

Course Title	Contracts 2
Professor	Samuel F. Ernst
Term	Spring 2025
Meetings	Tuesdays and Thursdays 11:30 a.m. - 12:50 p.m.

Professor's Contact Information

Email Address	sernst@wsulaw.edu
Office Hours	By appointment

General Course Information

Required Texts & Materials	<p><i>Cases, Problems, and Materials on Contracts</i> by Whaley & Horton (9th Edition 2023); ISBN No. 978-1-5438-0249-8 (hereafter, "Casebook")</p> <p><i>Comprehensive Commercial Law: 2024 Statutory Supplement</i>, ISBN No. 9798889062172</p>
Course Objectives	<ul style="list-style-type: none"> • Contract law governs the enforceability and enforcement of promises. In Contracts 2 we will study : (1) the parol evidence rule and contract interpretation; (2) Defenses to breach of contract; and (3) Performance and breach of contract. We will study the common law and select portions of the Uniform Commercial Code. Among the skills students will practice in relation to this objective are: <ol style="list-style-type: none"> 1) Close reading of complex materials 2) Finding the rule in a legal case and understanding the holding 3) Understanding the mechanics of statutory schemes and how they apply to fact patterns • Students will develop legal argument skills. This includes (1) evaluating facts and spotting legal issues; (2) analyzing legal rules and equitable principles as set forth in statutes and common law decisions; (3) applying legal rules, equitable principles, and policy considerations to articulate arguments in favor of clients. • Students will practice oral communication and active listening skills by responding to the professor's questioning and by presenting analysis in an organized, persuasive, and professional manner. • Students will practice diagnosing problems confronting clients, understanding clients' objectives, and generating strategies to achieving those objectives competently and ethically.

Course Policies

<p>Attendance, Preparedness, and Class Participation</p>	<p>This course requires regular attendance and preparation. 10% of the class grade is awarded for consistent attendance and active participation, as determined by the index card assignment described immediately below.</p> <p>You should prepare for approximately two hours for each hour of class.</p>
<p>Accommodations</p>	<p>Western State College of Law provides accommodations to qualified students with disabilities. The Disabilities Services Office assists qualified students with disabilities in acquiring reasonable and appropriate accommodations and in supporting equal access to services, programs, and activities at Western State College of Law.</p> <p>To seek reasonable accommodations, a student must contact Senior Assistant Dean Donna Espinoza, Student Services Director and Disabilities Services Coordinator, whose office is in the Library Building, Room 275-B. Dean Espinoza's phone number and email address are: (714) 459-1117; despinoza@wsulaw.edu. When seeking accommodations, a student should notify Dean Espinoza of her or his specific limitations and, if known, her or his specific requested accommodations. Students who seek accommodations will be asked to supply medical documentation of the need for accommodation. Classroom accommodations are not retroactive, but are effective only upon the student sharing approved accommodations with the instructor or professor. Therefore, students are encouraged to request accommodations as early as feasible with Dean Espinoza to allow for time to gather necessary documentation. If you have a concern or complaint in this regard, please notify Dean Espinoza; or please notify Dean Marisa Cianciarulo at mcianciarulo@wsulaw.edu or (714) 459-1168. Complaints will be handled in accordance with the College of Law's "Policy against Discrimination and Harassment."</p>
<p>Grading Method</p>	<p>10% of the grade is awarded for consistent attendance and preparation for active participation as determined by the index card assignment described immediately below.</p> <p>10% of the grade is determined by a midterm exam.</p> <p>80% of the grade is determined by a final exam.</p>

Index Card Assignment	<p>10% of the class grade is determined by class preparedness and participation under the following procedure:</p> <p>For each class students should prepare an index card (3X5 inches) stating the following information:</p> <ul style="list-style-type: none"> • Your name • The name of a case in the reading • What you believe to be the holding of the case (This should be in the form of at least one complete sentence) • Whether you agree or disagree with the result of the case. <p>Please hand in your index card PRIOR TO EACH CLASS AS YOU ENTER THE CLASSROOM. Cards may not be submitted electronically, outside of the class, or after class because the cards are used as records demonstrating your punctuality and preparedness to participate in class.</p> <p>Students may be asked to discuss any case assigned for that day, and not just the case noted on the student's card.</p>
Midterm	Multiple Choice
Final Exam	Essay and Multiple Choice

Assignments & Academic Calendar

Date:	<p>Topics and Assigned Reading:</p> <p>Readings are from the casebook unless otherwise indicated. UCC provisions may be found in the Statutory Supplement.</p>
<p>IV. The Statute of Frauds: Questions to think about for your outline:</p> <ul style="list-style-type: none"> • What story pattern in a hypothetical triggers the statute of frauds issue? • Can you remember which categories of contracts must be evidenced by a writing? • Are there important issues with respect to certain of the statute of frauds categories that you need to remember? • What are the elements of satisfying the statute of frauds (i.e., the elements of a sufficient writing) under both common law and the UCC? • What are the exceptions or defenses to an assertion of the statute of frauds and what are the elements of each exception? 	
1. Tuesday, January 14	359-374
2. Thursday, January 16	374-387
3. Tuesday, January 21	388-407

V. The Parol Evidence Rule and the Interpretation of Contracts:	
A. The Parol Evidence Rule: Questions to think about for your outline:	
<ul style="list-style-type: none"> • What story pattern triggers the parole evidence rule issue and how is that different from contract interpretation? • What are the steps in the analysis under the parol evidence rule? (argue for level of intergration; what are the consequences of each level of integration?); does the UCC differ from common law? • What are collateral agreements and what are the three elements to prove something is a collateral agreement that is not barred by the parol evidence rule? • What is an oral condition precedent? 	
4. Thursday, January 23	413-424
5. Tuesday, January 28	424-443
B. Contract Interpretation: Questions to think about for your outline:	
<ul style="list-style-type: none"> • What story pattern triggers the issue of contract interpretation and how is that different from the parol evidence rule? • How does the four corners approach to contract interpretation under common law work with regard to whether one can consider extrinsic evidence? (and what does “extrinsic evidence” mean?) • How does the admissions approach to contract interpretation under common law work with regard to whether one can consider extrinsic evidence? • How does interpretation work under the UCC? • Under the UCC, what are express warranties?; what is the implied warranty of machinability?; and what is the implied warranty of fitness for a particular purpose? • What are the requirements to comply with the implied warranty of merchantability and with the implied warranty of fitness for a particular purpose? • What are the different tests for whether a contract has effectively eliminated express and implied warranties? 	
6. Thursday, January 30	443-454
7. Tuesday, February 4	454-464
8. Thursday, February 6	Assessment Number 1
VI. Defenses to Breach of Contract: Questions to think about for your outline:	
<ul style="list-style-type: none"> • What story patterns trigger each affirmative defense? 	

<ul style="list-style-type: none"> • What are the elements of each affirmative defense? 	
A. Mutual Misunderstanding and B. Mutual Mistake	
9. Tuesday, February 11	469-478
10. Thursday, February 13	479-486
C. Unilateral Mistake	
11. Thursday, February 20	486-490
D. Fraud	
12. Tuesday, February 25	490-508
E. Duress and F. Undue Influence	
13. Thursday, February 27	508-528
G. Illegality	
14. Tuesday, March 4	528-545
H. Incapacity and I. Unconscionability	
15. Thursday, March 6	545-560
SPRING BREAK	
16. Tuesday, March 18	560-567
J. Impossibility	
17. Thursday, March 20	567-579
18. Tuesday, March 25	579-588
19. Thursday, March 27	Assessment Number 2
VII. Performance and Breach of Contract: Questions to think about for your outline:	

- **What is the difference between a condition and a mere promise (also called a covenant)?; i.e., what is the consequence of breaching a condition versus breaching a covenant?**
- **What are the rules of contract interpretation to help you argue whether something is a condition or a mere covenant?**
- **What is the difference between an express condition and an implied-in-fact condition?**
- **What is the difference between a condition precedent and a condition subsequent?**
- **What is a constructive condition of exchange?; what is the consequence of breaching an express condition and a constructive condition of exchange?**
- **What is the test for substantial performance of a constructive condition of exchange?**
- **What about the UCC? What is the perfect tender rule? How can one reject breaching goods? How does acceptance of breaching goods occur? How can one revoke one's acceptance of breaching goods? What is the rule with respect to installment contracts?**
- **What are the special defenses to failure to satisfy a condition and what are their elements?**

20. Tuesday, April 1	599-613
21. Thursday, April 3	614-625
22. Tuesday, April 8	Midterm Exam
23. Thursday, April 10	No Class
24. Tuesday, April 15	625-635
25. Thursday, April 17	635-645
26. Tuesday, April 22	645-659
27. Thursday, April 24	659-673
Friday, April 25	Review Session
28. Tuesday, April 29	Assessment Number 3

These descriptions and timelines are subject to change at the discretion of the Professor.

Western State College of Law – Programmatic Learning Outcomes

Western State College of Law’s curriculum is designed so that every student achieves a level of competency prior to graduation in each of the eight Programmatic Learning Outcomes listed below:

- (1) **Doctrinal Knowledge**
Students will demonstrate knowledge of substantive and procedural law in the core curriculum subjects, including Contracts, Criminal Law, Criminal Procedure, Torts, Real Property, Business Association, Evidence, Civil Procedures, Constitutional Law, Estates, Community Property, Remedies, and Professional Responsibility.
- (2) **Practice Skills**
Students will demonstrate the development of other law practice skills. Each student’s chosen outcomes within this category will be varied based on the student’s particular interests, coursework and work experiences. They may include, but are not limited to, the following topics: oral presentation and advocacy; interviewing; counseling; client service and business development; negotiations, mediation, arbitration, or other alternate dispute resolution methods; advanced legal research and writing (excluding purely academic papers and the first four units earned in introductory first-year legal research and writing class); applied legal writing such as drafting contracts, pleadings, other legal instruments; law practice management or the use of technology in law practice; cultural competency; collaboration or project management; financial analysis, such as accounting, budgeting project management, and valuation; cost benefit analysis in administrative agencies; use of technology, data analyses, or predictive coding; business strategy and behavior; pre-trial preparation, fact investigation, such as discovery, e-discovery, motion practice, assessing evidence, or utilizing experts; trial practice; professional civility and applied ethics; a law clinic that includes a classroom component; or a legal externship that includes a classroom component.
- (3) **Legal Analysis**
Students will demonstrate the ability to identify the factual and legal issues implicated by a fact pattern and to appropriately use cases (including identifying the salient features of an appropriate precedent case, identifying legally significant similarities or differences between the precedent case and a fact pattern and explaining why those are legally significant) and rules (including the ability to connect legally significant facts in a fact pattern to the rule) to predict how a court would decide the issue. Students will also demonstrate the ability to identify and evaluate the public policies of a precedent case or rule, and be able to evaluate how public policy can impact the application of a rule to the legal issue.
- (4) **Legal Research**
Students will demonstrate the ability to locate relevant legal authority using a variety of book and electronic resources, and to properly cite to such legal authority.
- (5) **Communication**
Students will demonstrate the ability to communicate both orally and in writing in a manner appropriate to a particular task to effectively convey the author or speaker’s ideas. This includes audience sensitivity in written and oral communication (the ability to adopt a tone, style and level of detail appropriate to the needs, knowledge and expertise of the audience); and written communication basic proficiency (the ability to use the conventions of grammar, spelling, punctuation, diction and usage appropriate to the task and sufficient to convey effectively the author’s ideas).
- (6) **Advocacy of Legal Argument**
Students will demonstrate the ability, in both oral and written formats, to evaluate the legal, economic and social strengths and weaknesses of a case and use case and statutory authority as well as public policy to persuade others. Making policy-based arguments includes the ability to identify and evaluate the public policies of a precedent case or rule and their implications, and be able to assert such appropriate arguments to support a particular application or distinction of a precedent case to a legal controversy or a particular resolution of the application of a rule to the legal controversy.
- (7) **Client Sensitivity and Cultural Competency**
Students will demonstrate an awareness of clients’ needs and goals, including a sensitivity to clients’ background and circumstances (including, but not limited to, socio-economic, gender, race, ethnicity, educational, disability and/or religious background(s)), the ability to make decisions that reflect an appropriate focus on those needs and goals, and awareness that cultural issues may affect the relevance of facts and application of the law.
- (8) **Legal Ethics**
Students will demonstrate the ability to identify ethical issues in law practice contexts and make appropriate decisions to resolve such issues.