

CONTRACTS A501-B

WINTER 2021

Professor: Scott Schumacher sschum@uw.edu

Class Meetings Monday, Tuesday, Thursday, 10:30 to 12:20, via Zoom

Group Office hours: Tuesdays: 3:30 to 4:30. Individual office hours by appointment

Course Materials

- **Required Textbook:** EPSTEIN, MARKELL & PONOROFF: CASES AND MATERIALS ON CONTRACTS: MAKING AND DOING DEALS (5th Ed.) (West Academic Publishing) (*Epstein*)
- Article 2 of the Uniform Commercial Code (UCC), which can be found here: <https://www.law.cornell.edu/ucc/2>
- Restatement (Second) of Contracts, which can be found here: <https://heinonline-org.offcampus.lib.washington.edu/HOL/Index?index=ali/seccontract&collection=ali>

Course goals and objectives

This course is designed to introduce you to the basic principles of contract law. We will be reading many cases in which the course applies the principles or “rules” of contract law. These rules are common-law principles that have developed throughout history. Basic contract rules (in general) are not by statute but rather through custom, tradition, and judicial interpretation. As times have changed, so has contract law. We will examine how certain rules have evolved to deal with changed times and circumstances. For example, the advent of electronic contracting and the use of the Internet, have created the need for new application of common law rules. In contrast, we will also examine key parts of Article 2 of the Uniform Commercial Code (UCC), which covers contracts for the sale of goods. Unlike the common law, the UCC is statutory law that has been enacted by state legislatures. We will also examine what role contractual principles play in how parties reach agreements and resolve contractual disputes.

Learning Outcomes.

Students will learn to:

- Analyze cases and learn key principles of contract law through 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 and contractual provisions using various methods and approaches; and

- Understand some of the basic policy considerations involved in contract law and judicial decision making.

Class Participation and Attendance.

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 to questions in the textbook following the cases. If you expect to be called upon but have a legitimate reason for why you were unable to prepare for class, please tell me before class. Failure to come prepared for class on a repeated basis will impact your class participation grade. Under ABA Accreditation Standard 304, adopted in August 2004, a law school requires regular and punctual class attendance. If you are unable to attend class, please provide me with advanced notice if possible or an explanation for your absence if advance notice is not possible. Failure to provide advance notice or subsequent explanation for an absence will result in your absence being considered unexcused. A student who has more than two unexcused absences may have one point deducted from their final exam score.

Zoom Protocols

Here are some suggestions to help make Zoom classes as smooth and effective as possible:

- Reboot Computer. Reboot your computer before each online class. It will clear out programs operating in background and help ensure that you have a good video and audio connection.
- Zoom Sign-In. We will use the same Zoom link for all classes. Please log-in a few minutes early to give yourself time to resolve any technical issues, retrieve a needed book or notebook, and the like. Classes will begin promptly at 10:00am.
- Use Video: Please keep your video camera on so we can see one another. This is for the benefit of both of us. For me, the feedback I get from being able to see and engage you is important and helps me assess whether we need to stay on an issue or move on. For you, if you turn off your video, you will find yourself mentally disconnecting from the class discussion and sinking into passivity. I know this to be true because I turned my video off during a faculty meeting and quickly fell into a sound sleep. If there is a personal or technical problem with your video connection, please let me know in advance.
- Keep your microphone muted when not talking: Zoom can only carry the audio feed from one participant at a time. If your microphone is active, Zoom will default to you every time you shuffle a paper, clear your throat, or someone walks through your room and makes any noise. So, please keep your microphone muted. BUT please activate your microphone if I call your name, as a question typically will follow and it's helpful if you are able to respond without delay.
- You can change your background: If you don't want to display your room, you can use a virtual background. Try and pick something appropriate and not distracting.

Office Hours

I will have open office hours for contracts on Tuesdays from 3:30 to 4:30. Since I am teaching a large class, I will hold an open office hour solely for my Contracts' students. This means that any student from our class should drop by and feel free to join in the discussion at any time and I will

podcast/record those discussions. At times, I will specifically designate additional office hours for students can come individually or collectively to my office to ask questions about class. Of course, students should feel free to contact me to request an individual appointment outside of the group office hours. If you need to see me at other times, please make an appointment. In making a request for a meeting, please send me an email, which states the reason you are requesting an appointment and the nature of your questions. This will allow me to be better prepared for your questions and to set aside enough time to work with you.

Grading

There will be two examinations for this course. One in February that will count for 30 percent of your final grade and one in March that will count for 60 percent of the final grade. Class participation is worth 10 percent of your grade.

Access and Accommodation

If you have already established accommodations with Disability Resources for Students (DRS), please communicate your approved accommodations to me at your earliest convenience so we can discuss your needs. If you have not yet established services through DRS, but have a temporary health condition or permanent disability that requires accommodations (conditions include but not limited to; mental health, attention-related, learning, vision, hearing, physical or health impacts), you are welcome to contact DRS at 011 Mary Gates Hall or 206-543-8924 or uwdrs@uw.edu or disability.uw.edu. DRS offers resources and coordinates reasonable accommodations for students with disabilities and/or temporary health conditions. Reasonable accommodations are established through an interactive process between you, your instructor(s) and DRS. It is the policy and practice of the University of Washington to create inclusive and accessible learning environments consistent with federal and state law.

Readings for class

You should bring your casebook to class. My suggestion is that you read the Restatement rules first, then the casebook if possible, which will help you to understand how the more “black-letter” Restatement rules are applied and used by courts and lawyers.

JANUARY 4

Topics Discussed:

- Course Overview

Readings:

- Epstein pp. 1-37

JANUARY 5

Topics Discussed:

- The Contract Recipe – Offer, Acceptance, Consideration and Mutual Assent

Readings:

- Epstein pp. 43-66
- Restatement Sections 17, 20
- UCC Section 2-204

JANUARY 7

Topics Discussed:

- Offers

Readings:

- Epstein pp. 66-92
- Restatement Sections 24, 26, 30, 32-33
- UCC Sections 2-206, 2-308, 2-309

JANUARY 11

Topics Discussed:

- Destroying the Offer
- Preserving the Offer

Readings:

- Epstein pp. 92-100, 110-122
- Restatement Sections 36-40, 42-43, 45-46, 48, 87
- UCC Section 2-205

JANUARY 12

Topics Discussed:

- Modes and Methods of Acceptance
- Offerors Control over the Manner of Acceptance
- Effectiveness of Promissory Acceptance

Readings:

- Epstein pp. 122-150
- Restatements Sections 50-54, 56, 58-63, 69
- UCC Sections 2-207, 2-208

JANUARY 14

Topics Discussed:

- Effectiveness of Acceptance by Performance
- Acceptance by Silence or Inaction

Readings:

- Epstein pp. 150-166

JANUARY 18

- No Class, Martin Luther King, Jr. Holiday

JANUARY 19

Topics Discussed:

- Electronic acceptances

Readings:

- Epstein pp. 205-224

JANUARY 21

Topics Discussed:

- Consideration

Readings:

- Epstein pp, 271-296
- Restatement Sections 71, 73-74, 79, 81-84, 86-87

JANUARY 25

Topics Discussed:

- Problems with Agreements
- Statutes of Fraud

Readings:

- Epstein pp. 365-387
- UCC Section 2-202

JANUARY 26

Topics Discussed:

- Fraud, Fraudulent or Material Misrepresentation and Nondisclosure
- Lack of Capacity
- Duress and Undue Influence

Readings:

- Epstein pp. 387-414
- Restatement Sections 12, 14, 161-164, 168-169, 174-177
- UCC Section 2-721

JANUARY 28

Topics Discussed:

- Illegality and Public Policy
- Unconscionability

Readings:

- Epstein pp. 420-443
- Restatement Sections 178-179, 208
- UCC Section 2-302

FEBRUARY 1

Topics Discussed:

- Mistaken Factual Assumptions and other Kinds of Mistakes

Readings:

- Epstein pp, 443-463
- Restatement Sections 151, 152-154, 157-158

FEBRUARY 2

Topics Discussed:

- Reliance and the Legal concept of Promissory Estoppel

Readings:

- Epstein pp. 326-359
- Restatement Sections 90 and 349

FEBRUARY 4

Topics Discussed:

- Contract Substitutes
- Implied contracts

Readings:

- Epstein pp. 949-977
- Restatement Sections 86, 158, 270-374, 376-377

FEBRUARY 8

Topics Discussed:

- Where do Terms Come From?
- Parol Evidence

Readings:

- Epstein pp. 465-497
- Restatement Sections 209-216
- UCC Section 2-202

FEBRUARY 9

Topics Discussed:

- Parol Evidence continued

Readings:

- Epstein pp. 497-547

FEBRUARY 11

- Mid-term exam in class

FEBRUARY 14

- No Class, Presidents Day Holiday

FEBRUARY 16

Topics Discussed:

- Overview of Breach of Contract
- Excuse
- Impracticability and Frustration of Purpose

Readings:

- Epstein pp. 631-632, 669-685
- Restatement Sections 231-234

FEBRUARY 18**Topics Discussed:**

- Material Breach
- Anticipatory Repudiation

Readings:

- Epstein pp.708-729, 739-750

FEBRUARY 22**Topics Discussed:**

- Money Damages

Readings:

- Epstein pp.769-800
- Restatement Sections 236-238

FEBRUARY 23**Topics Discussed:**

- Expectation Damages
- Damages under the UCC
- Buyers' Remedies

Readings:

- Epstein pp. 800-815
- Restatement Sections 344, 347
- UCC Sections 2-712 to 2-717

FEBRUARY 25

Topics Discussed:

- Enforcement
- Seller's Remedies under the UCC

Readings:

- Epstein pp. 820-830
- UCC Sections 2-701- to 2-711

MARCH 1

Topics Discussed:

- Reliance Damages and Promissory Estoppel
- Limitations on Damages

Readings:

- Epstein pp. 831-859

MARCH 2

Topics Discussed:

- Limitations on Monetary Damages continued
- Certainty
- Liquidated Damages
- Limitation to Repair, Replace or Return

Readings:

- Epstein pp. 867-875, 883-890, 901-902
- Restatement Sections 350-252, 356
- UCC Section 2-718

MARCH 4

Topics Discussed:

- Specific Performance

Readings:

- Epstein pp. 903-923
- Restatement Section 357

- UCC Section 2-716

MARCH 8

Topics Discussed:

- Restitution as an Alternative Measure of Damages

Readings:

- Epstein pp. 936-947

March 9

- Review