Course Description & Objectives:

Contract law deals with the making and breaking of promises, and the consequences that stem from those actions. It is largely a common-law subject, meaning judicial interpretation, custom and traditions, rather than just statutory rules, have shaped contract law over time. However, we must still strive to take an integrated approach to contract law – because some promises can be broken with impunity while shattering others has severe consequences.

So, in taking this class, think carefully about how to best structure a societal approach to contract formation and enforcement. For instance, what criteria should determine which promises we will enforce and which ones we will not? And what should be the remedy if one’s promise is broken? Keep in mind, it can destroy the value of a person’s word if we do not allow them to enter into a contract, or if we refuse to enforce the one they have already signed.

The primary goals of this class are to:

- Analyze cases and learn basic principles of contract law by reading cases
- Understand how different courts apply contract law and achieve varying results
- Apply precedent and contract law to new factual situations
- Learn how to interpret contracts using various methods and approaches
- Understand some of the basic policy considerations involved in contract law and judicial decision making

Required Texts:
- Course Reader available online at the UW course website

Syllabus:
I have broken down the course into 5 parts:

- Part I - Principles of Promissory Obligation
- Part II - Remedies for Breach of Contract
- Part III - Assent
- Part IV - Policing the Bargain
- Part V - Performance and Nonperformance
Grading – Exams and Course Participation:

Exam: There will be a 3.5-hour, closed-book final exam at the conclusion of the course. I will offer an optional, ungraded midterm exam halfway through the course for those students interested in summative assessment/feedback on a mock exam without draconian consequences.

If you would like to use a computer to type your final exam, SofTest software must be used (alternatively, students are free to write their exams using bluebooks). Please note that there are several sample exams of mine on the UW course website to help prepare students for the midterm and final.

Class Participation: Please do attend and participate in class – it’s the best way to learn, do well, and enjoy your first year of law school. While your final grade in this course will be determined by your final exam score, your participation in class can affect your course grade if it is on the borderline between two grades. (I should add that participation quality counts far more than quantity – please don’t feel pressure to raise your hand out of fear that I am simply counting the number of times you speak; I assure you that is not the case).

Note: There is a mandatory grading curve in all 1L courses:
A: less than or equal to 15% of the class
A-: less than or equal to 40% minus (the % given to A)
B+: more than 75% minus (the % given A or A-)
B, B-, C, D and F: % discretionary

And finally, please relax – though 1L grades are important, they are not the meaning of life!

Disability Related Needs:

To request academic accommodations due to a disability, please contact Disability Resources for Students, 448 Schmitz Hall, 206-543-8924 (V/TTY). If you have a letter from Disability Resources for Students, please present the letter to me so that we can discuss the accommodations you might need in this class.

With that, I welcome you to contracts! I hope you will enjoy taking this course as much as I will love teaching it.
Part I. Principles of Promissory Obligation

A. Freedom to Contract; Freedom of Contract
1. Freedom to Contract
   Kessler, Gilmore, and Kronman (2)
   Hurley v. Eddingfield (3-4)
   Great Atlantic & Pacific Tea Co. (5)
   Runyon v. McCrory and accompanying material (6-27)

2. Freedom of Contract
   Unger, The Critical Legal Studies Movement (28-33)
   Bailey v. Alabama (34-42)
   M. Weber, Economy and Society (43-44)

B. Grounds for Enforcing Promises
   Introduction
   Cohen, The Basis of Contract (45-46)
   Restatement of Contracts, Second, § 1 and Comment, § 17 (47)

1. Formality
   Fuller, Consideration and Form (48-50)
   Comment: Formalism and the Seal (51-57)

2. Bargain/consideration
   Hamer v. Sidway (58-61)
   Restatement of Contracts, Second, §§ 71, 81 (62)
   Fried, Contract as Promise (63-64)
   Posner, Economic Analysis of Law (65-67)
   Williams v. Carwardine (68)
   Fischer v. Union Trust Co. (69-70)
   Comment: “Nominal” Consideration (71-74)

3. Benefit conferred
   Mills v. Wyman (75-77)
   Webb v. McGowin (78-82)
   Restatement of Contracts, Second, § 86 and Comment a (83-84)
   Note (84-85)
   Edson v. Poppe (86)
   Muir v. Kane (86)
   In re Schoenkrerman’s Estate (87)
   In re Crisan Estate (88-91)
4. Reliance/promissory estoppel
   Kirksey v. Kirksey (92-93)
   Ricketts v. Scothorn (94)
   Question (94)
   East Providence Credit Union v. Geremia (95-99)
   Question (99)
   Goodman v. Dicker (100-101)
   Feinberg v. Pfeiffer Co. (102-110)
   Restatement of Contracts, Second, § 90(1) (111)
   D’Ulisse-Cupo v. Board of Notre Dame High School (112)
   Question (112)
   Atiyah, The Rise and Fall of Freedom of Contract (113-117)
   Hillman, Questioning the “New Consensus” on Promissory Estoppel (118-131)

C. Fairness and Other Public Policy Limits on Enforcing Promises
   1. “Inadequate” consideration; Unconscionability
      Batsakis v. Demotsis and accompanying note (132-136)
      Embola v. Tuppela (137)
      American Home Improvement, Inc. v. MacIver (138-141)
      U.C.C. § 2-302 and first paragraph of Comment 1 (142)
      Restatement of Contracts, Second, § 208 and Comment (143-144)
      Dawson, Unconscionable Coercion (145)
      Waters v. Min Ltd. (146-149)
      Williams v. Walker-Thomas Furniture Co. (150-151)
      Shapiro, Courts, Legislatures, and Paternalism (152-154)
      Sandel, Liberalism and the Limits of Justice (155-157)
      Schwartz, A Reexamination of Nonsubstantive Unconscionability (158-172)

   2. “Illusory” promises and related fairness issues
      Wickham & Burton Coal Co. v. Farmers’ Lumber Co. (173-176)
      Gurfein v. Werbellovsky (177)
      Restatement of Contracts, Second, § 77 and Comment (178-179)
      Wood v. Lucy, Lady Duff-Gordon (180-181)
      Note (181-183)
      U.C.C. §§ 1-304; 2-306(2), & Comment 5 (184)
      Restatement of Contracts, Second, § 205 and Comment (185)
      Omni Group, Inc. v. Seattle-First Nat’l Bank (186-190)
      Corenswet, Inc. v. Amana Refrigeration, Inc. (191-194)
      Smith v. Price’s Creameries (195-199)
      Gianni Sport Ltd. v. Gantos, Inc. (200-202)
      Questions (202)
      Kessler, Gilmore, and Kronman, Contracts: Cases and Materials (203-217)

   3. Other statutory/public policy considerations
      Sharma v. USC (218-223)
Part II. Remedies for Breach of Contract

A. Monetary Damages

Introduction

Introductory Note (2-4)

1. The basic measure: expectation damages
   Hawkins v. McGee and accompanying note (5-10)
   Sullivan v. O’Connor (11-13)
   Comment: Controls over Jury Verdicts (14-17)
   Groves v. John Wunder Co. and accompanying note (18-28)
   Restatement of Contracts, Second, § 347 and Comment (29-30)
   Restatement of Contracts, Second, § 348 and Comment (31-32)
   Peevyhouse v. Garland Coal & Mining Co. (33-34)
   Question (34)
   Laurin v. DeCarolis Construction Co. (35-36)
   Comment: Damages As Punishment for Contract Breach (37-40)
   Louise Caroline Nursing Home, Inc. v. Dix Construction Corp. (41-43)

2. Rationales for the expectation measure (and their limitations)
   Why Not Reliance? (44)
   Sharp, Promissory Liability (45)
   Dawson, Restitution or (Expectation) Damages? (46)
   Restatement of Contracts, Second, Reporter’s Note to Ch. 16 (47-48)
   Posner, Economic Analysis of Law (49)
   Holmes, The Path of the Law (50-52)
   Friedmann, The Efficient Breach Fallacy (53-58)
   Craswell, Contract Remedies, Renegotiation, and Efficient Breach (59-62)
   Dworkin, Is Wealth a Value? (63-70)
   Posner, Economic Analysis of Law (71-72)

3. Limitations on recovery of expectation damages
   a. Avoidable damages
      Clark v. Marsiglia (73-74)
      Leingang v. City of Mandan Weed Board (75)
      Parker v. Twentieth Century-Fox Film Corp. (76-83)
      Mitigation Problem (84)
      Restatement of Contracts, Second, § 350 and Comment (85-87)
      U.C.C. §§ 2-703; 2-706(1); 2-711; 2-712 (88-89)
b. **Foreseeability/Consequential Damages**
   
   *Hadley v. Baxendale* (90-93)
   *Kerr Steamship Co. v. Radio Corp. of America* (94)
   *Lamkins v. International Harvester Co.* (95)
   *Victoria Laundry (Windsor) Ltd. v. Newman Industries, Ltd.* (96-97)
   
   Note: “Liable To Result” (98)
   
   Note: **Foreseeability Today** (99-101)
   
   U.C.C. § 2-715 and Official Comment 1, 2 (102)
   Restatement of Contracts, Second, § 351, Comment (103-104)
   *Valentine v. General American Credit, Inc.* (105-107)
   Restatement of Contracts, Second, § 353 and Comment (108)

c. **Uncertain damages**
   
   *Fera v. Village Plaza, Inc.* (113)
   Restatement of Contracts, Second, § 352 and Comment (114)

4. **Alternative interests: Reliance and Restitution**
   
a. **Reliance damages in lieu of expectation damages**
      
      Restatement of Contracts, Second, § 349 and Comment (121)
      *L. Albert & Son v. Armstrong Rubber Co.* (122)

   b. **Damages in promissory estoppel cases**
      
      Comment: *Promissory Estoppel Damages* (123-125)
      Review Restatement of Contracts, Second, § 90 & Comment d (126)
      *Hillman, Questioning the “New Consensus” on Promissory Estoppel* (127-132)

   c. **Restitution as a remedy for breach of contract**
      
      *United States v. Algernon Blair, Inc.* (133-135)
      Problem (136)
      *Oliver v. Campbell* (137)
      Note: **Discontinuity at Full Performance** (138-139)
      Restatement of Contracts, Second, § 373 and Comment (140-141)

5. **Contractual provisions setting damages (“Liquidated damages”)**
   
   *City of Rye v. Public Service Mutual Insurance Co.* (142-144)
   *Banta v. Stamford Motor Co.* (145)
   *Muldoon v. Lynch* (146)
   Question (146)
   Restatement of Contracts, Second, § 356(1) and Comment (147-148)
   U.C.C. § 2-718(1) and Official Comment 1 (149)
   *Wilt v. Waterfield* (150)
   Comment: *The Penalty Rule and “Efficiency”* (151-152)
B. Specific Performance

Van Wagner Advertising Corp. v. S&M Enterprises (153-158)
Curtice Brothers Co. v. Catts (159-160)
Restatement of Contracts, Second, § 360 (161)
U.C.C. § 2-716(1) and Official Comment 1, 2 (162)
Note (163)
American Broadcasting Co. v. Wolf (164-173)
Posner, Economic Analysis of Law (174)
Schwartz, The Case for Specific Performance (175-176)

C. Restitution as a remedy for the materially breaching party

Britton v. Turner (177-181)
Note (182)
Thach v. Durham (183)
U.C.C. § 2-718(2) and Official Comment 2 (184)
Reynolds v. Armstead (185)
Part III. Assent

A. The Making of Agreements
   Introduction
   Introductory Note (2-3)

1. Objective versus subjective theories of contract
   Embry v. Hargadine-McKittrick Dry Goods Co. (4-7)
   Question (8)
   Hotchkiss v. National City Bank of New York (9)

2. Is there an “offer”: Intention to be bound (or not)
   Keller v. Holderman (10)
   Moulton v. Kershaw (11-13)
   Sharp, Promissory Liability (14)
   Problem (15)
   Problem (16)

3. Indefiniteness
   Joseph Martin, Jr. Delicatessen v. Schumacher (17-20)
   Question (20)
   Note (21)
   Restatement of Contracts, Second, § 33 and Comment b (22)
   U.C.C. § 2-305(1), (4) and Official Comment 1, 2, 4, 6 (23-24)
   Southwest Eng’g Co. v. Martin Tractor Co. (25-26)
   U.C.C. § 2-204 and Official Comment (27)
   Question (28)

4. Misunderstandings
   Raffles v. Wichelhaus (29-30)
   Questions (30)
   Flower City Painting Contractors v. Gumina Constr. Co. (31-32)
   Problem (1) (33)
   Restatement of Contracts, Second, § 20 (34-35)

5. Termination of offers
   a. In general
      Restatement of Contracts, Second, § 36 (36)
   b. Lapse of time
      Textron, Inc. v. Froelich (37)
   c. Death or incapacity of offeror or offeree
      Davis v. Jacoby (38-44)
      Question (44)
      Note (Restatement of Contracts, Second, § 32) (45)
d. Revocation

Dickinson v. Dodds (46-48)
Restatement of Contracts, Second, § 25 and Comment (49)
Petterson v. Pattberg (50-54)
Wormser, The True Conception of Unilateral Contracts (55-56)
Comment: The Unilateral Contract (57-58)
Restatement of Contracts, Second, § 45 and Comment (59)
Brackenbury v. Hodgkin (60-62)
Question (62)
Note: Doubt as to the Form of Acceptance (Restatement of Contracts, Second § 62) (63-64)
Review U.C.C. § 2-204(3) (65)
U.C.C. § 2-206(1) and Official Comment 1, 3 (65)
James Baird Co. v. Gimbel Bros., Inc. (66-69)
Drennan v. Star Paving Co. (70-74)
E.A. Coronis Assoc. M. Gordon Constr. Co. (75)
Restatement of Contracts, Second, § 87 and Comment (76)
Question (77)

6. Valid means of acceptance

a. General concepts

Livingstone v. Evans (78-79)
Questions (79-80)
Comment: The “Deviant Acceptance” at Common Law (81-83)

b. The “battle of the forms”

Contract Formation Through the Exchange of Printed Forms (84-86)
U.C.C. § 2-207 and Official Comment (87-89)
Idaho Power Co. v. Westinghouse Electric Corp. (90-94)
Comment: The Qualified or Conditional Acceptance (95-98)

c. The mailbox rule

Restatement of Contracts, Second, § 63 and Comment (99)
Problem (100)

d. Silence as acceptance

Day v. Caton (101-103)
Restatement of Contracts, Second, § 69(1) (104)
Hobbs v. Massasoit Whip Co. (105-106)
Comment: The Privilege of Silence (107-110)

B. Written Contracts, the Statute of Frauds and the Parol Evidence Rule

Introduction

Introductory Note (111)
The Statute of Frauds (112-122)
U.C.C. § 2-201 and Official Comment (123-126)
1. **Parol Evidence Rule; Integration and additional or inconsistent terms**  
   *Mitchill v. Lath* (127-132)  
   Note: *Believability and “Naturalness”* (133-134)  
   Hatley v. Stafford (135-141)  
   Restatement of Contracts, Second, § 209, § 213(1) and Comment, § 214, § 216 and Comment (142-144)

2. **Ambiguity**  
   Interpretation of Written Agreements (145-147)  
   *Bethlehem Steel Co. v. Turner Constr. Co.* (148-149)  
   *Berg v. Hudesman* (150-159)  
   U.C.C. § 2-202 and Official Comment (166-167)  
   Note (168)  
   Restatement of Contracts, Second, § 212 and Comment (169)

C. **Assent to Standardized Forms**  
   Introductory Note (170-172)  
   *Mundy v. Lumberman’s Mut. Cas. Co.* (173-175)  
   Comment: *Form “Contracts”* (176-179)  
   Gilmore, *Logic and Experience* (180-181)  
   U.C.C. §§ 2-314, 2-315, 2-316(2), (3) (182-183)  
   *Richards v. Richards* (184-189)  
   Note (189-190)  
   *Broemmer v. Abortion Services of Phoenix* (191-198)  
   *Hill v. Gateway 2000* (199-203)  
   Restatement of Contracts, Second, § 209(1) (204)  
   Restatement of Contracts, Second, § 211 and Comment (204-05)  
   Comment: *Section 211 and “Reasonable Expectations”* (206-10)
Part IV. Policing the Bargain

A. Duress in Formation of Contracts
Farnsworth and Young, *Contracts: Cases and Materials* (2-4)
Duress Hypotheticals (5)

B. Revisions of Contractual Duty & Duress
Introductory Note (6)
*Austin Instrument Co. v. Loral Corp.* (7-11)
*Wolf v. Marlton Corp.* (12)
*Alaska Packers’ Ass’n v. Domenico* (13-17)
*Schwartzreich v. Bauman-Basch, Inc.* (18)
Questions (18-19)
*Goebel v. Linn* (20)
Note: *Things “Not Anticipated”* (26-28)
U.C.C. § 2-209(1) and Official Comment 1, 2 (29)
*Fried v. Fisher* (30-33)

C. Mistake and Nondisclosure
1. Mistake
   a. Mutual mistake
      *Sherwood v. Walker* (34-39)
      Questions (40)
      Note: *Reformulating Sherwood* (41-42)
      Restatement of Contracts, Second, § 152 and Comment (43)
      Restatement of Contracts, Second, § 154 and Comment (44-45)
   b. Unilateral mistake
      *Osberg v. City of the Dalles* (46-52)
      *Elsinore Union Elementary School Dist. v. Kastorff* (53-58)
      Restatement of Contracts, Second, § 153 (59)
      Comment: *Information and Mistake* (60-61)

2. The duty to disclose information
   *Reed v. King* (62-63)
   *Eytan v. Bach* (64)
   Note: *Nondisclosure and Concealment* (65-67)
   Restatement of Contracts, Second, § 161(b) & Comment (68-69)
Part V. Performance and Nonperformance

A. Justifications for Nonperformance
   1. Failure of Conditions
      Kingston v. Preston (2-3)
      Williston, Contracts (4)
      Restatement of Contracts, Second, § 234 and Comment, § 238 (5)
      Conley v. Pitney Bowes (6-9)
      Stewart v. Newbury (10-13)
      Question (13)
      U.C.C. § 2-307 and Official Comment (14)

   2. Impossibility and Impracticability
      a. Development of the doctrine
         Taylor v. Caldwell (15-18)
         Harrison v. Conlan (19)
         Garman (20)
      b. Modern approach
         U.C.C. § 2-615 and Official Comment (25)
         Mishara Constr. Co. v. Transit-Mixed Concrete Corp. (26)
         Unger, Law in Modern Society (27-31)
         Speidel, The New Spirit of Contract (32-40)

   3. Frustration of purpose
      Krell v. Henry (41-45)
      Restatement of Contracts, Second, § 265 (46)
      Posner & Rosenfield, Impossibility and Related Doctrines (47-51)
      Kull, Mistake, Frustration, and the Windfall Principle (52-55)

B. Unjustified Nonperformance & the Problem of Forfeiture
   1. The Perfect-Tender Rule & the doctrine of Substantial Performance
      Oshinsky v. Lorraine Mfg. Co. (56-57)
      Ramirez v. Autosport (58)
      U.C.C. § 2-601, 602(1), 605(1), 703 (59-60)
      Beck & Pauli Lithographing Co. v. Colorado Milling & Elevator Co. (61)
      Bartus v. Riccardi (62-64)
      Worldwide RV Sales & Service v. Brooks (65)
      U.C.C. § 2-508 and Official Comment 1-3 (66-67)
      Plante v. Jacobs (68-71)
      Jacob & Youngs v. Kent and accompanying note (72-73)
**Contract Law Reading Assignment List**
(Prof. Calandrillo, Winter 2017, 7 credits)

<table>
<thead>
<tr>
<th>Class</th>
<th>Day</th>
<th>Date</th>
<th>Assignment to read before that class session</th>
</tr>
</thead>
<tbody>
<tr>
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<td>(NOTE: No Class first week of January due to AALS Law Prof’s Conference in San Francisco)</td>
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</table>

1. Monday 1/9 Part I.A.1
3. Thursday 1/12 Finish Part I.B.1 and Part I.B.2
4. Friday 1/13 Part I.B.3

**No Class Monday 1/16 – MLKJ Day**

5. Wednesday 1/18 Part I.B.4 through RSC, 2\textsuperscript{nd} § 90(1)
6. Thursday 1/19 Finish Part I.B.4 and Part I.C.1 through *Batsakis*
7. Friday 1/20 Continue Part I.C.1 through Shapiro
8. Monday 1/23 Finish Part I.C.1, Part I.C.2 through *Omni*
10. Thursday 1/26 Part II.A. Introduction, Part II.A.1 through RSC, 2\textsuperscript{nd} § 348
11. Friday 1/27 Finish II.A.1, Part II.A.2 through RSC, 2\textsuperscript{nd}, Reporter’s Note
12. Monday 1/30 Finish Part II.A.2
13. Wednesday 2/1 Part II.A.3.a, Part II.A.3.b through *Hadley*
14. Thursday 2/2 Finish Part II.A.3.b
15. Friday 2/3 Part II.A.3.c, Part II.A.4.a, Part II.A.4.b
16. Monday 2/6 Part II.A.4.c, Part II.A.5 through *Question after Muldoon*
17. Wednesday 2/8 Finish Part II.A.5, Part II.B through *Note on II-163*
18. Thursday 2/9 Finish Part II.B, Part II.C
19. Friday 2/10 Part III.A Intro, III.A.1, III.A.2, III.A.3 through *Martin Delicatessen*

**No Class Monday 2/20 (President’s Day)**

24. Wednesday 2/22 Part III.B Introduction, III.B.1
25. Thursday 2/23 Part III.B.2, III.C through *Mundy*
26. Friday 2/24 Finish Part III.C
27. Monday 2/27 Part IV.A, IV.B through *Questions on pp. 18-19*
28. Wednesday 3/1 Finish Part IV.B, IV.C.1.a
29. Thursday 3/2 Part IV.C.1.b, IV.C.2
30. Friday 3/3 Part V.A.1, V.A.2.a
31. Monday 3/6 Part V.A.2.b, V.A.3
32. Wednesday 3/8 Part V.B.1 (Last Day of Instruction for Winter quarter)
33. Thursday 3/9 Final Exam Review Session

* Fine Print Legal Disclaimer: Assignments for each date are estimates only, and subject to change on short notice.