



Contracts

I. COURSE NUMBER AND TITLE: 612 Contracts

Semester & Year: Fall 2017

Course Start and End Dates: 8/21/2017-12/10/2017

Course CRN & Section: CRN 21890, Section 1

Meeting Days and Times: T/Th, 1:30 p.m. – 3:30 p.m.

Building and Room: Shepard Broad College of Law, L4

II. INSTRUCTOR:

Name: Phyllis Coleman

Email: colemanp@nova.edu

Phone: (954) 262-6166

Office Hours: T/Th 3:45 – 6, others by appointment (or just stop by)

III. COURSE DESCRIPTION:

Contracts (4 Credits) LAW 0612

Course providing a comprehensive study of the creation, transfer, and termination of contract rights and duties. **This is a required first year course for full and part time students.**

IV. LEARNING OUTCOMES:

Students completing this instructional offering are expected to:

- Demonstrate a knowledge of substantive legal doctrine fundamental to this course (e.g., case law, legal concepts, legal principles, regulations and statutes).
- Identify legal issues and apply legal reasoning and analysis to solve problems in a logical and structured manner to issues covered in this course.
- Communicate orally or in writing, or both, the legal reasoning and analysis regarding issues covered in this course.
- Demonstrate a proficiency in reading critically the materials assigned for this course.

V. REQUIRED TEXTS AND MATERIALS:

Title: Cases and Problem on Contracts (2011)

Author: John Calamari et al.

Publisher: West

Edition: sixth edition

ISBN-13: 9780314202857

There should be many used copies if you prefer.

Recommended: BRIAN A. BLUM, *EXAMPLES & EXPLANATIONS: CONTRACTS* (7th ed. 2017). ISBN-13: 9781454868415. This is a workbook and provides problems for review. I think it is helpful especially if you have a study group and discuss the issues among yourselves. It is not critical you get the most recent edition although (obviously) if you are going to work with study partner(s), you must all have the same edition. There should be many used copies of earlier editions available.

VI. COURSE REQUIREMENTS:

A. *Other Important Information:*

Class preparation is required. Failure to be prepared more than two times may result in your final grade being lowered to the next available grade pursuant to the Code of Academic Regulations. To be prepared, you must be able to respond to questions about the assigned materials. In addition, you must have a written brief using the attached form for each assigned case. **Briefs may be collected (especially if it seems that many people are struggling or simply not doing them). Failure to turn in a brief if I collect them will be counted as an unprepared for that day.** (If you have not printed a copy of your brief, you may email it to me but, to be considered timely, it must be sent **immediately** when I call for it.)

You also will be expected to draft answers to the *specifically assigned* questions at the end of each section in the casebook, as well as be able to use the readings to resolve hypothetical problems presented in class. **Failure to be able to respond about either will be counted as an unprepared.** This does not mean you have to be 100% correct but, rather, that you must be able to demonstrate you read the materials and made a good faith effort to understand them.

There will be a practice exam and four graded quizzes during the semester. See below for further details.

There will be two extra classes. **These classes are voluntary and will only be review.** In other words, no new materials will be covered. They will also be recorded. They are scheduled for 3:45 to 5 on Tuesday, September 26, and Thursday, October 26 in L4. These are the class day before the first and third graded quizzes. The class will be no more than 60 minutes but I figured you might want to take a half hour break after our class and not start until 4. Either way is ok with me.

You will be given a 3x5 index card the first day of class from which you will be called on at random. If you do not turn in a card, your final grade may be lowered to the next available grade.

At our first class, you will also be given a “tent” card with your name on it. Please display it in front of you for the first few weeks of class so that I can more quickly learn your names. If you have a nickname, or other name you prefer, please see me and I will change your card.

Classes may **not** be recorded without prior approval.

Although it is unlikely, sometimes circumstances require changes in the syllabus. If so, I will provide written notice in advance of the modification.

B. Professionalism

Professionalism is as important a component of this course as it is in the practice of law. Consequently, you are expected to behave in class as you would in a courtroom or law office (although more casual classroom attire is appropriate).

Arrive on time. This means that, at 1:30, you should be in your seat and ready to work (computers on, books open, and briefs ready). Although I would prefer not to, if tardiness becomes a problem, I will, with prior written notice, invoke the school rule that missing any portion of a class will be marked as an absence. *See Code of Academic Regulations*, § 2.1.3. Obviously, I understand that things happen and someone might be late one day. My concern is recidivists.

Laptops may not be used during class for anything but Contracts. Please do not engage in distracting or disruptive behavior including (but not limited to) “surfing” the Internet, instant messaging, chatting with your neighbor, leaving during class time (except in an emergency), and similar unacceptable activities.

All cell phones and beepers must be turned off during class. (Please let me know in advance if you are experiencing some emergency for which you need an exception to this rule.)

If you engage in rude, unprofessional behavior, I may tell you to leave class or reduce your grade to the next available grade (or impose some other appropriate sanction).

C. Practice exam and quizzes

Our practice exam is just that -- practice (in other words, it will not count toward your grade in this class). Your final grade will be based on the graded quizzes and a closed book examination scheduled for **November 30, 2017**. (Exact time and place are set late in the semester by Student Affairs.) The points earned on the quizzes will be added to your final exam grade. Quizzes will be given and reviewed during our regular class sessions. Dates are listed on the assignments.

D. Attendance Policy:

Regular attendance is required.

This course follows the attendance policies detailed in the *Code of Academic Regulations*

available at:

<https://intranet.law.nova.edu/intranet/students/student-services/documents/CodeOfAcademicRegulationMay2015final.pdf>. **The maximum number of absences allowed before a student receives an F for excessive absences in this course is five.**

If you are absent more than five times, pursuant to the Code of Academic Regulations, you will automatically be withdrawn from the class and receive a grade of “F.” Attendance will be taken every class. According to school rules, there are NO excused absences. See Code of Academic Regulations, § 2.1. It is your responsibility to make sure you sign the attendance sheet. Failure to do so by the time I walk out of class with the sheet creates an irrebuttable presumption that you were absent.

Credit Hour Requirements.

Out-of-Classroom Expectations: Students are expected to read all assigned materials and be prepared for all classes. As set forth in ABA Standard 310, students should spend a minimum of two hours of out-of-class preparation for every in-class hour in accordance with the *Code of Academic Regulations* available at:

https://www.law.nova.edu/about/documents/Code_of_Academic_Regulations.pdf

In this four-credit instructional offering, there are 3,000 required in-classroom minutes of direct faculty supervised instruction. You are required to spend at least 7,200 out-of-classroom minutes on class preparation for a total of at least 10,200 minutes (or 170 hours) on this course. (Remember, these are *minimums*.) Code of Academic Regulations, § 2.2.1.

VII. COURSE SCHEDULE AND TOPIC OUTLINE:

Schedule, place, rules, and accommodations

This class meets Tuesdays and Thursdays from 1:30 to 3:30 p.m. (Our first class, during orientation, will meet from 3 to 4:30 on Thursday, August 17. It will meet in L1 rather than L4.) This means I expect you will be in your seats, books open, computers turned on and ready to start promptly at 1:30. Only if tardiness becomes a problem, will I, with notice, invoke the school rule that if you miss any part of a class, you will be counted as absent.

We are supposed to meet in L4. Please check the latest schedule for any changes.

Failure to be prepared three or more times may result in your grade being lowered to the next available grade, pursuant to the *Code of Academic Regulations*, § 2.2.3.

Although I do not anticipate needing to, I reserve the right to change the syllabus if, due to changed circumstances, it becomes necessary.

If you need special accommodations, you must arrange them through Student Services and the

University (see below). **If you have not done so, please do it immediately.** The process takes time and, if you are going to be getting accommodations on the final exam, you want to make sure you get those same accommodations on the practice exam and the quizzes.

Assignments

August

- 17¹ **Chapter 1. The Agreement Process:** Lucy v. Zehmer, at 1; Balfour v. Balfour, at 5; Problems 3 and 4, at 16.
- 22 Texaco, Inc. v. Pennzoil, Co., at 6; Hawkins v. McGee, at 16; Editor's note, at 19; Jorie Roberts article, at 20; Sullivan v. O'Connor, at 21; Leonard v. Pepsico, Inc., at 22; Problem 6, at 29-30.
- 24 Lonergan v. Scolnick, at 32; Fairmount Glass Works v. Grunden-Martin Woodenware Co., at 34; Problems 10, 13, and 14, at 37; Haines v. City of New York, at 38; Wagenseller v. Scottsdale Memorial Hospital, at 40.
- 29 Eckles v. Sharman, at 78; Problems 19, 26(a), at 81-82; Broadnax v. Ledbetter, at 82; Carlill v. Carbolic Smoke Ball Co., at 84; A. W. Brian Simpson article, at 87; Problems 27, 30, 32, at 92-93; Day v. Caton, at 94; Wilhoite v. Beck, at 96; Miller v. NBD Bank, N.A., at 99; Hobbs v. Massasoit Whip Co., at 100; 39 U.S.C. § 3009, at 101; Problems 36, 37, 43, at 101-02; Bank and Credit Card Problems, at 102-03.
- 31 Petterson v. Pattberg, at 103; Brackenbury v. Hodgkin, at 107; Problems 45, 46, 47, at 112; Problem 49, at 115-16; Cantu v. Central Education Agency, at 119; Problems 53, 61, at 121-22; Swift v. Smigel, at 123; Problems 62, 68, 69, 72 at 127-29.

September

- 5 Arden v. Horan, at 129; Problem 74, at 143-44; Beall v. Beall, at 171; Problem 81, at 173; (The material we skipped and problems on 174-75 are governed by UCC which we will not cover. There are UCC classes you **should** take at some point.) **Chapter 2. Consideration:** Kim v. Son, at 176; Hamer v. Sidway, at 177; Kirksey v. Kirksey, at 180.
- 7 Fiege v. Boehm, at 188; Problems 1, 2, 3, at 192-93; Schwartzreich v. Bauman-Basch, Inc., at 194; Angel v. Murray, at 197; Problems 8, 9, 12, 14, at 204-05; Wood v. Lucy, Lady Duff-Gordon, at 214; Mezzanotte v. Freeland, at 216.
- 12 Miami Coca-Cola Bottling Co. v. Orange Crush Co., 219; Summits 7, Inc. v. Kelly, at 226; Problems 23, 24, 25, at 230-31; **Chapter 3. Moral Obligation and Consideration:** Sheldon v. Blackman, at 232; Banco do Brasil S.A. v. State of Antigua and Barbuda, at 236; Harrington v. Taylor, at 238; Webb v. McGowin, at 238; Problems 1, 2, at 242.

¹ This class is during orientation. Unlike our regular class (which officially begins Tuesday, August 22, at 1:30 to 3:30, currently scheduled for L4), we will meet from 3 to 4:30, in L1. Although shorter (90 minutes rather than 120), this class has a reading assignment and, as is true for any other class, you will be expected to have a written brief for the assigned cases and written answers to the assigned problems.

- 14 **Chapter 4. Promissory Estoppel:** *Feinberg v. Pfeiffer Co.*, at 243; *Conrad v. Fields*, at 247; *Salsbury v. Northwestern Bell Telephone Co.*, at 252; *Drennan v. Star Paving Co.*, at 254; Problems 1, 2, 4, at 262; Examination Problem I., at 263. (To maximize the benefit of reviewing this problem in class as preparation for our practice exam next week), you should write out an answer **before** class as if it were an exam. If this were an exam question, at this point in the semester, I would give you 50 minutes to answer.)
- 19 **Practice exam.** Details to be provided. (If you are being accommodated on your final exam, you need to provide documentation to the University and arrange with Student Services **at the beginning of the semester to be accommodated** on this practice exam as well as our four graded quizzes.)
- 21 No class. Rosh Hashanah.
- 26 **Chapter 5. Parol Evidence and Interpretation:** *Mitchell v. Lath*, at 267; *Lee v. Joseph E. Seagram & Sons, Inc.*, at 272; *Val-Ford Realty Corp. v. J.Z.'s Toy World, Inc.* at 278; Problems 1, 8, at 279-80; *Pacific Gas and Elec. Co. v. G.W. Thomas Drayage & Rigging Co.*, at 280; *Raffles v. Wichelhaus*, at 290; Note on *Raffles*, at 291; Examination Problem, at 300 (answer in Appendix C so you can self-grade although, of course, you can ask me about any problems you might encounter).
- 28 **Chapter 8. Conditions, Performance and Breach:** *Audette v. L'Union St. Joseph*, at 380; *Inman v. Clyde Hall Drilling Co.*, at 381; Federal Rules of Civil Procedure, on 384. **Graded quiz** (during class).

October

- 3 Problems 2, 3, 4, at 385 (particularly good problems); *Thos. J. Dyer Co. v. Bishop International Engineering Co.*, at 392; *J.J. Shane, Inc. v. Aetna Cas. & Surety Co.*, at 397; Editor's note, at 398. Problems 7 and 8, at 405-06; *Stewart v. Newbury*, at 406; *Monroe Street Properties, Inc. v. Carpenter*, at 409.
- 5 *Jacob & Youngs, Inc. v. Kent*, at 411, 415; *Walker v. Harrison*, at 417; *K & G Construction Co. v. Harris*, at 420; Problems 12, 13, 14, at 425-26; Problems 19 and 20 at 438-39; *Swartz v. War Memorial Commission of Rochester*, at 448.
- 10 *Stop & Shop, Inc. v. Ganem*, at 450; Problems 22, 23, 24 at 461; *Clark v. West*, at 462; Problems 27 and 28, at 469-70; *Burger King Corp. v. Family Dining, Inc.*, at 471; *R & R of Connecticut, Inc. v. Stiegler*, at 480; Problems 34, 35, at 497-98; *Western Hills, Oregon, Ltd. v. Pfau*, at 498.
- 12 Problems 37, 38, at 508; *Hochster v. De La Tour*, at 508; *Cohen v. Kranz*, at 516; Problems 40, 43. **Graded quiz** (during class).
- 17 **Chapter 10. Enforcement Remedies:** Restatement (Second) Contracts § 344, at 22; Review *Hawkins v. McGee*, at 16; *Hadley v. Baxendale*, at 554; *Mader v. Stephenson*, at 561; *Rockingham County v. Luten Bridge Co.*, at 561; *Gruber v. S-M News Co.*, at 564; Problems 1, 2, at 568; *Parker v. Twentieth Century-Fox Film Corp.*, at 581; Problems 9, 10, 11, at 595; Problems 14, 15, at 604. (Depending on time, we may do these problems in the next class. They are great problems so we definitely review them.).

- 19 Reread *Jacobs & Youngs v. Kent*, at 411; *Patton v. Mid-Continent Systems, Inc.*, at 604; Daniel Friedmann article, at 606; *Wassenaar v. Panos*, at 609; Problem 19, at 623; *Oliver v. Campbell*, at 625; Problem 21, at 629; *Martin v. Schoenberger*, at 630; *Lancellotti v. Thomas*, at 630; Problem 24, at 634-35; *Centrex Homes Corp. v. Boag*, at 635; Alan Schwartz article; Problem 27, at 643.
- 24 *Karpinski v. Ingrassi*, at 644; *Howard Schultz & Associates v. Broniec*, at 648; Problems 28, 29, at 651-52; **Chapter 11. Third Party Beneficiaries:** *Lawrence v. Fox*, at 653; *Seaver v. Ransom*, at 657; *H.R. Moch Co. v. Rensselaer Water Co.*, at 660.
- 26 *Lucas v. Hamm*, at 666; Problems 1, 4, 7, at 669-70; *Erickson v. Grande Ronde Lumber Co.*, at 671; *Detroit Bank and Trust Co. v. Chicago Flame Hardening Co.*, at 673; *Rouse v. United States*, at 677; Problems 10, 11, 12 at 678-79.
- 31 **Chapter 12. Assignment and Delegation:** *Herzog v. Irace*, at 680; Problems 1, 2, 3, at 683; *Macke Co. v. Pizza of Gaithersburg, Inc.*, at 683; Problems 4, 5, 6, 7, at 693. **Graded quiz** (during class).

November

- 2 *In re Kaufman*, at 694; Problem 10, at 699; *Seale v. Bates*, at 699; *Western Oil Sales Corp. v. Bliss & Wetherbee*, at 703; Problems 11,13, at 705-06; *Associates Loan Co. v. Walker*, at 706.
- 7 **Chapter 6. Capacity of Parties:** *Petit v. Liston*, at 302; *Ortelere v. Teachers' Retirement Board*, at 305; Problems 1, 2, 3, 4, 6, at 313-14; **Chapter 7. Avoidance for Misconduct or Mistake:** *Gallon v. Lloyd-Thomas Co.*, at 315; *Austin Instrument, Inc. v. Loral Corp.*, at 319; Problems 1, 2, 3, at 323-24; *Francois v. Francois*, at 324; *Methodist Mission Home of Texas v. N ___A___ B___*, at 329; Problems 4, 5, at 332.
- 9 *Cousineau v. Walker*, at 333; *Vokes v. Arthur Murray, Inc.*, at 340; Problems 6, 8, 9, at 351; *Nelson v. Rice*, at 352; *Sherwood v. Walker*, at 356; Problems 12, 14, 15, 17, at 367-68; *Hoffman v. Chapman*, at 369; Problems 19, 20, at 372; *Williams v. Walker-Thomas Furniture Co.*, at 372.
- 14 **Chapter 9. Impossibility or Impracticability, and Frustration:** *Paradine v. Jane*, at 521; *Taylor v. Caldwell*, at 522; *CNA International Reinsurance Co., Ltd. v. Phoenix*, at 525; *Transatlantic Financing Corp. v. United States*, at 530; Problems 2, 3, 5, at 545; *Krell v. Henry*, at 546; *Western Properties v. Southern Utah Aviation, Inc.*, at 550; Problem 10, at 552; Short Essay Question, at 552. **Graded quiz** (during class).
- 16 **Chapter 13. Statute of Frauds:** J.M. Perillo article, at 716; *Ehrlich v. Diggs*, at 716; Problems 1, 2, 3, and 4, at 721; *Crabtree v. Elizabeth Arden Sales Corp.*, at 722; Problems 6, 7, 8, 9, 10, at 726-27; *McIntosh v. Murphy*, at 727; Problems 11, 13, 14, at 732; *Shaugnessy v. Eidsmo*, at 757; Problems 28, 29, at 761; **Bargains That Are Illegal or Against Public Policy:** Problems 1, 2, 3, at 782; *Cochran v. Dellfava*, at 785; Problems 5, 7, at 791.
- 21 To be announced.

Additional materials may be posted during the semester.

VIII. GRADING CRITERIA:

Final Course Grade:

This course has several components most of which are graded. (See grading breakdown below.)

- **Practice exam.** This is practice and, therefore, will *not* be graded.
- **Quizzes.** There will be four quizzes. They will represent approximately 20% of your final grade.
- **Final exam.** There will be a comprehensive final exam on November 30. Time and place will be announced by Student Services shortly before the exam.

Practice exam	0%
Quizzes	20%
Final exam	80%
TOTAL	100%

Grading Scale: The College of Law uses the following grading system:

A	4.00
A-	3.75
B+	3.50
B	3.00
B-	2.75
C+	2.50
C	2.00
C-	1.75
D+	1.50
D	1.00
D-	0.75
F (or WF)	0.00

AU	Audit; no credit or effect on average
I	Incomplete
P	Pass; no effect on average
W	Withdrawal

IX. UNIVERSITY-WIDE POLICY STATEMENTS

Students should visit www.fcas.nova.edu/about/policies.cfm to access additional required college-wide policies and https://www.law.nova.edu/about/documents/Code_of_Academic_Regulations.pdf for

policies specific to the College of Law. It is your responsibility to access and carefully read these policies to ensure you are fully informed. As a student in this class, you are obligated to follow these policies in addition to the policies established by your instructor.

The following policies are described on these websites:

- Academic misconduct
- Last day to withdraw
- Email policy
- Student course evaluations
- Student responsibility to register
- Student responsibility for course prerequisites
- Class Preparation
- Graduation Requirements, etc.

Additional Academic Resources: Nova Southeastern University offers a variety of resources that may aid in student success. Among these resources is:

Accommodations for students with documented disabilities. For more information about ADA policy, services, and procedures, students may call the Office of Student Disability Services at 954-262-7189 or visit <http://www.nova.edu/disabilityservices>.