

Contracts I (Law 103)

Willamette University College of Law
Fall 2021

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COURSE DESCRIPTION AND OBJECTIVES

This course addresses the following topics: mutual assent (e.g., offer and acceptance, rejection and revocation, indefinite or missing terms, implied-in-fact contracts); validation and other bases for enforcement (e.g., consideration, “moral obligation,” reliance, unjust enrichment, contract modification/preexisting duties, compromise of claims); parol evidence and interpretation; performance and breach (e.g., conditions, obligations of good faith and fair dealing, excuse of conditions, discharge of contractual duties, express and implied warranties in sale-of-goods contracts, material breach, anticipatory repudiation).

Where applicable, these concepts will be taught based on the common law of contracts and/or application of Article 2 of the Uniform Commercial Code. Upon completion of the course, students should be able to identify different legal methods for creating legally enforceable promises, interpreting contracts, and evaluating the quality of contractual performance.

COVID-19 STATEMENT

I appreciate that many of you are currently experiencing significant personal and collective hardship, and will be as flexible and understanding of your needs and limitations as I possibly can.

AVAILABILITY

Open-Door Policy: I am available on a walk-in basis whenever my door is open, and am happy to hold virtual office hours by request.

Virtual Office: To attend virtual office hours, go to meet.rohangrey.net/office via a desktop or laptop browser. For mobile access, use the [Jitsi app](#).

ACCOMMODATIONS

Pledge of Support: Law school is hard enough at the best of times, and these are not the best of times. You shouldn't have to deal with the added stress of feeling like your professors are making your life harder or putting their interests above yours. It is my responsibility to provide support and make myself available to you in whatever ways are most helpful to you. I will do my utmost to honor that responsibility, and hope that you will hold me accountable if I fail to do so.

Accessibility: Willamette maintains an office of services for students with disabilities. The Accessible Education Services Director can be reached at 503-370-6471. Students who have a disability that may require auxiliary services should make an appointment with the Accessible Education Services Director to learn about eligibility and available services as soon as possible, preferably by the beginning of the semester.

TECHNOLOGY

Required: In addition to in-class discussion, students are expected to participate through two asynchronous platforms: this [Courseweb](#), which is a collaborative wiki platform based on the same wiki-engine used by Wikipedia, and [Coursechat](#), a chat platform designed for project-based communication, similar to Slack.

Other: Students are also invited, but not required, to take advantage of [Learning Library](#), which is an online supplement provided by the textbook publisher, featuring quizzes and other learning tools.

If you have any issues or questions with using technology, please don't hesitate to reach out, or post a query in the [Tech Support room on Courseweb](#).

MATERIALS

Textbook: We will be using David G. Epstein et al.'s [Contracts: Making and Doing Deals, \(5th ed. 2018\)](#). I will also be providing pdf transcriptions of the relevant textbook extracts on a class-by-class basis, so it is possible to get away with not buying the textbook at all. That said, the final exam will be open-book, so if you are planning on buying the textbook, it is recommended (but not required) that you purchase the hardcover version. Students are also encouraged to check out the textbook-accompanying [Learning Library](#), which has online quizzes and other revision tools, at www.casebookplus.com.

Other Materials: Other reading materials will be made available for download from the [Courseweb](#) before class.

FORMAT

Class discussion will generally focus around:

- Case analysis (textbook)
- Special topics (articles and essays)
- Legal Practice (news, current affairs, legal practitioner materials, etc)

ASSESSMENT

Grading: Your grade will be determined holistically on the basis of a combination of:

- Participation – Completion of readings and activities, as well as contributions made in class, during office hours, on the Courseweb and Coursechat, and elsewhere. See below for more details.
- Mini-Test (Optional) – Online multiple-choice test, modeled on the Bar Exam, to be taken around mid-semester (date TBA).
- Personal Essay – 1000 words on any topic related to class (instructions [here](#)). First draft due **5:00pm, Friday, October 15th** (to be confirmed).
- Final Exam – open-book examination (format TBD), consisting of legal problems and essays.

Evaluation: I see little pedagogical or social merit in structuring learning experiences and professional licensing schemes around high-stakes standardized exams, or in evaluating student performance on the basis of standardized grades issued on an arbitrary distribution curve. Both practices should be abolished, in my opinion. However, this is the world in which we find ourselves, and we must accommodate ourselves to its constraints. This course represents my best attempt at balancing these different considerations, but it remains a work in progress. Any suggestions, thoughts, feedback, or criticism are welcome. Please do not be shy about speaking up - it is your education.

PARTICIPATION

The following represents a non-exhaustive list of activities and ways in which to participate beyond in-class discussion:

- Creating and editing pages on the Courseweb – *Note: you can create and edit pages for any topic, for any purpose related to the course. This includes public reflections on readings and/or other relevant texts, case and term summaries,*

personal writing, collaborative note-taking, and commenting and/or editing contributions made by other students;

- Attending in-person or virtual office hours and/or one-on-one meetings;
- Participating in asynchronous class discussions on [Coursechat](#);
- Submitting reflections directly to me privately via [Coursechat](#);
- Pursuing self-directed or guided independent research, and sharing your progress and results with the class or with me privately;

I am fairly agnostic and open-minded about the precise nature of your participation in this course as long as you are demonstrating effort, commitment, and improvement. That said, I expect every student to, at a minimum:

- Complete one case brief/summary (instructions forthcoming);
- Co-facilitate one class session (instructions forthcoming);
- Write at least 4 short reflections on special topic readings.

I encourage you to identify which modes of engagement work best and most authentically for you, and to focus your energy on them. If you feel that you would get more out of this experience by participating in ways other than those described above, please do not hesitate to reach out to me to talk about it. I will do everything I can to be flexible and accommodating.

BEHAVIOR

Conduct: Good lawyers conduct themselves with professionalism. I expect no less from you. That includes replying in a timely fashion to any emails that indicate a response is required, coming to class prepared to discuss the readings, and having your casebook on hand even when you are participating remotely. If you are unable to complete any assigned readings, activities, or assignments, please let me know as soon as possible, and I will my best to be accommodating.

Communications: Good lawyers treat their colleagues and clients with respect. To that end, please be considerate towards your fellow students and use their indicated name, title, and pronouns. I do not mind whether you choose to call me “Professor Grey,” “Professor,” or “Rohan.” However, I recognize that my ambivalence about being addressed informally is a [function of my privilege](#), and that institutional norms in favor of the use of proper titles for professors are an important bulwark against the disrespect and discrimination that academics from underrepresented backgrounds often face. Accordingly, please use the title “Professor” when referring other members of faculty.

TEXTBOOK

We will proceed sequentially through the textbook, focusing on the cases included in the [Outline](#).

I will assign specific readings for each session on a rolling basis based on our collective pace and priorities.

Please check the [Announcements section of the Courseweb homepage for this course](#) for up-to-date information about reading assignments.

I. Contract Law Foundations

- A. What do Lawyers and Law Students Need to Know About Contracts and Contract Law?
- B. What Is a First Year Course in Contracts?
- C. The Study of Contracts
 - 1. What Is a Contract?
 - 2. Sources of Modern Contract Law
 - a) Law and Equity
- D. Reading Cases

II. Mutual Assent: Offer

- A. Intent to Be Bound
- B. Definiteness
- C. Advertisements and Quotations
- D. Destroying the Offer
 - 1. Rejection
 - 2. Revocation
 - 3. Lapse of Time
 - 4. Death and Incapacity
- E. Preserving the Offer: Irrevocability

1. Option Contracts
2. Firm Offers
3. Promissory Estoppel
 - a) Option Contracts and Reliance

III. Mutual Assent: Acceptance

- A. Modes and Methods of Acceptance
- B. Timing of Acceptance
- C. Unilateral and Bilateral Contracts
- D. Silence and Acceptance
- E. Counteroffers and New Terms
 1. Common Law and the Mirror Image Rule
 2. UCC and the Battle of the Forms
 3. Rolling Contracts
- F. Electronic Acceptance
- G. Letters of Intent

IV. Validation of the Agreement

- A. Consideration
 1. Foundations
 - a) Bargained-For Exchange
 - b) The Benefit/Detriment Requirement
 2. Special Problems of Consideration
 - a) Nominal Consideration
 - b) Illusory Promises

c) Moral Obligation

3. Contract Modification

a) The Preexisting Duty Rule

b) Changed Circumstances

B. Promissory Estoppel

1. Foundations

2. Contemporary Applications

3. Charitable Giving

C. Quasi-Contract & Restitution

1. Unjust Enrichment and Restitution

V. Interpreting the Agreement

A. Proving Terms: The Parol Evidence Rule

1. Foundations

2. UCC and Parol Evidence

3. Exceptions to the Parol Evidence Rule

4. International Transactions

B. Interpreting Terms

1. Introduction

2. Expression of Intent

3. Maxims of Interpretation

C. Terms Provided by Courts and Legislators

1. Best Efforts

2. Good Faith and Fair Dealing

3. UCC Terms
4. UCC Warranties
 - a) Warranties & the UCC; Express Warranties
 - b) Implied Warranties
 - c) Disclaimers of Warranties

VI. Performance and Breach

- A. Foundations
- B. Conditions of Performance
 1. Finding Conditions
 2. Non-Occurrence of Conditions
- C. Waiver & Estoppel
- D. Prevention & Hindrance
- E. Material Breach
 1. Evaluating Performance
 2. Divisibility
 3. Election of Remedies
- F. UCC and Perfect Tender
- G. Anticipatory Repudiation
- H. Adequate Assurances

SPECIAL TOPICS

We will explore ten special topics across the semester according to the following schedule:

Topic 1 – Legal Education

Topic 2 – The Common Law

Topic 3 – Jurisprudence

Topic 4 – The Legal System

Topic 5 – Lawyering

Topic 6 – Money

Topic 7 – Financial Markets

Topic 8 – Technology

Topic 9 – Automation

Topic 10 – Networks