



## **CONTRACTS**

### **I. COURSE NUMBER AND TITLE:**

Semester & Year: **FALL 2017**  
Course Start and End Dates: 8/21/2017 – 11/22/2017  
Course CRN & Section: L0612; SEC. L02  
Meeting Days and Times: Monday, Wednesday & Friday 9:45 a.m.-11:00 a.m.  
Building and Room: LAW L2

### **II. INSTRUCTOR:**

Name: JOSEPH M. GROHMAN  
Email: grohmanj@nova.edu  
Phone: 954-262-6167  
Office Hours:

#### **OFFICE HOURS and MEETING OUTSIDE OF CLASS**

Often a professor's established office hours and a student's stopping by the professor's office when it is solely to the student's convenience prove unproductive. Also, developing lawyering skills is paramount for law students success. One of those skills is setting and keeping appointments. Therefore, the most efficacious way to accomplish this and meet your needs is to develop a functional routine for us to meet outside of class.

By following a professional practice you can e-mail me to 1) tell me you would like to meet outside of class, 2) inform me of how long you think the meeting might last, and 3) advise me of the days and times you are most available for the meeting. Most often, we will be able to meet shortly after you e-mail me and when it is convenient for you. Of course, you can feel free to ask your question(s) by e-mail, if that is more convenient for you.

All of that being said, always feel free to take a chance and stop by my office at your convenience.

### **III. COURSE DESCRIPTION:**

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

### **IV. LEARNING OUTCOMES:**

Students completing this instructional offering are expected to:

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

#### **V. REQUIRED TEXTS AND MATERIALS:**

Title: **Cases and Problems on Contracts (6th ed. 2011).**  
Author: **John D. Calamari et al.**  
Publisher: West  
Edition: 6<sup>th</sup> (2011)  
ISBN-13: **978-0-314-20285-7** (Make sure you use the **sixth** edition.)

#### **NOT REQUIRED, BUT SUGGESTED, ADDITIONAL TEXTS AND MATERIALS:**

**Recommended: BRIAN A. BLUM, EXAMPLES & EXPLANATIONS: CONTRACTS (5th ed. 2010). ISBN: 073558852X. <Not required.>**

**CALI: Free Interactive Computerized Lessons. To access web lessons obtain law center code and create personal account CALI's web page, [www.cali.org](http://www.cali.org). <Not required.>**

**JOSEPH M. PERILLO, CALAMARI AND PERILLO ON CONTRACTS (6th ed. 2010). < Hornbook>**  
**ISBN: 0314181431.** (The hornbook is **not required**. However, if you experience difficulty with the required assignments, try one of the copies in the library for a short time to decide whether you want to purchase it.)

#### **VI. COURSE REQUIREMENTS:**

- A. This course will be taught using a combination of the modified Socratic and problem methods. Students must be prepared for class using both assigned readings and supplemental materials they find useful in the study of contract law.
- B. Attendance Policy:

Regular attendance is required in all courses.

This course follows the attendance policies detailed in the *Code of Academic Regulations* available at: [https://www.law.nova.edu/about/documents/Code\\_of\\_Academic\\_Regulations.pdf](https://www.law.nova.edu/about/documents/Code_of_Academic_Regulations.pdf). The **maximum number of absences allowed** before a student receives an F for excessive absences in this course is **8**, determined as follows:

The Law Center's rule is that, when a student's absences **FOR ANY REASON** exceed 20% of the total number of times the class meets, (s)he automatically receives a semester grade of "F" for the course, unless (s)he produces sufficient evidence that would convince Student Affairs to permit her/him to withdraw and receive a "W." **Under the Law Center's attendance policy, there are no "excused" or "unexcused" absences.** This class meets **39** times this semester. 20% of that number is **7.8**. That number rounds off to **8**. Therefore, under the Law Center's attendance policy, a student having **9 or more absences for any reason(s)** will automatically receive a grade of "F" for the semester and will be dismissed from class, unless the student produces sufficient evidence that would convince Student Affairs to permit her/him to withdraw and receive a "W." **NOTE:** Being late to class is not counted as full attendance. There will be a late sheet to sign. **2 late arrivals count as 1 absence.**

**C. PROHIBITION: ALL COMPUTERS, SMARTPHONES, MOBILE PHONES, SOCIAL MEDIA, NEWS MEDIA, WEB SITES, ELECTRONIC STORAGE DEVICES, ELECTRONIC COMMUNICATION DEVICES, AND THE LIKE.**

Great disappointment with students' performances occurring when permitting computers, etc. and electronic communications during class forces the prohibition from class all such items noted above and all electronic communications during class.

This prohibition applies to all electronic devices, communications, data sources and the like, unless explicitly approved in writing by the professor. All presumptions, inferences and the like are in favor of a prohibition. However, if a student, through Student Services, presents unequivocal written medical and/or physical therapy evidence that the student must have the aid of a computer in class, the professor will give reasonable consideration to approving that student's using a computer in the class, only for as long as the student uses the device solely for direct application to class related matters under class discussion.

## **VII. COURSE SCHEDULE AND TOPIC OUTLINE:**

Class schedule subject to modification, but not without prior notification.

**NOTE:** Classes are designated by class meeting numbers.

### **CLASS#                      ASSIGNMENTS**

#### **OVERALL REQUIREMENTS OF PROMISES AND RELATIONSHIPS FOR WHICH COURTS MIGHT BE WILLING TO PROVIDE REMEDIES FOR FAILURE TO PERFORM**

##### **1. Chapter 1. The Agreement Process:**

###### **Sec. 1:                      THE INTENT TO CONTRACT**

Lucy v. Zehmer, at 1;  
Balfour v. Balfour, at 5;  
Problems 3 and 4, at 16

**2. Sec. 2: OFFER**

**DISTINGUISH OFFER FROM OPINIONS, ADVERTISEMENTS, ETC.**

Leonard v. Pepsico, Inc., at 22;  
Problem 6, at 29-30

**COMPARE OFFER TO PRELIMINARY NEGOTIATIONS AND PRICE QUOTATIONS**

Lonergan v. Scolnick, at 32;  
Fairmount Glass Works v. Crunden-Martin Woodenware Co., at 34;  
Problems 10, 13, and 14, at 37;

**3. Sec. 3: WHAT IS THE EFFECT OF INDEFINITENESS?**

Haines v. City of New York, at 38;  
Martin Delicatessen v. Schumacher at 53  
Eckles v. Sharman, at 78;  
Problems 19, 26, at 81-82;

**4. Sec. 4: WHAT IS ACCEPTANCE?**

Broadnax v. Ledbetter, at 82;  
Carlill v. Carbolic Smoke Ball Co., at 84;  
Problems 27, 30, 32, at 92-93;

**5.** Day v. Caton, at 94;  
Wilhoite v. Beck, at 96;  
Hobbs v. Massasoit Whip Co., at 100;

**Sec. 5: WHEN MAY AN OFFER TO A UNILATERAL CONTRACT NO LONGER BE REVOKED?**

Petterson v. Pattberg, at 103;  
Brackenbury v. Hodgkin, at 107;  
Problems 45, 46, 47, at 112;

**6. Sec. 7: PRESCRIBED MEDIUM OF ACCEPTANCE & MAILBOX RULE**

Cantu v. Central Education Agency, at 119;  
Problem 54 at 121;

**Sec. 9: TERMINATION OF REVOCABLE OFFER**

Swift v. Smigel, at 123;

**7. Sec. 10: COUNTER-OFFERS AND BATTLE OF THE FORMS**

Ardente v. Horan, at 129;

**Sec. 12: OPTION CONTRACTS**

Beall v. Beall, at 171;  
Problem 81, at 173;  
Second examination question, at 174;  
Multiple choice question (answer using common law contracts although UCC would apply);

**8. Chapter 2. Consideration:**

**Sec. 1: WHAT IS CONSIDERATION?**

Hamer v. Sidway, at 177;  
Gottlieb v. Tropicana Hotel and Casino, at 185

Fiege v. Boehm, at 188;  
Problems 1, 2, 3, at 192-193;

**9. Sec. 2: Pre-Existing Duty Rule**

Schwartzreich v. Bauman-Basch, Inc., at 194;  
Angel v. Murray, at 197;  
Problems 9, 12, at 204-205;

**Sec. 4: Consideration in Bilateral Contracts & Mutuality of Obligation**

Ridge Runner Forestry v. Veneman, Secretary of Agriculture, at 212;  
Wood v. Lucy, Lady Duff-Gordon, at 214;  
Mezzanotte v. Freeland, at 216

**10. Miami Coca-Cola Bottling Co. v. Orange Crush Co., 219;  
Texas Gas Utilities Company v. S.A. Barrett, at 219;  
Problems 23, 25, at 230-231;**

**11. ADJUSTMENT CLASS**

**12. 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;  
Harrington v. Taylor, pg. 238  
Problems 1, 2, at 242;

**13. Chapter 4. Promissory Estoppel:**

Feinberg v. Pfeiffer Co., at 243;  
Salsbury v. Northwestern Bell Telephone Co., at 252;

Drennan v. Star Paving Co., at 254;  
Problems 1, 2, at 262;

14. **Non-Graded Examination Problem I.**, at 263 (We will spend a considerable amount of time on this problem in class. To maximize the benefit, before class, I recommend you write out an answer as if it were an exam. At this point in the semester, it should take at least 60 minutes.)

15. **Chapter 5. Parol Evidence and Interpretation**

**Sec. 1: Parol Evidence Rule**

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 279-280;

16. **Section 2: Interpretation**

Pacific Gas and Elec. Co. v. G.W. Thomas Drayage & Rigging Co., at 280;  
Raffles v. Wichelhaus, at 290; Note on Raffles, at 291;

17. **Non-Graded Examination Problem, at 300**

18. **Chapter 6. Capacity of Parties:**

Petit v. Liston, at 302;  
Ortelere v. Teachers' Retirement Board, at 305;  
Problems 1, 3, at 313-314;

19. **Chapter 7. Avoidance for Misconduct or Mistake:**

**Sec. 1: Duress**

Gallon v. Lloyd-Thomas Co., at 315;  
Austin Instrument, Inc. v. Loral Corp., at 319;  
Problems 1, 2, at 323-324;

**Sec. 2: Undue Influence**

Francois v. Francois, at 324;  
Methodist Mission Home of Texas v. N A B, at 329;  
Problems 5, at 332

20. **Sec. 3: Misrepresentation, Nondisclosure & Warranty**

Cousineau v. Walker, at 333;  
Vokes v. Arthur Murray, Inc., at 340;  
Problems 8, 9, at 351;

**Sec. 4: Mistake**

Nelson v. Rice, at 352;  
Sherwood v. Walker, at 356;

21. Problems 12, 14, 17, at 367-368;

**Sec. 5: Reformation**

Hoffman v. Chapman, at 369;  
Problems 19, 20, at 371-372;

**Sec. 6: Unconscionability & the Duty to Read**

Williams v. Walker-Thomas Furniture Co., at 372  
In re RealNetworks, Inc., Privacy Litigation, pg. 376

22. **Chapter 8. Conditions, Performance and Breach:**

**Sec. 1: Nature & Effect of Express Conditions,  
the Time Classification of Conditions**

Audette v. L'Union St. Joseph, at 380;  
Inman v. Clyde Hall Drilling Co., at 381;  
Problems 2, 3, at 385

23. **Sec. 2: Distinguishing Express Conditions from Other Provisions**

New York Bronze Powder Co. v. Benjamin Acquisition Corp., at 385

Thos. J. Dyer Co. v. Bishop International Engineering Co., at 392;  
J.J. Shane, Inc. v. Aetna Cas. & Surety Co., at 397;  
Thompson v. Lithia Chrysler Jeep Dodge of Great Falls, at 399;  
Problems 6, 7, at 405-406;

**Sec. 3: Constructive Conditions**

Stewart v. Newbury, at 406  
Monroe Street Properties, Inc. v. Carpenter, at 409;  
Jacob & Youngs, Inc. v. Kent, at 411, 415;  
Walker v. Harrison, at 417;  
K & G Construction Co. v. Harris, at 420;  
Problems 12, 14, 15, at 425-426;

24. **Sec. 6: Wrongful Prevention, Hindrance & Noncooperation**

Cantrell-Waind & Associates, Inc. v. Guillaume Motorsports, Inc., at 439;  
Swartz v. War Memorial Commission of Rochester, at 448;  
Stop & Shop, Inc. v. Ganem, at 450;  
Market Street Associates v. Frey, pg. 453

Problems 22, 23, at 461;

**25. Sec. 7: Waiver, Estoppel & Election**

Clark v. West, at 462;  
Problems 27, 28, at 469-470;

**Sec. 8: Relief from Forfeiture**

Burger King Corp. v. Family Dining, Inc., at 471  
C.J. Fertilizer v. Allied Mutual Ins. Co., at 484

**26. Sec. 9: Conditions of Satisfaction**

Western Hills, Oregon, Ltd. v. Pfau, at 498;  
Indoe v. Dwyer, pg. 502  
Problem 38, at 508;

**Sec. 10: Prospective Nonperformance & Breach by Repudiation**

Hochster v. De La Tour, at 508;  
Drake v. Wickwire, pg. 513  
Cohen v. Kranz, at 516;  
Problems 43, at 520

**27. Chapter 9. Impossibility or Impracticability, and Frustration:**

**Sec. 1: Impossibility & Impracticability**

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;

**Sec. 2: Frustration**

Krell v. Henry, at 546;  
Western Properties v. Southern Utah Aviation, Inc., at 550;

**28. REMEDIES & POTENTIAL DEFENSES TO ENFORCEMENT**

**Chapter 10. Enforcement Remedies:**

**Sec. 1: Damages**

**(a) General Principles & Limitations on Recovery**

Restatement (Second) Contracts § 344, at 22;  
Hadley v. Baxendale, at 558  
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;

29. Horton v. O'Rourke, pg. 579  
Parker v. Twentieth Century-Fox Film Corp., at 581;  
Problems 9, 10, 11, at 595;  
Reread Jacobs & Youngs v. Kent, at 411;

30. Problems 14, 15, at 604  
Patton v. Mid-Continent Systems, Inc., at 604;  
Daniel Friedmann article, at 606;  
Wassenaar v. Panos, at 609;  
Problem 19, at 623;

**Sec. 2: Restitution**

**(a) To an Aggrieved Party**

Oliver v. Campbell, at 625;

31. Problem 21, at 629;

**(b) To a Party in Default**

Martin v. Schoenberger, at 630;  
Lancellotti v. Thomas, at 630;

**Sec. 3: Specific Performance**

**(a) Substantive Basis**

Centrex Homes Corp. v. Boag, at 635;  
Laclede Gas Co. v. Amoco Oil Co., pg. 638  
Problem 27, at 643

32. **(b) Covenants Not to Compete**

Karpinski v. Ingrassi, at 644;  
Howard Schultz & Associates v. Broniec, at 648;  
Problem 29, at 652;

33. **Chapter 13. Statute of Frauds:**

**Sec. 1: The One Year Provision**

Ehrlich v. Diggs, at 716;  
Problems 1, 2, at 721;

**Sec. 2: The Memorandum**

Crabtree v. Elizabeth Arden Sales Corp., at 722;  
Problems 6, 7, at 726-27;

**Sec. 3: Effect of Part or Full Performance, Rescission and Modification**

**and the One Year Provision**

McIntosh v. Murphy, at 727;  
Problems 11, at 732;

**34. Sec. 5: Suretyship Statute of Frauds**

Lawrence v. Anderson, pg. 748

**Sec. 6: Statute of Frauds and Marriage**  
Dienst v. Dienst, pg. 755

**Sec. 7: Statute of Frauds and Real Property**

Shaugnessy v. Eidsmo, at 757;  
Problems 29, at 761;

**Chapter 14. Discharge of Contracts:**

Goldbard v. Empire State Mutual Ins. Co., pg. 762  
First American Commerce Co. v. Washington Mutual Savings Bank, pg. 766

**35. Chapter 15. Bargains That Are Illegal or Against Public Policy:**

**Sec. 1: Some Varieties of Public Policies**

T.F. v. B.L., pg. 770  
Troutman v. Southern Railway Co., pg.779  
Problems 2, at 782;

**Sec. 2: Effect of Illegality**

Northern Indiana Public Service Co., v. Carbon County Coal Co., pg. 783  
Cochran v. Dellfava, at 785;  
Maizitis v. TUV America, Inc., 788  
Problems 7, at 791

**35. RIGHTS OR LIABILITIES OF THOSE OTHER THAN THE ORIGINAL PARTIES**

**Chapter 11. Third Party Beneficiaries:**

**Sec. 1: Intended, Incidental Creditor & Donee Beneficiaries**

Lawrence v. Fox, at 653;  
Seaver v. Ransom, at 657

H.R. Moch Co. v. Rensselaer Water Co., at 660;  
Lucas v. Hamm, at 666;

**36.** Problems 1, 4, at 669-670;

**Sec. 2: Defenses, Vesting & Relative Rights of the Parties**

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;

37. Problems 10, 11, at 678-79;

**Chapter 12. Assignment and Delegation:**

**Sec. 1: Nature and Effect of an Assignment**

Herzog v. Irace, at 680;  
Problems 1, 2, 3, at 683;

**Sec. 2: Are the Rights Assignable & Performances Delegable?**

Macke Co. v. Pizza of Gaithersburg, Inc., at 683;  
Problems 4, 5, 6, at 693.

38. In re Kaufman, at 694;  
Seale v. Bates, at 699;

**Sec. 3: Other Assignment & Delegation Problems**

Western Oil Sales Corp. v. Bliss & Wetherbee, at 703;

**Sec. 4: Defenses, Counterclaims & Latent Equities**

Associates Loan Co. v. Walker, at 706

**39. WRAP UP CASES & PROBLEMS**

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**VIII. GRADING CRITERIA:**

**Final Course Grade:**

Your final grade is determined by your performance on a number of different tasks:  
**(possible tasks include papers, tests, online discussions, group projects, etc.)**

The final grade is based on points accumulated on quizzes (unannounced &/or announced), &/or exams (interim &/or final).	
<b>TOTAL</b>	<b>300-400 +/-</b>

**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](http://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](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 954-262-7185 or visit <http://www.nova.edu/disabilityservices>.

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