

CONTRACTS

B501 – Fall 2008

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Office hours: I will hold fixed office hours on Mondays from 1:00 to 3:00 p.m. I am generally in my office during the rest of the week, and you should feel free to stop by anytime. If I am out or busy with something else, or if you would prefer to schedule a fixed appointment, just send an e-mail.

REQUIRED MATERIALS

Casebook: Crandall & Whaley, Cases, Problems, and Materials on Contracts (4th ed. 2004).

Supplement: Farnsworth & Young, Selections for Contracts (Foundation 2004)

Additional materials will be posted from time to time on the course webpage.

RECOMMENDED MATERIALS

If you are interested in further reading, I recommend E.A. Farnsworth, Contracts (4th ed. 2004) (an excellent standard treatise) and M.A. Chirelstein, Concepts and Case Analysis in the Law of Contracts (5th ed. 2006) (a succinct and very helpful discussion of contracts basics). Both are available in the school's library. I would be happy to recommend additional readings.

GROUND RULES

1. Attendance is mandatory. I understand that the occasional crisis may prevent you from attending class on a particular day. Do not feel obliged to share any explanations or excuses with me on those occasions – if I notice repeated absences, I'll inquire.

2. Please brief the cases assigned each day and come to class prepared to discuss them. A short explanation of how to brief a case is attached to this syllabus.

3. The assigned readings will often include problems. Please come to class prepared to discuss them and to provide your tentative answers.

4. If you come across a legal term you don't understand, look it up in Black's Law Dictionary.

5. For the first four class sessions (through September 3), **the use of laptops will not be permitted.**

6. A calendar for the semester is posted on the course webpage; it includes information on dates we will miss class and dates on which I will hold make-up sessions. I will use this calendar to post your reading assignments for each class session; please check it regularly for updates. The first part of that calendar, with assignments for the first week of classes, is also attached to this syllabus.

EXAMINATION AND GRADING

Your grade in the course will be based on the final examination. I reserve the right to adjust grades upward or downward by a half-letter grade (e.g., B+ to A-) to reflect class participation.

The examination will be closed-book.

AUGUST 2008

Mon	Tue	Wed	Thu	Fri	Sat	Sun
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31
		CB Intro CB 1-9 R2d § 17	CB 9-15 * Barnett * player agmt			

- CB Crandall & Whaley casebook
- R2d Restatement (Second) of Contracts (in documents supplement)
- UCC Uniform Commercial Code (in documents supplement)
- * Indicates material available on course webpage

SEPTEMBER 2008

Mon	Tue	Wed	Thu	Fri	Sat	Sun
1 LABOR DAY No class	2 CB 24-33 R2d §§ 24, 27, 33	3 CB 33-40 UCC § 2-204 * Epstein	4 CB 48-57 R2d §§ 30, 50, 69	5	6 I AM NOT HOLDING THE LABOR DAY MAKE-UP HERE	7
8	9	10	11	12 MAKE-UP CLASS	13	14
15	16	17	18	19	20	21
22	23	24	25 NO CLASS	26	27	28
29	30					

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BRIEFING A CASE

To prepare for class, especially at the beginning, you should “brief” each case. Briefing a case means writing an outline of the most important elements of the decision. You should try to keep your briefs short – no more than one page. Frequently, half a page or less will do. *There is no one right way to brief cases* and eventually you will develop your own style, but I suggest that you begin by asking yourself the following questions.

(1) Who are the **parties**? In other words, who is suing whom? Who is the plaintiff and who is the defendant? If the decision is from an appellate court (e.g. a court of appeals, a state supreme court, or the United States Supreme Court), who is the appellant and who is the appellee (or in some cases, the petitioner and the respondent)? And which of the parties was the plaintiff and which was the defendant in the court below?

(2) What are the **facts**? Who did what to whom, leading someone to file a lawsuit? Also, are any of the relevant facts in dispute? In other words, do the parties disagree about what happened?

(3) What is the **procedural history** of the case? What is the history of the lawsuit itself? For example, is this an appeal from a trial court to an appellate court? If so, how did the lower court rule in the case? Was there a “finding of fact” in the lower court? By a judge or a jury? The procedural history may affect the way an appellate court reviews the case.

(4) What is the **legal question** presented? To answer this question, you should ask: What rule of law did the plaintiff (or the appellant or petitioner) favor? What rule of law did the defendant (or the appellee or respondent) favor? What other rules, if any, did the court consider? This should help you determine what the choices facing the court were.

(5) What **arguments** did the parties make? What arguments did the plaintiff (or the appellant or petitioner) make in favor of its preferred rule? What arguments did the defendant (or the appellee or respondent) make? Try to distinguish arguments based on precedent, statute, analogy, and policy.

(6) What did the court **hold**? In other words, what legal rule did the court adopt? Frequently a court will signal its holding with the words “we hold that . . .,” but sometimes you will have to figure it out without such assistance. If there is a dissenting opinion, what legal rule did the dissenting judge favor?

(7) What was the court’s **reasoning**? What reasons did the court offer for its holding? Are there other, unarticulated reasons that may have motivated the court to rule as it did? If there was a dissent, what reasons did the dissenting judge give in support of her position?

(8) What is your **analysis** of the court's decision? Do you agree with the outcome of the case (i.e. who won and who lost)? Do you agree with the legal rule the court adopted or would you have adopted a different rule (perhaps one of those suggested by the parties)? Do you agree with the reasoning of the court?

(9) How does this case **fit** with the rest of contract law? How does this case relate to others you have read? Does it state a general rule of contract law (or several rules)? Does it carve out an exception to a rule? Does it state one of the classical rules of contract law? If so, has that rule been modified by statute or treaty (e.g. the UCC or the CISG) or by more modern cases?

You should note that sometimes it is not possible to answer all of these questions. For example, sometimes the court's opinion will not make clear what the arguments of each of the parties were. Sometimes the casebook editors may have omitted the procedural history of the case. And, of course, it is hard to know how a case fits with the rest of contract law when you are just starting to learn what the rest of contract law is. However, asking these questions of each case will help you prepare for class and will help you extract the rules of law that you will need to prepare your outline.