



## **Contracts (Fall 2017) with Professor Brown**

### **I. COURSE NUMBER AND TITLE: Law 0612 - CONTRACTS**

Semester & Year: Winter 2016

Course Start and End Dates: August, 2017 to December, 2017

Course CRN & Section: Section L04

Meeting Days and Times: Tuesday and Thursday from 6:00 pm to 8:00.

Building and Room: Law Building in L-4

### **II. INSTRUCTOR:**

Name: Ronald Benton Brown

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Phone: 954-262-6165

Office Hours: Right after class and by appointment.

### **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:**

This course covers common law contracts. 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). [Core Learning Outcome #1]

Identify legal issues and apply legal reasoning and analysis to solve problems in a logical and structured manner to issues covered in this course. [Core Learning Outcome #2]

Communicate orally or in writing, or both, the legal reasoning and analysis regarding issues covered in this course. [Core Learning Outcome #3]

Demonstrate a proficiency in reading critically the material assigned for this course. [Core Learning Outcome #5]

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

J. H. Verkerke, **CONTRACT DOCTRINE, THEORY & PRACTICE** (eLangdell Press/CALI 2012).

This book is available on-line at the following web site: [elangdell.cali.org](http://elangdell.cali.org). On the site, it

appears to have three “volumes” which are really three files. You will need all three. The on-line version is free (*i.e.*, there is no charge for down-loading it), but you also may buy a soft-cover version (*i.e.*, a printed and bound copy) via a link from that site. ***In class, you will need to have a paper copy of the cases being covered that day***, but not the other materials in the book. You can simply print out the case(s) to bring with you on the day when they are being covered or you can buy a soft-cover copy of the book (on the CALI website) and bring that book to class.

**RESTATEMENT OF CONTRACTS** (Second). This is available on-line from Westlaw at no charge. You will be trained in the use of Westlaw in your LSV course. There is no need to print out the Restatement. However, if you want to buy a soft-cover copy, you may be able to do so on the website of the American Law Institute [<http://www.ali.org/>].

Recommended Additional Reading:

Rohwer and Skrocki, **CONTRACTS IN A NUT SHELL** (West 7<sup>th</sup> 3ed 2010)

ISBN 978-0-314-92564-0. This is a soft-cover book which you can buy, if you wish, or borrow short-term from the reserve desk in the Law Library. In the alternative, you can read this at no charge on-line via TWEN.

**CALI** lessons. CALI is the Center for Computer Assisted Legal Instruction. It provides computer-based interactive lessons which are valuable supplements. The lessons are available on-line (at [www.cali.org](http://www.cali.org)) or may be accessed by link on TWEN. There is no charge for their use. Access to the CALI lessons is explained on this course’s TWEN site.

## VI. COURSE REQUIREMENTS:

### A. Rules:

(1) Each case in the assigned pages shall be "briefed" by answering the following questions printed out on a page (or two) that can be handed in during class if instructed to do so by the professor. Each student is responsible for producing his or her own brief. A student who copies the brief of another or a brief from any other source and represents, either expressly or impliedly, that it is the student’s own work is guilty of an act of dishonesty. Things written in your book or on the cases will not count to satisfy this requirement. The questions are:

1. What is the *case name*?
2. What is the *court* that decided the case?
3. What is the *date* of the decision?
4. Who were the *parties*?
5. What was the *cause of action* and what *remedy* was sought?
6. What was the *procedural posture* of the case?
7. What are the *essential facts*?
8. What is the *issue* (*i.e.*, what question did the court have to answer in order to decide this case)?
9. What *conclusions* did the court reach (*i.e.*, how did it answer the question posed above)?
10. What is the *method* by which the court reached those conclusions (*i.e.*, what law did

the court use and how did it apply that law to the facts of this case)?

11. Did the court *avoid* any issues (i.e., did it sidestep any questions that it initially appeared that it would have to answer)?

12. Was there any interesting *dicta* (i.e., did the court make any statements about the law beyond what was needed to solve this case)?

13. What are the *possible effects* of this decision?

14. What was the logic of any *dissent* or concurrence?

(2) Students are responsible for any information provided by the text, notes or questions in the pages assigned.

(3) It is the student's responsibility to read whatever secondary sources might be necessary to gain an understanding of the assigned material.

(4) Students are responsible for regularly checking the class's TWEN cite for announcements and information.

(5) Any student who, in the opinion of the professor, has failed to demonstrate regular and thorough preparation will receive a course grade one-half letter grade below his or her exam grades, i.e., his or her grade will be lowered by one-half letter grade. Each student must give Professor Brown a 3x5 card so he or she can be called on in the normal rotation. Cards will be available during the first class session. A student will not be considered present until that card has been submitted.

(6) Students are reminded that the Law Center has a strict rule on attendance. The maximum number of absences allowed in a course with 26 class sessions is five (5). Absences in excess of the maximum number will result in the student receiving an F for the course. Students should check the rules to make sure that they are not in violation. Students are warned that coming late to this class or leaving early may, in the sole discretion of the professor, be treated as an absence. Attendance will be checked by a sign-in sheet as well as by the cards that Professor Brown uses to call upon students. The College of Law's attendance policies detailed in the *Code of Academic Regulations* available at:

<https://intranet.law.nova.edu/intranet/students/student-services/documents/CodeOfAcademicRegulationMay2015final.pdf>.

(6) Absent special permission from Professor Brown, **computers or other electronic devices** may not be used during this class.

(7) Absent special permission from Professor Brown, classes may **not** be recorded.

#### 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 5. Students must evidence their attendance by signing the sign-in sheet at the class session.

### C. 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](https://www.law.nova.edu/about/documents/Code_of_Academic_Regulations.pdf)

In this 4-credit instructional offering, there are 3000 required in-classroom minutes of direct faculty supervised instruction. You are required to spend at least 7200 out-of-classroom minutes on class preparation for a total of at least 10,200 minutes (i.e., 170 hours) on this course.

### VII. COURSE SCHEDULE AND TOPIC OUTLINE:

Class schedule subject to modification, but not without prior notification. Any modifications will be posted on TWEN.

Classes will proceed in the sequence below unless the professor notifies you of a change. The assignments refer to cases or articles in the casebook. In the event a class is cancelled or rescheduled, the coverage will always remain in the following sequence.

Assignments in J. H. Verkerke, **CONTRACT DOCTRINE, THEORY & PRACTICE**:

#### **ASSIGNMENT FOR CLASS 1:**

VOLUME 1

I. INTRODUCTION TO THE LEGAL SIGNIFICANCE OF PROMISE MAKING

1. WHAT IS A PROMISE?

#### **ASSIGNMENT FOR CLASS 2:**

2. WHICH PROMISES ARE ENFORCED?

#### **ASSIGNMENT FOR CLASS 3:**

II. THE CONSIDERATION REQUIREMENT AND ALTERNATIVES

1. CONSIDERATION DOCTRINE

2. BARGAIN OR GIFT?

#### **ASSIGNMENT FOR CLASS 4:**

3. ADEQUACY DOCTRINE

4. PROMISSORY ESTOPPEL

5. THE MATERIAL BENEFIT RULE

#### **ASSIGNMENT FOR CLASS 5:**

III. CONTRACT FORMATION

1. OFFER
2. ACCEPTANCE

*Write out a solution to Problem 1*

**ASSIGNMENT FOR CLASS 6:**

3. REVOCATION OF OFFERS [N.B. SECTIONS 4 AND 5 ARE OMITTED.]
- AND

**VOLUME 2**

IV. DEFINING THE OBLIGATION TO PERFORM

1. EXCUSE

**ASSIGNMENT FOR CLASS 7:**

2. MISTAKE
3. SUBSTANTIAL PERFORMANCE, *BUT OMIT section 3.1.1 on page 47*

**ASSIGNMENT FOR CLASS 8:**

4. EXCLUSIVE DEALING CONTRACTS
- AND
- V. REGULATING THE BARGAINING PROCESS
  1. UNCONSCIONABILITY

**ASSIGNMENT FOR CLASS 9:**

2. MODIFICATION
3. RULES REGARDING INFORMATION

**ASSIGNMENT FOR CLASS 10:**

*Write out a solution to Problem 2*

VOLUME 3

VI. IDENTIFYING AND INTERPRETING THE TERMS OF AN AGREEMENT

1. THE COMMON LAW PAROL EVIDENCE RULE, *BUT OMIT 2. THE UCC PAROL EVIDENCE RULE*
3. INTERPRETATION

AND

VII. REMEDIES FOR BREACH

1. MONETARY DAMAGES

**ASSIGNMENT FOR CLASS 11:**

2. SPECIFIC PERFORMANCE
3. LIMITATIONS ON DAMAGES
- 3.1 PRINCIPAL CASE
- 3.2 INTRODUCTION TO THE CERTAINTY LIMITATION

**ASSIGNMENT CLASS 12:**

- 3.3 THE PRINCIPAL CASE
- 3.4 INTRODUCTION TO AVOIDABILITY AND MITIGATION
- 3.5 PRINCIPAL CASE
- 3.6 PRINCIPAL CASE

**ASSIGNMENT CLASS 13:**

4. COST OF COMPLETION VS. DIFFERENCE IN VALUE

**ASSIGNMENT CLASS 14:**

5. LIQUIDATED DAMAGES

*Also prepare: Uzan v. 845 UN Partnership, 778 N.Y.S.2d 171 (2004)*

NOTE: THAT COMPLETES THE Verkerke text. For the remaining assignments (see below), find the assigned **cases** on-line and prepare them as you have been preparing cases up to this point, i.e., they should be briefed in writing and you should have a copy available in class so you can refer to it. Also in the remaining assignments, “**RK**” means Restatement 2d Contracts; so RK followed by a number indicates the sections in the Restatement 2d Contracts that you are assigned to read. The comments and explanatory notes for those sections are not required reading, but reading them could be very helpful to you.

**ASSIGNMENT FOR CLASS 15: CONDITIONS**

RK 224-230

[Hamilton v. Title Ins. Agency of Tampa, Inc.](#), 338 So. 2d 569 (Fla. 2d DCA 1976)

[Robert L. v. Liberty Alliances, LLC.](#), 2007 WL 2175562 (N.Y. Supreme Court 2007)

[Mitchell v. DiMare](#), 936 So. 2d 1178 (Fla. 5th DCA 2006)

*Write out a solution to Problem 3*

**ASSIGNMENT FOR CLASS 16: RESTITUTION, QUASI CONTRACT AND QUANTUM MERUIT**

RK 197-199, 283-284, 370-377 & 384

[Corn v. Greco](#), 694 So.2d 833 (Fla. 2d DCA 1997)

[Greco v. Corn](#), 724 So.2d 612 (Fla. 2d DCA 1998)

[Commerce Partnership 8098 v. Equity Contracting Company](#), 695 So.2d 383 (Fla. 4<sup>th</sup> DCA 1997)

[Lang v. Horne](#), 156 Fla. 605, 23 So. 2d 848 (1945)

In re: US Capital Holdings LLC, 2013 WL 5297352 (Bankr. S.D. Fla. 2013) When preparing this case, you can skim the discussion of the Statute of Frauds, but you should read those again after Assignment 19 when we cover the Statute of Frauds.

**ASSIGNMENT FOR CLASS 17: INTERPRETATION OF CONTRACTS**

RK 200-207, 212, 220

[Raffles v. Wichelhaus](#) (Exchequer 1864) This case is posted on TWEN.

[Florida Recycling Services, Inc. v. Greater Orlando Auto Auction, Inc.](#), 898 So. 2d 129 (Fla. 5th DCA 2005)

[DSL Internet Corporation v. TigerDirect](#), 907 So.2d 1203 (Fla. 3d DCA 2005)

[P.R. Burke Corp., v. U. S.](#), 277 F.3d 1346 (Fed. Cir. 2002)

**ASSIGNMENT FOR CLASS 18: THIRD PARTY BENEFICIARIES**

RK 302-315

[Marianna Lime Products Co. v. McKay](#), 109 Fla. 275, 147 So. 264 (1933)

[Networkip, LLC v. Spread Enterprises, Inc.](#), 922 So. 2d 355 (Fla. 3d DCA. 2006)

[Intercoastal Realty, Inc. v. Tracy](#), 706 F. Supp. 2d 1325 (S.D. Fla. 2010)

**ASSIGNMENT FOR CLASS 19: STATUTE OF FRAUDS**

RK 110-150

[Gerry v. Antonio, 409 So. 2d 1181 \(Fla. 4th DCA 1982\)](#)

[Riba v. Pila, 543 So.2d 429 \(Fla. 2d DCA 1989\)](#)

[Al Booth's, Inc. v. Boyd-Scarp Enterprises, Inc., 518 So. 2d 422 \(Fla. 5<sup>th</sup> DCA 1988\)](#)

[Brown v. Phillips, 330 So.2d 510 \(Fla. 2d DCA 1976\)](#)

**ASSIGNMENT FOR CLASS 20: SATISFYING OR AVOIDING THE STATUTE OF FRAUDS**

[Alton Beach Realty Co. v. Henderson, 92 Fla. 689, 110 So. 256 \(1926\)](#)

[Todd v. Hyzer, 154 Fla. 702, 18 So.2d 888 \(1944\)](#)

[Brodie v. All Corporation of USA, 876 So.2d 577 \(Fla. 4<sup>th</sup> DCA 2004\)](#)

[City of Orlando v. West Orange Country Club, Inc. 9 So.3d 1268 \(Fla. 5<sup>th</sup> DCA 2009\)](#)

**ASSIGNMENT FOR CLASS 21: ACCORD AND SATISFACTION, SUBSTITUTED CONTRACT, NOVATION AND ACCOUNT STATED**

RK 278-287

[U.S. v. Morrison, 28 So. 3d 94 \(Fla. 1st DCA. 2009\)](#)

[Wolfowitz v. Thoroughbred Motors, Inc., 765 So. 2d 920 \(Fla. 2d DCA 2000\)](#)

[In re Gulf Northern Transport, Inc., 340 B.R. 111 \(Bankr. M.D. Fla. 2006\)](#)

*Write out a solution to Problem 4*

**ASSIGNMENT FOR CLASS 22: DEFENSES TO ENFORCEMENT**

RK 174-196 & 208

[Mazzoni Farms, Inc. v. E.I. DuPont De Nemours and Co., 761 So. 2d 306 \(Fla. 2000\)](#)

[Peacock v. Du Bois, 90 Fla. 162, 105 So. 321 \(1925\)](#)

[Patterson v. Law Office of Lauri J. Goldstein, P.A., 980 So. 2d 1234 \(Fla. 4th DCA 2008\)](#)

[Guy Bennett Rubin, P.A. v. Guettler, 73 So. 3d 809 \(Fla. 4th DCA 2011\)](#)

**ASSIGNMENT FOR CLASS 23: ASSIGNMENT AND DELEGATION**

RK 316-339

[Monroe Property, LLC v. Bachelor Gulch Resorts, 374 F. Supp.2d 914 \(D. Colorado 2005\)](#)

[In the Matter of Chipman-Union, Inc., 330 B.R. 851 \(Bankr. M.D. Ga. 2005\)](#)

[Building Materials Corporation of America v. Presidential Financial Corporation, 972 So.2d 1090 \(Fla. 2d DCA 2008\)](#)

[Pope v. Winter Park Healthcare Group, Ltd., 939 So. 2d 185 \(Fla. 5<sup>th</sup> DCA 2006\)](#)

**ASSIGNMENT FOR CLASS 24: MULTIPLE PROMISORS OR PROMISEES; DIVISIBLE CONTRACTS**

RK 288-301; 183 & 240

[Silvertooth v. Kelley, 162 Or. 381, 91 P.2d 1112 \(1939\)](#)

[L. L. Satler Lumber Co. v. Exler, 239 Pa. 135, 86 A. 793 \(1913\)](#)

[Waddell v. White, 51 Ariz. 526, 78 P.2d 490 \(1938\)](#)

**ASSIGNMENT FOR CLASS 25: ANTICIPATORY REPUDIATION, REFORMATION & RELEASE**

RK 155, 166, & 250-257

[Hospital Mortgage Group v. First Prudential Development Corp., 411 So.2d 181 \(Fla. 1982\)](#)

Lucente v. IBM, 310 F.3d 243 (2d Cir. 2002)

Goodall v. Whispering Woods Center, L.L.C., 990 So. 2d 695 (Fla. 4th DCA 2008)

## VIII. GRADING CRITERIA:

**Final Course Grade:** The grade for this course is based on the final exam. The final exam will be closed-book. The questions may cover (1) any material in any of the assignments even if that was not discussed in a class, and (2) any material that was discussed in a class, even if that was not covered in any reading assignment. The exam may include essay questions (long or short), objective questions, multiple choice questions, or any combination of questions.

This course will have a mid-term, but it will not be included in the final grade; it is for practice only.

A pop quiz may be given at any class session. The grades from pop quizzes may be included in the final grade, but their combined weight will be not more than 10% of the grade.

The final grade in the course may be reduced ½ letter grade for failure to demonstrate regular preparation as is required by the course rules.

**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 954-262-7189 or visit <http://www.nova.edu/disabilityservices>.