

Contracts Fall 2007

Professor Rafael Gely

Office: Room 415

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Teaching Hours: M, W 9:00 – 11:00 (Contracts)
1:30 – 3:00 (Employment Law)

Office Hours: Anytime. No appointment is necessary.

Text:

Barnett, Contracts: Cases and Doctrine 3rd Ed. (Aspen Law and Business)

Grades:

Final grades will be based on your performance on the final exam. Exams are open book and open notes. Open notes include the following: the assigned casebook, supplements, any handouts distributed in class and any notes personally prepared by you or prepared jointly with other members of the class. The final exam will be an in-class exam.

If a student has been irregular in his/her attendance or consistently unprepared, I may, with the approval of the Dean and upon notification of the student, require the student's withdrawal from the course or his/her exclusion from the examination.

First Day Assignment:

Please read pages 275-290.

Tentative Schedule

INTRODUCTION

Introduction to Course
"Peanuts" on Contracts

MUTUAL ASSENT

The Objective Theory of Assent (275-290)

What is an Offer?

- * Preliminary Negotiations (291-305)
- * Written Memorial Contemplated (305-314)
- * Revoking an Offer (314-321)

What is an Acceptance?

- * The Mirror Image Rule (321-325)
- * The Mailbox Rule (325-328)
- * Acceptance by Performance (328-332; 342-353)
- * Acceptance by Silence (353-355)
- * E-Commerce and Mutual Assent (355-367)

Discerning the Agreement

Interpreting the Meaning of Words (377-380; 389-402)

Filling Gaps in Terms (402-417; 423)

Identifying the Terms of the Contract (424-465)

Conduct Invalidating Assent

- * Misrepresentation (965-979)
- * Threats and Duress (982-996)
- * Undue Influence (996-1002; 1008)
- * Unconscionability (1009-1026)
- * Mistakes (1027-1061)

CONSIDERATION

Bargains vs. Conditioned Gifts (604-618)

Past Consideration (619-620)

Moral Consideration (620-634)

Preexisting Duty Rule (634-650)

Adequacy of Consideration (650-658)

Nominal Consideration (671-676)

Promissory Estoppel

As a Substitute for Consideration (699-729)

As an Alternative to Breach of Contract (729-742)

Modern Applications (751-776)

PERFORMANCE, BREACH and DISCHARGE

Performance

- * Duty of Good Faith (797-813)
- * Warranties (814-838)
- * Conditions (839-851)

Breach

- * Constructive Conditions (863-875)
- * Anticipatory Breach and Adequate Assurances (876-884; 885-889)
- * Material Breach (889-903)
- * The Perfect Tender Rule (903-912)
- * Cost of Completion v. Diminution in Value (Introduction to Damages) (913-925)

Discharge

- * Impossibility & Impracticability (1060-1077)
- * Frustration of Purpose (1077-1087)

REMEDIES

Damage Interests (59-85)

Limitations on Damages

- * Remoteness or Foreseeability of Harm (86-90; 97-107)
- * Certainty of Harm (104-111; 115-123)
- * Avoidability of Harm (124-135; 140-146)

Contracting Around the Default Rules

- * Express Limitations on Consequential and Incidental Damages (146-147)
- * Liquidated Damages vs. Penalty Clauses (148-161)
- * Punitive Damages (168-172)

Specific Performance

- * Contracts for Land (183-189)
- * Contracts for Goods (189-198)
- * Contracts for Personal Services (203-207; 219-224)

Restitution (235-258)

WRITTEN MANIFESTATION OF ASSENT

The Parol Evidence Rule (467-487)

Statute of Frauds (490-513)

MULTI-PARTY TRANSACTIONS

Assignment of Rights (519-530)

Delegation of Duties (530-536)

Third-Party Beneficiaries (556-568)