

CONTRACTS II
(Law 503-0002)
Professor Christopher T. Hines
Spring Term 2012

Office: Swen Parson Hall, Room 194A
Office Hours: Tuesday, 2:00 PM – 4:00 PM, or by appointment
Telephone: (815) 753-9489
E-mail: chines@niu.edu

Lectures: 10:00 AM – 10:50 AM, Monday, Tuesday and Wednesday
Location: Swen Parson Hall, Room 186
Mid-Term Exam: March 7, 2012, 9:00 AM – 10:00 AM
Final Exam: May 4, 2012, 1:00 PM – 4:30 PM

Course Materials: Barnett, Randy E., *Contracts: Cases and Doctrine*, Fourth Edition, Aspen Publishers (ISBN 978-0-7355-6346-9) [CASEBOOK]

Barnett, Randy E., *The Oxford Introductions to U.S. Law: Contracts*, Oxford University Press (ISBN 978-0-19-974018-5) [RECOMMENDED]

Farnsworth, E. Allan, *Contracts*, Fourth Edition, Aspen Publishers (ISBN 0-7355-2642-7) [RECOMMENDED]

Farnsworth, E. Allan, et al., *Selections for Contracts*, 2010 Edition, Foundation Press (ISBN 978-1-59941-707-3) [SELECTIONS]

Attendance: Students shall regularly and punctually attend all classes. At the beginning of each class, students shall sign an attendance sheet. This shall be the only record of class attendance. Students shall sit in assigned seats as noted in a seating chart to be distributed on the day of the second lecture.

Additionally, note well that students are subject to the College of Law attendance policy set forth in the Student Handbook, which provides in relevant part: *Regular and punctual attendance is required in all classes. Faculty members shall impose sanctions on any student or students who miss more than 20 percent of the classes in any given course. Such sanctions may include, but are not limited to, grade reductions, exclusion from the final exam with an automatic grade of “F,” or withdrawal from the course with a grade of “W.”* Therefore, students who are absent for more than eight (8) classes for any reason will be subject to sanction, in such manner as to be determined in my discretion.

Participation: Student participation in classroom discussion is an essential element of the learning process, and is, as a consequence, strongly encouraged. I shall call upon students to participate in class discussion by means of a random process. If a student is not prepared for a given lecture, he/she shall write a note to me prior to the start of the lecture to such effect. However, a student who consistently “passes” on class participation shall receive an unfavorable participation score.

After final grades are reported to the Registrar on an anonymous basis, I reserve the right to make single incremental adjustments (e.g., “C+” to “B-”) based on consistent excellence in class performance when, in my opinion, the final grade in question does not fully reflect performance over a full semester.

Grading: Subject to the participation score as previously noted, the final grade for each student shall be determined: (i) ten percent (10%) by the mid-term examination to be administered on March 7, 2012; and (ii) ninety percent (90%) by the final examination to be administered on May 4, 2012. The mid-term examination will consist of one essay question and have a one hour time limitation. The final examination will consist of three essay questions and have a three-hour (together with a 30-minute grace period, for a total of three and a half hours) time limitation.

The mid-term and final examinations will be “limited” open book – i.e., students may bring to the examination the course materials, their own personal notes, any handouts as may be distributed in lecture, and any outlines that they have personally drafted. Any other materials, including without limitation any commercial outlines, shall be strictly forbidden in the examination room. Students are welcome to take the mid-term and final examinations either by means of an electronic application (e.g., ExamSoft) or by hand. In either case, students are strongly encouraged to draft their answers in a focused and disciplined manner, and with the aim of developing a clear and coherent argument in response to the questions presented.

While the Contracts II mid-term and final examinations will not directly concern any of the doctrines/theories of relevance in respect of the Contracts I final examination, an understanding of the general principles of contract law as informed by students’ Contracts I studies shall be assumed in connection with the Contracts II mid-term and final examinations.

Availability: As a matter of general policy, I will be pleased to meet with students enrolled in the course to further discuss the materials covered as well as any other matters of interest during office hours or by appointment. Regarding appointments, please note that the process is quite simple – just send me an email, let me know what you would like to talk about, and suggest some times you would like to meet. Admittedly, it may take a few days for me to respond to your email, but I generally try to respond rather quickly to requests from my students.

Accommodations: In accordance with Section 504 of the Rehabilitation Act of 1973, the College of Law makes reasonable accommodations for qualified students with disabilities. If you have a disability and may require some type of instructional and/or examination accommodation, please contact Lenny Mandell, the Associate Dean of Students, or me early in the semester so that we can provide or facilitate in providing accommodations you may need. If you have not already done so, you will need to register with the Center for Access-Ability Resources (“CAAR”), the designated office on campus to provide services and administer examinations with accommodations for students with disabilities. The CAAR office is located on the 4th floor of the University Health Services building (815-753-1303). We will be happy to assist in enhancing your academic success in this course.

Reading Assignments:

All required reading assignments are to the course materials, which may be supplemented by handouts as distributed during lecture. Note that, subject to the pace of the discussions in lecture, reading assignments may change.

| Class | Date | Casebook | Skim | Selections | Subject |
|-------|------|---------------------|---------|------------|--|
| 1 | 1/17 | 585-611 | | | <u>Part III: Enforceability</u> Principles of Enforceability |
| 2 | 1/18 | 612-622 | | | Principles of Enforceability |
| 3 | 1/23 | 622-626 | 626-629 | | Consideration: Bargains vs. Conditioned Gifts |
| 4 | 1/24 | 629-630; 635-638 | 630-635 | 29-32 | Consideration: Bargains vs. Conditioned Gifts |
| 5 | 1/25 | 638-643 | 644-648 | | Past, Moral Consideration |
| 6 | 1/30 | 649-656 | | 36-40 | Past, Moral Consideration |
| 7 | 1/31 | 656-661 | 661-665 | | Pre-existing Duty Rule |
| 8 | 2/1 | 666-672 | 672-679 | 40-43 | Pre-existing Duty Rule; Adequacy of Consideration |
| 9 | 2/6 | 681-692 | | | Functions of Formality; Manifesting Intention to be Legally Bound |

| Class | Date | Casebook | Skim | Selections | Subject |
|-------|------|--------------------|---------|------------------|--|
| 10 | 2/7 | 693-710 | | | Nominal Consideration; Recitals; Written Expression of Intention to be Legally Bound |
| 11 | 2/8 | 711-719 | | | Written Expression of Intention to be Legally Bound; Disclaiming Intention to be Legally Bound |
| 12 | 2/13 | 721-736 | | | Promissory Estoppel as Consideration Substitute |
| 13 | 2/14 | 736-749 | | | Promissory Estoppel as Consideration Substitute |
| 14 | 2/15 | 749-771 | | 43-47 | Promissory Estoppel as Alternative to Breach of Contract |
| 15 | 2/20 | 771-778 | | | Elements of Promissory Estoppel: Promise |
| 16 | 2/21 | 779-792 | | | Elements of Promissory Estoppel: Promise |
| 17 | 2/22 | 792-803 | 803-812 | | Elements of Promissory Estoppel: Reliance; Avoidance of Injustice |
| 18 | 2/27 | 815-831 | | | <u>Part IV: Performance and Breach</u> Implied Duty of Good Faith Performance |
| 19 | 2/28 | 831-849 | | | Implied Warranties of Merchantability and Fitness for a Particular Purpose; Express Warranties |
| 20 | 2/29 | 849-862 | | | Express Disclaimers of Warranty; Effect of a Condition |
| 21 | 3/5 | 862-878 | | 94-98 | Condition vs. Promise; Avoiding Conditions |
| 22 | 3/6 | 879-891 | | | Constructive Conditions |
| 23 | 3/7 | | | | MID-TERM EXAMINATION (9:00 AM – 10:00 AM) |
| 24 | 3/19 | 892-905 | | 268-272 | Anticipatory Repudiation and Adequate Assurances |
| 25 | 3/20 | 905-917 | | | Material Breach |
| 26 | 3/21 | problem on 917-918 | | | Material Breach |
| 27 | 3/26 | 929-940 | 941-948 | 161-164; 506-514 | Cost of Completion vs. Diminution in Value |
| 28 | 3/27 | 951-967 | | | <u>Part V: Defenses to Contractual Obligation</u> Defenses to Contract: Introduction; Lack of Capacity; Incompetence |
| 29 | 3/28 | 967-979 | | | Defenses to Contract: Infancy |
| 30 | 4/2 | 981-998 | | | Improper Means: Misrepresentation |
| 31 | 4/3 | 999-1011 | | | Improper Means: Duress |

| Class | Date | Casebook | Skim | Selections | Subject |
|-------|------|-----------------------------------|-----------|-------------------|---|
| 32 | 4/4 | 1012-1018, 1024 | 1018-1023 | | Improper Means: Undue Influence |
| 33 | 4/9 | 1024-1032 | | 84-87; 237-238 | Improper Means: Unconscionability |
| 34 | 4/10 | 1033-1047 | | | Improper Means: Unconscionability |
| 35 | 4/11 | 1049-1062 | | | Mutual Mistakes |
| 36 | 4/16 | 1062-1074 | | 57-65 | Mutual Mistakes |
| 37 | 4/17 | 1074-1082 | | | Unilateral Mistakes and the Duty to Disclose |
| 38 | 4/18 | problem on 1082, 1083- 1092 | | 132-137 | Changed Circumstances: Impossibility and Impracticability |
| 39 | 4/23 | 1092-1099 | | 274-277 | Changed Circumstances: Impossibility and Impracticability |
| 40 | 4/24 | 1099-1109 | | 138-139 | Changed Circumstances: Frustration of Purposes |
| 41 | 4/25 | 1110-1122 | | | Allocation of Risk in Long-Term Contracts |
| 42 | 4/30 | 1123-1130 | 1130-1136 | | Relational Theory of Contract |