

Contracts I Syllabus

Fall 2023

Law 511-3 Section § 002

Tuesday and Thursday 1:30 pm-2:45 pm

Location: Room 204

Professor David Lourie

Office: Room 252

Office hours: Mondays and Wednesdays, 3:15 pm-4:15 pm; or by appointment

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What is this course about?

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.

Why is this course important?

The study of contract law will add substantial value to your success in law school and your legal career. Contracts are everywhere. Each of us typically enters into several binding agreements each day – from credit card transactions to online purchases, and many others. Contracts are also a key element of some major life decisions, such as buying a home or accepting a job. In fact, all of you have probably recently entered contracts related to coming to law school – such as an apartment lease, purchase of computers, books, household supplies, and transportation.

Regardless of the area of practice, attorneys generally work with contract law and find their knowledge adds considerable value to their careers. Contract law is also heavily related to other areas of law – contracts often affect the parties' rights related to torts, property, civil procedure, and other areas of law.

In short, the effort required to succeed in this class is worth it.

How are you evaluated?

You will be evaluated using the following criteria:

1. Midterm Examination (10% of grade) – Closed Book, In-Person, 1-hour

There will be a one-hour midterm exam, which will be during the week devoted to 1L mid-term exams from October 9-13 – a detailed schedule will be posted in the coming weeks. I will provide more details on the midterm examination as the semester progresses.

2. Final Examination (90% of grade) – Closed Book, In-Person, 3 hours

There will be a final, three-hour exam, during the period devoted to final exams - scheduled from Tuesday, Dec. 5 to Friday, Dec. 15. I will provide more details on the final examination as the semester progresses. It will include both multiple-choice and essay questions.

3. Class Participation (Important)

Numerous studies have demonstrated that active learning and participation are critically important for success in law school and as a lawyer. Further, I value all of you as individuals and believe it is important for the class to hear your perspectives. Therefore, I take the following approach to class participation:

- I will typically randomly “cold call” a few students in each class to discuss issues related to the course readings, lectures, and practice questions. Of course, everyone in this course is valued and is free to contribute, not just those that are called on.
- I do not call on students to demonstrate superiority or pick on people but rather to help the class learn the material and demonstrate learning in a way that will lead to more successful outcomes on law school examinations and legal practice.
- Speaking in class is an opportunity, not a burden. The types of thinking we do in class together are what is valuable for your success.
- If you are unprepared for a particular class, please advise me of that fact by noon on the day of class. By letting me know in advance that you are not prepared, I will not call on you during that class period. However, do not let this happen often or I will revoke your privilege.
- If a student is not prepared to discuss the assigned materials when called upon, the student will be marked as absent for that class and the student’s grade may be lowered.

- *Please remember – You do not have to be perfect. You do need to be prepared and put in the effort required to succeed in law school – doing the readings, actively listening to lectures, and coming to me if you have questions or concerns. I am here to help - thanks for your hard work!*

Casebook

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

I may also assign additional “Bonus Materials” throughout the semester, which I will let you know about in class and on the D2L page for this course.

Citizenship

Citizenship has to do with attendance as well as how you treat others. I am a big fan of respect – and will do my best to show it to you. Respect builds a safe learning community, even if we disagree. Please show respect to your classmates.

Laptops

I permit the responsible use of computers in class. By this, I mean using your laptops to take notes. I expect you to listen, participate, remain engaged with the material, and avoid the distractions caused by misusing computers and electronic devices in a professional environment.

Attendance Policy

Attendance will be taken at the beginning of each class. Our class time is vitally important for you to understand the material needed to be successful in this course and in legal practice. Accordingly, you should not miss any classes. However, I understand uncontrollable circumstances may come up and will allow a maximum of two (2) absences, no questions asked. If you miss more than two classes, I will lower your course grade one half a letter grade (i.e., B+ to B) for each additional class missed.

Recording of Classes

Classes may be recorded by the instructor for ADA compliance purposes. No recordings should be used or disseminated without the professor’s permission.

Writing Assignments

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.

Workload Expectation

You might be interested to know that the ABA standards incorporate out-of-class work in the calculation of credit hours. Under the ABA standards, **you should expect to spend 150 minutes per week in class (2.5 hours), plus (a minimum of) six hours of study a week, for a total of 8.5 hours per week."**

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 of any violation.

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.

Tentative List of Reading Assignments

Except as otherwise noted, all references are to the assigned Knapp Casebook. Each week, I will confirm the following week's reading assignment at the end of Thursday's class.

Please complete the assigned reading in advance of each class (for example, please complete the reading assignment listed for Class 1 before the first day of class, August 22). Please bring your Knapp casebook to every class for reference during each class session.

I will sometimes assign "Bonus Materials" to read, which I will let you know about in class and on the TWEN course page.

Projected Reading Schedule (subject to change)

Note: I will confirm the next week's reading assignment during each Thursday's class.

Week 1

Tuesday, August 22

- Review of this Syllabus
- Knapp pages 1-12; Intro to Contract Law

Thursday, August 24

- Knapp pp18-33, Principles and Applications

Week 2

Tuesday, August 29

- Knapp pp 35-59, Mutual Assent

Thursday, August 31

- Knapp pp 60-76, Offer and Acceptance, Unilateral Contracts

Week 3

Tuesday, September 5

- Knapp pp 78-96, Agreement to Agree

Thursday, September 7

- Knapp pp101-118, Consideration

Week 4

Tuesday, September 12

- Practice Problems and Bonus Materials – to be assigned

Thursday, September 14

- Knapp pp118-147, Consideration (cont'd)

Week 5

Tuesday, September 19

- Knapp pp147-171, UCC Contract Formation

Thursday, September 21

- Knapp pp195-221, Electronic Layered Contracting; and Begin Writing Assignment, due September 28, Problem 2-2, pp98-99

Week 6

Tuesday, September 26

- Knapp pp225-236, Promissory Estoppel

Thursday, September 28

- Knapp pp236-255, Promissory Estoppel (cont'd) and submit Writing Assignment (Problem 2-2, for in-class discussion, Oct. 5)

Week 7

Tuesday, October 3

- Knapp pp265-284, Option contracts and reliance

Thursday, October 5

- In-class discussion of writing assignment (Problem 2-2).

Week 8

NO CLASS: Midterm Week: Week of October 9-13

- There will be no 1L class sessions. Instead, there will be a one-hour, closed-book midterm exam worth 10% of your course grade, as scheduled by the law school administration. Details will be forthcoming.

Week 9

Tuesday, October 17

- Midterm debriefing

Thursday, October 19

- Knapp pp 481-486, 492-493, 513-523, Implied Obligation of Good Faith

Week 10

Tuesday, October 24

- Knapp pp 296-327 Restitution

Thursday, October 26

- Knapp pp 327-340, Restitution

Week 11

Tuesday, October 31

- Knapp pp 345-368 top, Statute of Frauds

Thursday, November 2

- Knapp pp 368-390, Statute of Frauds

Week 12

Tuesday, November 7

- Knapp pp 395-408, Principles of Interpretation

Thursday, November 9

- Knapp pp 408-427, Principles of Interpretation

Week 13

Tuesday, November 14

- Knapp pp 427-451, Parol Evidence

Thursday, November 16

- Knapp pp 451-473, Parol Evidence

NO CLASS: Thanksgiving Holiday

- Week of November 21-25 – There will be no class sessions. Have a great break!

Week 14

Tuesday, November 28

- Knapp pp546-567, Warranties

Thursday, November 30

- Final Review

Final Exam

- Specific exam time to be announced (to be scheduled by the law school). Final exams will take place from Tuesday, December 5 – Saturday, December 9 & Monday, December 11 – Friday, December 15.