COURSE SYLLABUS draft 18 Sept 2013

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1. Course Materials
   A. Required Textbooks
      • David Epstein, Bruce Markell and Lawrence Ponoroff, Cases and Materials on Contracts: Making and Doing Deals (3rd edition 2011)
      • 2013 Contract Law Selected Source Materials

   B. Canvas Learning Management System
   All students must be able to access the Canvas LMS and their UW emails throughout the course. A link to the Canvas webpage for this course is available from the course page on the Law School site: https://courses.law.washington.edu/WinnJ/A501a_AuWi14/default.html

   In Autumn 2013, UW Law School is in the process of migrating to the Canvas LMS. For the first few weeks of class, the temporary website for this class will be here: https://catalyst.uw.edu/workspace/jkwin1/40251/
C. Optional supplements
Optional supplements I have asked the bookstore to make available include:

Brian Blum, *Contracts: Examples & Explanations* (6th ed. 2013, but 5th ed. should also be fine)
This book is designed to make traditional Socratic method/casebook instruction comprehensible, not merely to summarize the “black letter law.” If you feel you really need a commercial study aid, this is the one I recommend most highly because it most closely resembles what we cover in class.

This is a treatise that provides a more complete and abstract overview of the law than does Blum’s Examples & Explanations. It contains much more material than we have time to cover in class, so it should be used sparingly at the outset of the course to avoid confusing matters more than clarifying them.

D. Course Reserve
Some materials relevant to this course may be placed on reserve.

2. Learning Objectives and Three Tracks

A. Instruction in this course will proceed on three interrelated tracks simultaneously:

**Track One: Knowing What/declarative knowledge**
- Socratic method/CB is a shared experience and culture of US lawyers/law students
  - Supplemented by video lecture/online quizzes as needed for scheduling

**Track Two: Knowing How/procedural knowledge**
- Socratic method + CB: model expert behavior, novice must infer framework
- Master Legal Basics: “Scaffolding” framework to ease novice to expert transition
  - Elementary legal reasoning
  - Case brief, case synthesis
  - Contract interpretation and drafting

**Track Three: Problem Solving/Higher Level Critical Reasoning** [Team Based Learning]
- Ungraded intro to TBL + 3 graded TLB exercises in Autumn
  - One method to “flip the classroom”
  - One type of “problem-based learning”

B. Learning Objectives

- Describe basic contract law doctrine (knowing what/declarative knowledge)
- Describe basic legal institutions and their impact on contract law (knowing what/declarative knowledge)
- Demonstrate traditional case analysis, case synthesis (knowing how/procedural knowledge)
- Demonstrate basic legal reasoning in other contexts than cases (knowing how/procedural knowledge)
• **Evaluate law practice simulation problems, recommend a course of action** (problem solving/practical knowledge application/higher order thinking)

**C. Format for case brief in this course**

- Title and Citation
- Procedural Posture/Disposition
- Parties: Roles in dispute, not just plaintiff & defendant
- Facts of the case: Only those relevant to the holding
- Issue (or issues)
- Holding: can be expressed either as yes/no or restatement of issue
- Rationale(s) for holding(s)

**3. Reading Assignments and Draft Schedule**

A. Reading assignments for the first week of class are:

**Monday September 23**

**Required**
EMP CB, Chapter 1, Section 1: Determining Mutual Assent, pp. 37-66
Focus on pp. 37-47, Lucy v. Zehmer case + questions about facts & law

**Optional**
EMP CB, Chapter 1: What Are We Going to Be Doing in This Course? [NB this chapter will *NOT* be covered in class unless students ask questions about it]

Brief Glimpse of Contract Law after Law School
- Jeff Lipshaw, Litigation or Transactional Law Career: Some Advice to Law Students, Legal Profession Blog, July 1, 2008
- Jeff Lipshaw, Concluding Remarks to My Agency, Partnership and LLC Class, Legal Profession Blog, April 24, 2008

**Wednesday September 25**: No class

**Monday September 30**

**Required**

I. **Reading Assignments** [Prepare to take 10 question multiple choice closed book “Readiness Assessment Test” as individuals and as teams]

- **Team Based Learning**
  Educause, 7 Things You Should Know About...Flipped Classrooms
  TBL Intro 12 minute video [http://www.utexas.edu/academic/ctl/largeclasses/#tbl](http://www.utexas.edu/academic/ctl/largeclasses/#tbl)
  University of British Columbia, What is TBL?
  Larry Michaelson and Michael Sweet, The Essential Elements of Team-Based Learning, 116 New Directions in Teaching and Learning (Winter 2008)
• Learning Theory

II. Master Legal Basics Activity: Complete “Working with Rules and Facts” exercise

Optional
  How People Learn Chapter 2: How Experts Differ from Novices, and Chapter 3: Learning and Transfer [these will be required readings later in the course]
  Gillian Hadfield, Equipping the Garage Guys in Law, 70 Maryland Law Review 484 (2011)

B. Tentative Reading List & Schedule through October 9

Monday 23 Sept 2013
  H1 Discuss Lucy v. Zehmer, answer EMP textbook discussion questions
  H2 Class administration matters

Wednesday 25 Sept 2013
  No class

Monday 30 Sept 2013
  Ungraded TBL exercise on costs & benefits of TBL
  Working with Rules and Facts Exercise

Wednesday 2 Oct 2013
  Finish EMP Chapter 2, Section 1: Determining Mutual Assent pp. 37-66
  Anything not finished in class will be covered w/Tegrity video & Canvas quiz
  Discuss Specht v. Netscape Brief

Monday 7 Oct 2013
  EMP Chapter 2, Section 2: Offer pp. 66-83
  Discuss Specht v. Netscape Brief

Wednesday 9 Oct 2013
  EMP Chapter 2, Section 3: Destroying the Offer pp. 83-96
  Discuss Specht v. Netscape brief
4. Grading & Exams

A. Grading
Because this course is a mandatory 1L course, the mandatory grade curve policy will apply. Grades will be calculated on the following basis:

40% Exams
   Autumn Exam: 10% of final grade
   Winter Exam: 30% of final grade

40% Team based learning:
   Autumn: 20%
      3 graded RAT individual scores: 10%
      3 graded RAT team scores: 5%
      TBL team results: 5%
   Winter: 20%, allocation to be determined

*Difference maker: good peer assessment can shift a borderline grade up, bad peer assessment can shift a borderline grade down.

10% Participation in other class discussion (Socratic method): 10%

10% Participation in pass/fail writing exercises (e.g., contract drafting, Master Legal Basics): 10%

100% Total

B. Exams
My old Contracts exams are available from the exam archive maintained by Gallagher Law Library. From time to time, I will distribute old exam questions in class and discuss possible answers in a later class. An optional exam review session will be scheduled outside of class time at the end of the Autumn Quarter. The date, time and location of the exam review will be announced later, but the most likely date/time will be Monday 2 December 2013 from 12:30-1:20. I will distribute a practice exam before the exam review session, and will discuss possible answers to the practice exam questions during the review session.

C. Team Based Learning
All students are required to complete this simple survey by 2 pm on Monday 23 Sept 2013: https://catalyst.uw.edu/webq/survey/jkwinn1/212769

The information collected in this survey will be kept confidential and will only be used to place students into teams for team-based learning. This information will not be shared with team members.

The goal is to create teams with the greatest possible diversity because diversity among team members generally contributes to more effective problem-solving.
Participation in Team-Based Learning will be assessed in several ways:

- Readiness assessment test individual scores: short multiple-choice tests on background material assigned for team-based learning exercise
- Readiness assessment test group scores: the same short multiple-choice tests on background material for team-based learning exercise as for individual scores

RAT Question Appeal process:
Any individual or team who believes that their answer to a RAT question was correct but was not given credit for being correct may submit a written appeal within one week of the RAT. The appeal must cite the assigned reading materials relied upon for the answer being appealed and provide a concise explanation for why the answer is correct. Appeals will be decided within one week and the results announced in class. If an appeal is successful, all student scores will be adjusted.

Peer assessment:
In the middle of the quarter and at the end of the quarter, students will be asked to evaluate the performance of their team members. I will know the identity of the students providing the feedback to their peers, but the feedback will be provided to other team members in anonymous or aggregate form so they will not know who provided it.

The first peer assessment will be pass/fail and strictly “formative” for students giving and receiving feedback. The second peer assessment will be treated as a “difference maker” (i.e. positive feedback can put a student on the border between two grades into the higher grade).

These peer assessments will include quantitative and qualitative elements. The quantitative elements will require students to complete the following form for each team member:

<table>
<thead>
<tr>
<th>Cooperative Learning Skills:</th>
<th>Never</th>
<th>Sometimes</th>
<th>Often</th>
<th>Always</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arrives on time and remains with team during activities</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Demonstrates a good balance of active listening &amp; participation</td>
<td></td>
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<td></td>
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<tr>
<td>Asks useful or probing questions</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Shares information and personal understanding</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Identifies references with relevant information</td>
<td></td>
<td></td>
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<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Self-Directed Learning:</th>
<th>Never</th>
<th>Sometimes</th>
<th>Often</th>
<th>Always</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is well prepared for team activities</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shows appropriate depth of knowledge</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Identifies limits of knowledge</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shows confidence in areas of understanding</td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Interpersonal Skills:</th>
<th>Never</th>
<th>Sometimes</th>
<th>Often</th>
<th>Always</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gives instructive feedback</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accepts instructive feedback</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shows care and concern for others</td>
<td></td>
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</tr>
</tbody>
</table>
The quantitative assessment will require students to write at least one sentence for each of the following 2 questions for each team member:

- What is the single most valuable contribution this person makes to your team?
- What is the single most important thing this person could do to more effectively help your team?

D. Socratic Method + CB Class Participation

Each student is expected to be prepared to discuss the assigned readings for each class. This means being able to identify the elements listed above and to provide some kind of substantive answer for the discussion questions in the textbook.

For administrative convenience, however, and to insure that all students are given an equivalent opportunity to participate in class discussions, I will normally call on students in alphabetical order (or reverse alphabetical order) after the first day of class.

Students who are called upon and found to be unprepared should expect to be called upon in the next class. If you expect to be called on but for some reason cannot prepare for class, please tell me before class that you need additional time and when you will be prepared.

E. Professionalism and Respectful Dialogue

In my interactions with students inside and outside class, I endeavor to behave professionally and engage in a respectful dialogue at all times. I am confident that each student in this class will undertake a similar endeavor. If you have any concerns about any aspect of the administration of this course, please contact me or Professor Mary Hotchkiss, Assistant Dean of Students, to discuss your concerns in confidence.

F. Accommodations

The UW is committed to ensuring that students with physical, mental, or sensory disabilities have equal access to its facilities and programs. To request accommodation, please contact Disability Services Office (DSO) at 206.543.6450 (TTY 206.543.6452), dso@u.washington.edu.

5. Student Feedback to Instructor

I will ask students to provide me with feedback in the following forms:

A. Minute Papers: end class one minute early, students provide anonymous comments:
   - What is the most significant thing you learned today?
   - What question is uppermost in your mind at the end of today’s session?

B. Student Advisory Team

I will ask for a few volunteers to form a “student advisory team to meet with me around once a month to provide me with feedback on my teaching and how the course is going. Students interested in
volunteering should read Gerald Hess, Student Involvement in Law Teaching and Learning, 67:2 UMKC
Law Review 343 (1998) to get an idea of what would be involved.

This “team” has nothing to do with the “Team Based Learning” discussed above. This activity is
completely voluntary and not graded. The idea is similar to the idea of “quality circles” used in business
process reengineering.

6. Administration

A. Office Hours
I am happy to meet with students outside of class as needed. If you would like to speak with me outside
of class, please feel free to stop by my office, telephone me or send me an email to schedule a meeting.

B. Rescheduled Classes
Due to unavoidable schedule conflicts, I regret that I will be out of town on Wednesday September 25
and Wednesday December 4. These classes will be made up through a combination of Tegrity video
lectures and online quizzes.

C. Podcasts
Classes will be recorded and the recordings distributed as podcasts. Access to the podcasts will be
restricted to students enrolled in this class and will end after the exam. The quality of the recordings is
generally quite low.

Students wishing to access the podcasts will need to set up their computers to receive RSS feeds using
iTunes. Information about how to do this is available here:
http://www.law.washington.edu/students/PodcastInstructions.pdf

D. Communications Protocols
I believe that email communications should be treated like written communications, not spoken
communications. I try to respond to email communications from students with regard to class matters
in a timely and effective way. I regret that sometimes I cannot respond as quickly as I would like, and
that sometimes I lose track of emails altogether. If you suspect that I have lost track of a message that
you have sent and you still need a reply, please resend the message noting that it is a second attempt.
To assist me in keeping up with my emails, I ask that students emailing me with questions related to
class follow this protocol:

A. Take time to organize your thoughts and clarify your question(s) before composing the message. As
you compose your message to me, please be as clear and concise as possible.

B. Edit and proofread each message before you send it to make sure that you have asked your
question(s) as clearly as possible. Be sure to provide relevant context. For example, if you are entitled
to certain accommodations, please remind me of that fact as I may not recall when reading an email the
identity of the student who sent it.

C. After I respond to your email query, be sure to acknowledge receipt of my response. If you have no
further questions, a simple “thanks” would be appreciated. This helps me to keep track of whether or
not the student query has been resolved.
7. Miscellaneous

A. Why have you adopted a “three track” approach to teaching Contracts?

University of Washington is actively encouraging faculty members to promote active learning in their classes with strategies like “flipping the classroom” and “team-based learning.”

Since I began teaching in 1989, I have tried many different approaches to teaching. TBL has been widely used in engineering and medicine for many years, and is now gaining attention in legal education. I believe it may be more effective than other approaches I have tried in the past.

B. What’s wrong with your arm?

The diagnosis is “non-union of ulna” (i.e. broken arm bone that did not heal). I broke my arm in March 2012 when I slipped on the stairs, but the injury was misdiagnosed so I never wore a cast. By the time it was obvious my arm was broken, it was too late to wear a cast. I got the arm brace nearly a year after the injury because it may help the fracture to heal (or it may not). If the arm brace doesn’t work, then at some point I may need to have surgery.

Please don’t be distracted by the arm brace, I’m not in pain. The arm brace has no more significance to my job performance than the fact that I wear eyeglasses to correct my eyesight.