3 on page 354)

Class #21: (Tuesday, Oct. 31, 2023—HALLOWEEN!!)—Statute of Frauds:

- Knapp Casebook pages 357 to 377 middle (including *Beaver v. Brumlow* and *Alaska Democratic Party v. Rice* cases)
- SKIP pages 377 middle to 380 bottom
- No Bonus Material

Class #22: (Thursday, Nov. 2, 2023)—UCC Statute of Frauds:

- Knapp Casebook pages 380 bottom to 389 bottom (including *Buffaloe* case)
- Bonus Material for Class #22 (including the case of *Cloud Corp. v. Hasbro, Inc.*, 314 F.3d 289 (7th Cir. 2002))
- SKIP pages 389 bottom to 394

Class #23: Tuesday, Nov. 7, 2023—Contract Interpretation:

- Knapp Casebook pages 395 to 416 middle (including *Joyner* and *Frigaliment*)
- SKIP pages 416 middle to 427 middle
- No Bonus Material

Class #24: (Thursday, Nov. 9, 2023)—Parol Evidence Rule:

- Knapp Casebook pages 427 middle to 437 (including *Thompson v. Libby*)
- Bonus Material for Class #24 (including the case of *Giani v. R. Russell & Co. Inc.*, 126 A. 791 (Penn. 1924))
- Knapp Casebook pages 438-450 bottom (including *Taylor v. State Farm*)

Class #25: (Tuesday, Nov. 14, 2023): Parol Evidence Rule

- Bonus Material for Class #25 (including cases *Brown v. Oliver*, 256 P. 1008 (Kansas 1927); *Trident Center v. Connecticut General Life Insurance Company*, 847 F.2d 564 (9th Cir. 1988); *Riverisland Cold Storage v. Fresno-Madera Production*, 291 P.3d 316 (Cal. 2013))

Class #26 (Thursday, Nov. 16, 2023): Auction Sale Rules

- Bonus Material for Class #26 (including *Commercial Federal v. ABA Corp.*, and *Hoffman v. Horton*)
- If Time Permits: Quizzing & Bonus Material

THANKSGIVING BREAK—SATURDAY, NOV. 18 TO SUNDAY, NOV. 26

Class #27 (Tuesday, Nov. 28, 2023): Merchant's Firm Offer & Confirmatory Memo

- Bonus Material for Class #27 (including *Lowenstein v. Stop & Shop* and *Bazak Int'l v. Mast Industries*)
- If Time Permits: Quizzing & Bonus Material

Class #28 (Thursday, Nov. 30, 2023): UCC Risk of Loss & Delivery Terms

- Bonus Material for Class #28 (including *Southland Mobile Home and Vineyard Wine*)
- If Time Permits: Quizzing & Bonus Material

Final Exam: The final exam period is from Tuesday, Dec. 5 to Friday, Dec. 15. The precise day and time for our final exam had not yet been announced at the time this Syllabus was prepared.

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