

CONTRACTS (Section A)
Fall 2010
Professor Joel Nichols

Required Texts:

- Casebook: *Problems in Contract Law: Cases and Materials* (6th ed.). Knapp, Crystal, and Prince (Aspen Publishers, 2007). ISBN = 0-7355-6255-5
- Statutory Supplement: *Rules of Contract Law, 2009-2010*. Knapp, Crystal, Prince (Aspen Publishers, 2009). ISBN = 9780735579385.
 - NOTE: There are other statutory supplements available on the market that you might consider, provided the supplement you choose has the Restatement of Contracts (2d) and Uniform Commercial Code (Article 2). As an alternate, I especially also like *Contracts Texts: Restatement 2d Contracts, US UCC Article 2 & the CISG*, 4th ed., James E. Byrne, ed. (Institute of International Banking Law & Practice, Inc., Publications, 2008), which I assigned to students last year.

Other Texts You May Wish To Consult (but these are not required!):

- *Concepts and Case Analysis in the Law of Contracts* (6th ed.). Marvin A. Chirelstein (Foundation Press, 2010).
- *Contracts* (4th ed.). E. Allen Farnsworth (Aspen Publishers, 2004).
- *Contracts: Examples and Explanations* (4th ed.). Brian A. Blum (Aspen Publishers, 2007).
- There are other materials (treatises and hornbooks) on reserve in the library. I generally discourage the use of commercial outlines and other supplements, particularly at the outset of the course, because the majority of student learning in this course occurs through serious engagement with the materials presented.

Office Hours and Contact Information: My office is Room 339, located on the third floor of the law school. My office phone is 651-962-4827 and my email address is joel.nichols@stthomas.edu.

Regular office hours: Monday 2:45-4:00
 Wednesday 2:45-4:00
 Friday 10:30-12:00
 (Or by appointment.)

Classes: We meet in Room 235. Our class sessions are MWF from 1:30-2:45. Don't be late, eat or drink loudly in class, or talk to your neighbors during class.

Varying class session information: There are a few days when we have different meeting times and/or places, or will not have class. Please mark the following dates on your calendars. More information will be forthcoming as the semester progresses.

- [optional] – Monday, October 4, 3:00-4:30. Joint review session with Section B. (Taught by both Prof. Nichols and Prof. Schiltz). TMH Auditorium.
- Friday, October 15, 1:30-2:45 (normal class hour) – Joint session with Section B. (Taught by Prof. Nichols.) TMH Auditorium.
- Wednesday, October 27, 3:00-4:15. Joint session with Section B. This is an extra class. (Taught by U.S. District Judge Patrick J. Schiltz.) TMH Auditorium.
- Friday, November 5. No class.
- Wednesday, November 10, 3:00-4:15– Joint session with Section B. This is an extra class. (Taught by Prof. Schiltz.) TMH Auditorium.
- Friday, November 12. No class.

BlackBoard: I will post supplemental items, answer questions, and post blog entries on BlackBoard. You'll want to check it regularly.

Grading: Your grade will be based primarily upon the final examination, although the mid-term exam will count toward your final course grade (approx. 15%). And, per below, I reserve the right to adjust a student's final grade based on class participation and attendance in unusual circumstances.

The mid-term examination will be administered on **Friday, October 8, at 1:30**. The date of the Final Exam has not yet been set by the Assoc. Dean's office. The mid-term and final exam will both be closed book, although I may provide a statutory supplement. More details will be available closer to time.

Class Preparation and Attendance: The classroom environment depends upon your preparation and participation, and I expect it and reserve the right (in unusual cases) to penalize or reward the same by up to 1/3 of a letter grade on the final course grade.

Per UST's Academic Policy Manual (III-C-5), excessive absences (or tardiness) or consistent lack of preparation may result in a grade reduction or, in extreme cases, an inability to sit for the final examination. There should not be a need to miss more than 8 class sessions (20% of the course) for any reason at all – and you may indeed not be permitted to sit for the final examination in such cases.

Computers (and other electronic devices): Computers and other devices may be used in class only for appropriate educational activities (note-taking, accessing statutes, and the like). I reserve the right to revoke the use of electronic devices entirely during class if you abuse this policy.

You may not record (by audio or video) any portion of this class without my express permission.

Disability Accommodation: Any student with a documented disability needing academic accommodations should discuss the matter within the first two weeks of the term with the University's Enhancement Program – Disability Services. You may contact that Center by phone (651-962-6315) or in person at the O'Shaughnessy Educational Center, room 119. More information is available on the web at <http://www.stthomas.edu/enhancementprog/>.

Reading Assignments: On the last page is the beginning list of reading assignments. *If we do not cover a full assignment during a class period, you should review the remaining portion of that assignment and prepare the next assignment, unless I indicate otherwise.* I expect you to review any relevant provisions of the UCC, Restatement, etc., from the Supplement in conjunction with the assignments below. All page references are to the Knapp, Crystal, and Prince book unless designated otherwise.

NOTE: The assigned Supplement occasionally omits sections of the Restatement 2d of Contracts that I have assigned. I have attempted to identify all such instances (which are rare) and will distribute such sections.

Course objectives

As you are preparing for this course, it may be helpful for you to understand what I consider to be the primary objectives of this course (though obviously not the only objectives). I will discuss these in more detail in class (and they bear some relevance to the course evaluations as well).

Essential

- 1. Developing specific skills, competencies, and points of view needed by professionals in the field most closely related to this course.** You are training to be attorneys – indeed, in many ways you have already entered the profession. There are a number of skills and competencies needed, including problem-solving, critical thinking, clear articulation (both oral and written), organization and persuasiveness, and the ability “think like a lawyer.” Contracts class will build these skills and help you *apply* the rules that we learn to the set of facts at hand, for attorneys are called upon to use their training *in context*.

Important

- 2. Learning to *analyze and critically evaluate* idea, arguments, and points of view.** In this class we will be reading cases (and problems and statutes) carefully and critically. I will expect you to be thoughtful and discerning as you assess arguments and outcomes, for not everything a court says is wise nor is every statute a good law.
- 3. Learning fundamental principles, generalizations, and theories.** We will study a lot of specific rules of contract law. But more than just isolated rules, you will be expected to master the principles behind those rules, to distinguish why one rule applies in a given situation rather than a counter-rule (or an exception to the rule), and to extrapolate what you know from one area to another area.

Reading Assignments

Contracts (Fall 2010)

Prof. Nichols

1. *In re Baby M*, 537 A.2d 1227 (N.J. 1988) (Handout) and Pages xxi-xxiii and 1-17 (*and Rest. §§ 1, 2, 3, 4, 17*)
In re Baby M
2. Pages 21-23, 30-33 and *Lucy v. Zehmer*, 84 S.E.2d 516 (Va. 1954) (Handout) (*and Rest. §§ 24, 26, 30, 50, 52*)
Lucy v. Zehmer
3. Pages 34-44 (*and Rest. §§ 32, 58, 63*)
Lonergan v. Scolnick; Izadi v. Machado (Gus) Ford, Inc.
4. Pages 44-58 (*and Rest. §§ 39, 40, 43, 45, 58, 59, 63, 69*)
Normile v. Miller; Petterson v. Pattburg
5. Pages 61(n.3)-70 and *Pyeatte v. Pyeatte*, 661 P.2d 196 (Ariz. Ct. App. 1982) (Handout) (focus on the definiteness argument) (*and UCC §§ 2-102, 2-105(1), 2-204, 2-206, and Rest. § 33*)
Harlow v. Jones; Pyeatte v. Pyeatte
6. Pages 71-87 (*and Rest. §§ 71, 77, 79, 86*)
Hamer v. Sidway; Pennsy Supply Co. v. Am. Ash Recycling
7. Pages 89(n.2)-107 (*and Rest. §§ 73, 81*)
Batsakis v. Demotsis; Plowman v. Indian Refining Co.
8. Pages 108-122 (*and Rest. §§ 87, 90*)
James Baird Co. v. Gimbel Bros.; Drennan v. Star Paving
9. Pages 122-128, 138-141 (*and UCC § 2-205, Rest. § 45*)
Berryman v. Knoch; Problem 2-2
10. Pages 143-163 (*and UCC § 2-207*) – and review *Harlow v. Jones* (pages 64-69)
Princess Cruises v. GE; Brown Machine v. Hercules
11. Pages 165-168, 175-88 (*and Rest. § 21, UCC §§ 2-305, 2-306, and Rev. UCC § 2-207*)
Quake Construction v. American Airlines
12. Pages 193-212
Brower v. Gateway 2000, Inc.; Register.com, Inc. v. Verio, Inc.
13. Pages 215-218, 222-228, 237-244
Kirksey v. Kirksey; Wright v. Newman; King v. Danny Dare
14. Pages 250-255, 262-266, 283-291 and *Callano v. Oakwood Park Homes Corp.*, 219 A.2d 332 (N.J. Super. 1966) (handout) and review handout on *Pyeatte v. Pyeatte* (focus on restitution) (*and Rest. §§ 344, 370, 371*)
Callano v. Oakwood Park Homes Corp.; Pyeatte v. Pyeatte; Mills v. Wyman
15. Pages 291-301
Webb v. McGowin; Problem 3-2

Review session (joint with Section B)

16. Statute of Frauds handout (*and Restatement and UCC sections mentioned therein*)
17. Class 17 is the mid-term examination.