

**CONTRACTS**  
**LAW 1705**  
**Section B**

Professor Ronald J. Colombo – Spring 2024

**CLASS SYLLABUS (v4)**

**Course Description**

The concept of contract, which is concerned with relations based upon consent, is central in law as well as in political philosophy and theology. The course in contracts provides an opportunity to explore conflicts between fundamental social values, such as stability versus reform and freedom of contract versus regulation of fairness in dealing. The study of contracts also provides an introduction to a variety of lawyering skills, including analysis, drafting, counseling, statutory construction, and adversary method.

This course covers the essential elements of contract formation – namely, those ingredients that are necessary to transform a promise into a legally binding contract. It also covers the means by which a validly formed contract may be abandoned, and the remedies available to those who are the victim of another party's breach of contract.

**Learning Objectives**

By the end of this course, students should:

- Develop reasonable competency in
    - the knowledge and understanding of contract law
    - legal analysis and reasoning
  - Be able to
    - comprehend a judicial opinion, extracting the pertinent rules, holdings, and policies set forth therein
    - effectively identify key legal issues in a given fact pattern, and articulate the strengths and weaknesses of various sides to those issues
    - distinguish or harmonize, as appropriate, cases on the basis of law and/or fact
  - Appreciate the challenge of balancing several important and, at times, competing values within a coherent legal framework
  - Recognize when courts and judges are faithfully attempting to discern and apply the law relevant to the matter before them versus when courts and judges are crafting legal arguments to reach and justify a desired result
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**Class times & location\***

Mondays, 2:10 pm – 4:00 pm, Room 230  
Wednesdays, 2:10 pm – 5:00 pm, Room 230

**Professor Colombo Contact information**

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**Course Materials**

*Required*

- IAN AYRES & GREGORY KASS, STUDIES IN CONTRACT LAW (9<sup>th</sup> ed. 2017) (the “Casebook”) [available for purchase at the Hofstra University Bookstore]
- SELECTIONS FOR CONTRACTS (Farnsworth et al, eds., 2023) (the “Statutory Supplement”)†

*Highly recommended (but not required)*

- BLACK’S LAW DICTIONARY‡

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\* Unless otherwise indicated in this syllabus or on the course’s Canvas site.

† Sections of the Uniform Commercial Code (UCC) and the Restatement of Contracts (Second) will be assigned throughout the semester, and it is essential that you read them. These sections are freely available for viewing and printing on Westlaw and LEXIS (instructions on how to do this are set forth at the end of this Syllabus). Given the demands of law school (especially upon a first-year student), I believe that most of you would prefer the convenience of a hard-copy book containing these sections, and for this reason I am assigning the Statutory Supplement text. If you wish to skip the textbook, and download the UCC and Restatement provisions yourself, you are welcomed to do so.

‡ Any version or edition will do. Other, less expensive dictionaries are available and suitable as well (and some online legal dictionaries are free to use). The critical thing is to have at your fingertips some reliable source for looking up legal terms with which you are unfamiliar.

### Attendance & Lateness

You are expected to arrive on time and prepared for each class.

Moreover, the rules of the New York State Court of Appeals and the American Bar Association require law students to be in good and regular attendance in the courses for which they are registered. To comply with these rules, you must attend at least 85% of the regularly-scheduled classes in this course. **Thus, you may miss no more than four classes sessions in this five-credit class.**

I will provide dated sign-in sheets for each regularly-scheduled class. **Your signature (or lack thereof) on these sheets shall presumptively determine your attendance at (or absence from) any given class.** Each student is individually responsible for signing the attendance sheet in. Falsification of sign-in sheets (by, for example, signing another student's name) is a violation of the Code of Academic Conduct.

**If you exceed the permitted absences by not attending class, or by failing to sign in, you will be administratively withdrawn from the course. Any such withdrawal may have serious ramifications for your financial aid, academic standing, and date of graduation. If you are excessively absent from several classes, you may face additional sanctions, including but not limited to denial of certification of good and regular attendance to the New York State Board of Law Examiners, or other state bar examiners.**

The Office of Student Affairs has authority to excuse class absences for religious reasons and in cases of truly compelling hardship. If you wish to claim a particular absence as excused, and thus not counted against your maximum number of allowable absences, you must take that issue up with the Office of Student Affairs – NOT with me or my secretary. **I shall mark an absence as excused if and only if I receive a note or email from the Office of Student Affairs to that effect.**

Lastly, late arrivals are disruptive to the class. For this and other reasons, please make every effort to arrive on time to class.

### Canvas

This learning management system ("LMS") for this course will be Canvas, and as such this course shall have a Canvas site. Important course information, materials, and announcements will be made available / communicated via Canvas. Please be sure to locate and verify your access to the Canvas site. If you have Canvas-related questions, please contact University IT at 516-463-7777 or the dedicated Canvas helpline at 877-241-4253.

### Laptops in the Classroom

Several studies have suggested that laptops in the classroom, for a variety of reasons, undermine, rather than enhance, the educational experience. For this reason, a growing number of professors, at Hofstra and elsewhere, have banned the use of laptops in the classroom.

Although I do not ban laptops in my classrooms, I strongly discourage their use. Although different students learn in different ways, if you are like most students, you will follow class discussion better, and get more out of each class, if you leave your laptop at home or turned off.

To help encourage you to attend class without your laptop, I am going to have a recording of each class made available to you on a timely basis. These recordings can be accessed via the Hofstra portal as follows:

1. Log in to the Hofstra portal (my.hofstra.edu)
2. Click on “My Apps”
3. Select the Echo360 app 
4. You will be redirected to your Echo360 dashboard and should see your registered courses.
5. If you click on the course, you will see the available podcasts.

For help with this, please contact the Law School’s helpdesk via [lawhelp@hofstra.edu](mailto:lawhelp@hofstra.edu) or phone (516-463-4192). Hopefully, this will reduce the need that many students have to transcribe every word of classroom discussion. That said, **do not rely on these podcasts as a substitute for smart, careful note taking.** Among other reasons for this, technical malfunctions are always a possibility, which could cause a particular class session to not properly be recorded.

Lastly, since laptops can distract even those students who are not using them (as computer screens displaying a video game, the latest breaking news, or ballgame scores can sometimes, admittedly, be a bit more interesting than the study of law), I shall require that those **students who insist on bringing their laptops to class seat themselves in the last row, and the side rows, of the classroom.** I do this not to punish or penalize such students in any way, but rather to create a “laptop-free zone” to protect non-laptop using students from the distractions posed by ubiquitous computer screens within their field of view.

### Zoom Classes:

A number of our course sessions (less than 33%) will be conducted via Zoom. The course’s Canvas site will contain a link for you to click at the appropriate dates and times to join the live class session.

As I trust many of you are aware by now, to participate in our Zoom course sessions it is critical you have access to a PC, Mac, or laptop, or other device with (1) speakers (or earbuds/headphones), (2) a microphone, (3) a webcam, and (4) a stable, solid Internet connection for each of the class meeting times. A complete list of technical requirements can be found here: <https://support.zoom.us/hc/en-us/articles/201362023-System-Requirements-for-PC-Mac-and-Linux>.

Please arrive to the Zoom sessions a little early to make sure you can log in and that your equipment is working properly.

Please adhere to following guidelines for our Zoom sessions:

- Mute your phone/microphone upon entering class and when you are not speaking
- Please identify yourself by your LAST NAME (if you haven't done so, just click the three dots in the upper right-hand corner of your window and "rename" yourself)
- Upon entering class, chat "present" in order to record your attendance
- In order to ask a question, please raise your hand using the "raise hand" feature on Zoom (location may vary depending upon your device)
- Please remember to lower your hand after you've been called upon
- Activate your video feed once class begins
- To prevent audio echo, use earbuds or a headset if possible

If you believe there is a problem with Zoom on *my* end (whether at the start of class or during our class), please keep trying to log into the session for fifteen (15) minutes. If things aren't rectified by then, class has been cancelled.

For help with Zoom, please contact the Law School's helpdesk via [lawhelp@hofstra.edu](mailto:lawhelp@hofstra.edu) or phone (516-463-4192), or University IT at 516-463-7777.

As with all of our other class sessions, our Zoom class sessions will be recorded. The recordings for the zoom class sessions will be made available for viewing on our Canvas course site.

### **Email and Office Hours:**

My email and office hours are set forth above.

Many matters can be dispensed with via email, but you should nevertheless feel free to meet with me during office hours if that is your preference.

Although drop-ins are welcome during my office hours, students who have made an appointment to meet with me will be seen during their respective time-slots in preference to others.

To make an office hours appointment with me, please do so via the Calendar function on Canvas.\*

If you do make an appointment to meet with me, please make every effort to be punctual. If you are late, and there are other students who wish to meet with me, you shall lose your appointment and need to wait your turn in a first-come, first-served queue. If you know ahead of time that you

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\* In broad strokes, to do this you'll need to open the Calendar module from within Canvas. (As of this writing, that's on the blue column to the far left of the Canvas page.) You'll then need to select the Calendar associated with this particular course. (As of this writing, that's on the right-hand side of the Canvas Calendar page.) You should then be able to see the available office hour time slots (each is 15-minutes in length). Please click on the time slot you're interested in and fill out the details as appropriate.

cannot make a scheduled office hours appointment, please delete your appointment so that another student can make an appointment for the time in question.

**Critically, when you show up to your appointment, if my door happens to be closed, or if I happen to still be meeting with someone else, *please knock!***

I encourage you to take full advantage of my office hours. And please do not feel as though you need to limit the subject of our meetings to class matters *per se* -- I would be happy to discuss with you more general law school concerns, career questions, or anything else that would be appropriate.

In the event that it is not possible for you to meet with me during my regularly-scheduled office hours, please let me know (preferably via email) and we can arrange to meet at another time that works for both of us.

### Workload

The American Bar Association requires that you spend at least ten hours per week, on average, outside of class studying for this 5-credit course. This is in addition to the five hours a week we spend in class. This workload for the course has been formulated to meet that requirement.

I have intentionally limited the readings in this class to provide you with sufficient time to carefully read, and re-read as necessary, all the assigned material in anticipation of each class. I have also limited the readings to afford you time to review and study your notes from previous classes on a regular basis. If you find yourself spending less than ten hours per week on such out-of-class undertakings, please redouble your efforts and/or make an appointment to meet with me.

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### Grading

Your final grade (80%) shall be based primarily upon a final examination. The final examination will be closed-book, and consist of a combination of multiple choice and essay questions totaling 100 points. It will be graded anonymously.

Each multiple-choice question will be worth a set value (yet to be determined). The grade you receive for your final exam essay(s) will also be worth a set number of points (yet to be determined). The amount of points earned on your final exam essays will be predicated upon the following performance indicators:

Final Exam Essay Question Performance Indicators
Content of Each Answer (primary component of grade)
The content element will be judged on: <ul style="list-style-type: none"><li>• How directly the answer responds to the question(s) presented</li><li>• How well the answer identifies the issues presented by the question(s)</li><li>• How well the answer analyzes the issues presented by the question(s)<ul style="list-style-type: none"><li>○ How well the answer articulates and applies the relevant law</li><li>○ How well the answer weighs and utilizes the facts presented in the question(s)</li></ul></li></ul>
Grammar & Style (secondary component of grade)
The grammar & style elements will be judged on: <ul style="list-style-type: none"><li>• How effectively the answer is organized</li><li>• How clearly and how well the answer is written<ul style="list-style-type: none"><li>○ Correct punctuation and spelling</li><li>○ Subject/verb agreement</li></ul></li></ul>

You will earn a letter grade for the course (from “A” to “F”) that corresponds to your score on the final exam given the parameters set by the Law School’s applicable grading curve.

Most of my past exams for Contracts are available via the Library’s Exam Archives. I would encourage you to review these past exams as part of your preparation for the final exam in this course. Please bear in mind, however, that course coverage changes somewhat from year to year, and as such there may be material tested on prior exams that would not be tested on this semester’s exam (and vice versa). If you have questions related to the Exam Archives, please ask one of our librarians at the library’s reference desk for assistance.

Twenty percent of your grade (20%) shall be based upon your in-class performance throughout the course. Pursuant to this policy, exceptional class participation that reflects preparation, thought, and engagement will be rewarded, while class participation that reflects the opposite will be penalized. Those students who do not distinguish themselves one way or the other will receive a default class participation grade of “B.”

Since the grade distribution for this class will be based upon the law school’s grading curve, this should not negatively affect anyone’s grade. Rather, only those students who distinguish themselves positively or negatively (and thus receive a class participation grade higher or lower than “B”) will see their grades affected by this policy.

You will be given a take-home Quiz on a date to be determined. The Quiz should be taken closed-book.

Although I will review the quizzes, I will not be assigning a grade to them, and as such **the Quiz will not be factored into your final grade for the course.** It is for informational purposes only. We will go over the Quiz together in class.

It goes without saying that the more you put into your preparation for the Quiz, the more you will get out of this experience. Therefore, I urge you to treat the Quiz seriously.



Assignments

Assignments are organized by subject and will be covered sequentially.

As you will see from the table below, on some dates I plan on covering two assignments.

**Bolded** assignment entries indicate major topic areas; non-bolded entries indicate subtopic areas

Planned assignments, including the estimated class date for which each is due, are set forth below. Unless otherwise notified, you should come to class prepared to discuss a given assignment on the estimated date specified.

Asst. No.	Topic	Casebook	Other	Estimated Date
	[class cancelled]			1/10 (Wed)
1	<b>Introduction</b>	I-12, 47-62	What is Law? [Canvas]	1/17 (Wed)
2	<b>Implied Contracts and Quasi-Contract</b>	I2-19		
3	<b>Consideration;</b> gratuitous promises; formalism	67-77, 84-88, 92-96	Rest. (2d) § 71	1/22 (Mon)
4	Moral Obligation	I03-118	Rest. (2d) § 86	
5	mixed motives & nominal	I18-121	Rest. (2d) §§ 71, 81	1/24 (Wed)
6	Adequacy of consideration	I21-131	Rest. (2d) §§ 74, 79	
7	pre-existing duty rule	I31-146	Rest. (2d) §§ 73, 89; UCC §§ 2-102, 2-209(1)	1/29 (Mon)
8	mutuality of obligation	I47-150, 154-163	Rest. (2d) § 228; UCC § 2-306	1/31 (Wed)
9	<b>Promissory Estoppel</b>	77-81, 163-186	Rest (2d) § 90	
10	<b>Offer &amp; Acceptance;</b> Misunderstanding	187-203	Rest. (2d) §§ 20, 24, 26; UCC §2-204	2/5 (Mon)
11	Offers; Auctions	209-236	Rest. (2d) §§ 24, 26; UCC §2-204	
12	Acceptance	236-247, 256-263	Rest. (2d) §§ 30, 32, 36, 45, 50, 51, 54, 56, 62; UCC §2-204	2/7 (Wed)
13	Acceptance by Silence	263-271	Rest (2d) §§ 30, 32, 40, 42, 43, 69; UCC §2-206	
14	Termination of Offers	282-291	Rest (2d) §§ 41, 42, 43	2/12 (Mon)
15	Firm Offers	291-315	Rest (2d) §§ 37, 45, 62, 87; UCC § 2-205	

16	Mailbox Rule	315-321	Rest (2d) §§ 24, 30, 40, 42, 51, 63	2/14 (Wed)
17	Counter-Offers / Mirror-Image Rule	322-341	Rest (2d) §§ 59, 61; UCC §2-104, § 2-207; UCC § 2-207 Summary Chart [Canvas]	
18	Shrinkwrap and Browsewrap	341-357	Rest. (2d) § 50 UCC § 2-207; <i>Klocek</i> Facts [Canvas]	2/21 (Wed)
19	<b>Indefinite Agreements and Gaps</b>	365-372, 383-394, 402-406	Rest (2d) §§ 33, 34, 204; UCC §§ 2-204, 2-305; UCC §§ 2-305 to 2-311 [skim]	
20	<b>Accord and Satisfaction</b>	418-424	Rest (2d) § 281	
21	<b>Statue of Frauds</b>	431-448, 453-467	Rest (2d) §§ 110, 131; UCC §§ 2-104, 2-105(1), 2-201	2/26 (Mon)
22	<b>Capacity</b>	467-477	Rest (2d) §§ 12-16	2/28 (Wed)
23	<b>Mistake</b>	484-485, 494-499	Rest (2d) §§ 151-154	
24	<b>Misrepresentation and Nondisclosure</b>	517-521, 528-549	Rest (2d) §§ 159, 161-164	
25	<b>Duress</b>	549-557	Rest (2d) §§ 174, 175, 176, 177; UCC § 2-209	3/4 (Mon)
26	<b>Unconscionability</b>	23-29, 561-577, 591-594	UCC § 2-302	
27	<b>Illegality and Public Policy</b>	601-609, 653-657	Rest (2d) § 178	3/6 (Wed)
28	<b>Parol Evidence Rule</b>	659-678	Rest (2d) §§ 209-210, 213-216; UCC § 2-202	
29	<b>Interpretation</b>	681-699, 701-707	Rest (2d) §§ 202-203; Principles of Interpretation [Canvas]; UCC §§ 2-305 to 2-311 [skim]	3/11 (Mon)
30	<b>Duty of Good Faith</b>	707-716, 762-772	Rest (2d) § 205; UCC § 1-304	
31	<b>Warranties</b>	772-774, 780-785, 800-805	UCC §§ 2-313, 2-314, 2-315, 2-316, 2-318 (C)	3/13 (Wed)

32	<b>Conditions</b>	808-822	Rest (2d) §§ 224, 225, 226.	3/25 (Mon)
33	Excuse of Express Conditions	822-828	Rest (2d) §§ 226-230	3/27 (Wed)
34	Constructive Conditions and Substantial Performance; Perfect Tender	841-856	Rest (2d) §§ 226, 230, 241; UCC § 2-601	
35	<b>Changed Circumstances;</b> Impracticability; Frustration of Purpose	19-22, 862-863, 869-885, 900-918	Rest (2d) §§ 261, 265	4/1 (Mon)
36	<b>Anticipatory Repudiation</b>	951-957	UCC §§ 2-609, 2-610, 2-611	
37	<b>Remedies</b>	975-983, 988-991	UCC § 2-716; <i>Hawkins v. McGee</i> [Canvas]	4/3 (Wed)
38	Damages; Consequential Damages; Lost Volume	1006-1014* 1029-1034, 850-855, 991-996, 1048-1050	*read <i>Hadley v. Baxendale</i> [CB 41-47], Rest (2d) § 351	
39	Mental Anguish and Punitive Damages	1080-1085, 1096-1103	Rest (2d) § 353; UCC § 2-716	4/8 (Mon)
40	Injunctive relief	1107-1116	UCC § 2-716	
41	Liquidated Damages	1126-1146	Rest (2d) § 356; UCC § 2-718(I)	4/10 (Wed)
42	Limitation on Damages	1146-1153	UCC § 2-719	
43	<b>Third Party Interests;</b> Assignment	1159-1178	Rest (2d) §§ 317, 322	4/15 (Mon)
44	Third Party Interests- Delegation	1178-1183	UCC § 2-210; Rest (2d) § 318	
45	Third Party Beneficiaries	1183-1203	Rest (2d) § 302	4/17 (Wed)
	[Reserved]			4/22 (Mon)
	[Review Session]			4/24 (Wed)

Key:

Casebook: IAN AYRES & GREGORY KLASS, STUDIES IN CONTRACT LAW (9<sup>th</sup> ed. 2017)  
Rest (2d): Restatement (Second) of Contracts  
UCC: Uniform Commercial Code  
Canvas: Item available on Canvas site under “Handouts” folder in “Course Materials”.

Note:

Unless otherwise indicated via brackets (e.g., “Calamari §1.4 [Canvas]”), the materials listed in the column entitled “Other” can be found on in the Statutory Supplement assigned for this course.

With regard to the UCC (Uniform Commercial Code) provisions, you are responsible for the original (or “current”) version of the text, and not the versions amended or proposed from 2000 onward (regardless of the source you use to locate them).

Using Westlaw and LEXIS to find Restatement and UCC provisions:

In the event that you do not have a copy of the Statutory Supplement, the assigned Restatement and UCC provisions can be located electronically.

In order to find a Restatement section on Westlaw (for example, Rest (2d) § 71), simply type in the “Find by citation” box:

REST 2d CONTR 71

In order to find a UCC section on Westlaw (for example, UCC § 2-209), simply type in the “Find by citation” box:

UCC 2-209

Sometimes (as in the example of UCC § 2-209), this search will result in two or three results – the original (“current”) version, and amended version. You are responsible for the original (“current”) version (which is usually the last of the results displayed on Westlaw), and not amended versions (dating from 2000-present).