National Paralegal College
717 E. Maryland Avenue
Phoenix, AZ 85014
Tel: 800 - 371 - 6105
Fax: 866-347-2744
e-mail: info@nationalparalegal.edu
Website: **http://nationalparalegal.edu**

Contracts
PLG-102-1710

Syllabus and Course Guide

The NPC Contracts course meets 15 times over the course of the 8-week term in the NPC interactive classroom. Each session consists of about 60 minutes of online lecture by the course instructor. After the lecture, students may ask questions and make comments on the material being studied.

Classes for this course occur on Tuesdays and Thursdays in accordance with the lecture schedule on this syllabus. The first class will take place on September 26, 2017. Unless otherwise noted, all lectures begin at **7:00 P.M**., Eastern Time.

All class sessions are recorded and may be viewed by students at any time.

To successfully complete the course, each student must satisfactorily complete:

- 5 written assignments
- 3 examinations

Unless an extension has been taken pursuant to the NPC Extensions Policy (see the end of this syllabus), all assignments and exams must be submitted by the course deadline which appears later in this syllabus. No extensions may be taken or granted unless the student has submitted one or more assignments or exams in advance of the original deadline. In addition, extensions are subject to grade penalties and are limited to no more than 30 days from the date of the original deadline.

Please note that students are strongly encouraged to do their work as the course progresses rather than waiting for the days or weeks before the deadline to do all of their work. It is also critically important that students realize that:

1. A grade of "Incomplete" is the same as an "F" and is a failing grade.
2. A grade of "Incomplete" will result in a reduction in the student's grade point average.

3. Student may have to pay to re-take or replace a course for which a grade of Incomplete is assigned.
4. Two consecutive Incompletes may subject the student to dismissal from the college under NPC's chronic incomplete policy.
5. Students with a GPA of under 2.0 are not eligible to receive federal financial aid and cannot graduate until their GPA is at or above 2.0.

If a student is having trouble completing the course, the student is strongly encouraged to contact his or her student mentor or teacher as early as possible.

Please note also that:

- A student who receives an incomplete on his or her first course may be dismissed from NPC.
- A student who fails to complete at least one weekly interaction during the first 14 days of the course will automatically be withdrawn from the course per NPC policy. The student may re-join the class by prompt notification to NPC and by prompt completion of an interaction shortly thereafter.

INSTRUCTORS:

The instructors for this course are:

Lecturer:

- **Howard Leib (howardleib@aol.com)**

Grader:

- **Brett Bauman (brett@nationalparalegal.edu)**

COURSE DESCRIPTION:

Contract law is very significant because it governs the commitments that individuals and other legal entities, i.e., corporations, etc., make to one another. This course will provide the student with a comprehensive understanding of the common law of contracts, from the formation of a contract through its termination, including various ways in which parties can enter into a contract. Also explored are the concepts of consideration, offer and acceptance, illusory contracts, oral contracts, the Statute of Frauds, accord and satisfaction, enforcement, damages for breach of contract, and defenses available to a party that reneges on a contract. Additionally, this course will familiarize the student with the Uniform Commercial Code and the laws governing the sale of goods.

COURSE OBJECTIVES:

At the completion of this course, the student will be able to:

- Properly research various sources of contract law, including common law, case law, general obligation statutes and the Uniform Commercial Code ("UCC").
- Differentiate between an offer and a mere expression of interest or an invitation to negotiate.
- Describe the rules of revocation by actions or expressions, and apply those rules to fact patterns.
- Describe actions that constitute acceptance of an offer.
- Describe why particular agreements are supported by consideration in various hypothetical fact patterns.
- Recognize cases in which a contract can be voided due to grounds such as mistake, duress, unconscionability, Statute of Frauds, etc. and determine whether any such defense is applicable in a particular case.
- Determine whether a contract has been breached in a particular fact pattern.
- Apply the "substantial performance" rule to a breach of contract scenario and the related "perfect tender" rule of the UCC in the sale of goods.
- Apply the rules for contract remedies, i.e., expectation, reliance and restitution damages, to a particular fact pattern and predict the kind of remedy a court will be most likely to order in a particular case.
- Describe the conditions necessary before a court will order equitable remedies, such as specific performance.

READING ASSIGNMENTS:

All reading assignments refer to the NPC courseware, including the self-quiz questions attached to each subchapter. Cases and/or statutes that are specifically mentioned in the syllabus are required reading. The texts of these cases and/or statutes may be accessed directly from the courseware. In addition to the assigned courseware and cases, students should familiarize themselves with the various legal documents listed for each lecture. These documents can be found on the "Documents and Slides" page on the NPC student website. Some, but not all, of these documents will be discussed in class. Reading assignments for each class should be completed prior to the class.

In addition to the courseware's electronic form, you may also order a book version of the courseware that includes:

1) **The courseware**
2) **All lectures slides**
3) **Selected Provisions from the Uniform Commercial Code**

You may order this book at: http://www.freewebstore.org/npc-courseware-books

School Virtual Library

All NPC students are encouraged to take advantage of the NPC virtual library, which can be accessed from the "course materials" page on the student menu or directly through this link: http://nationalparalegal.edu/Students/VirtualLibrary.aspx.

The NPC virtual library gives students access to Lexis Advance, which is one of the premier online legal databases in the world. It is expected that most legal research can and should be done through Lexis Advance. Online tutorials in the use of Lexis Advance are available on the lower right portion of the default login screen for Lexis Advance.

NPC also subscribes to the Library Information Resources Network (LIRN), which allows our students access to scores of databases containing hundreds of thousands of academic articles and publications. For research that is not legal in nature (for example, for business and general education courses), it is anticipated that students will use LIRN to access reliable academic sources for research papers. Online training in the use of LIRN resources is available here: http://www.lirn.net/training/.

NPC students also have access to Computer Assisted Legal Instruction (CALI) lessons. Unless assigned in the course syllabus, these are optional, but can be very helpful.

WRITTEN ASSIGNMENTS:

At the outset of the course, five assignments will be posted on the "Assignments and Exams" page. The five assignments will cumulatively count for 40% of the student's grade for the course.

Please compose your answers to assignments on your own computer, remembering to save your work frequently. Once your assignment is complete, please submit by uploading it pursuant to the directions on the "Assignments and Exams" page within the NPC student site. Assignments may be submitted as PDF files, Microsoft Word documents, Open Office documents or PowerPoint presentations.

Each submitted assignment will be graded on the following scale:
4 - Excellent
3 - Good
2 – Satisfactory
1 – Poor
0 – Not acceptable (must resubmit)
(Half-points may also be awarded in assignment grading.)

Please see the "Assignment Grading Rubric" (the next page of this syllabus) for more detailed information about how assignments are graded and the key elements of assignments that instructors look for when grading assignments.

In addition to a grade, students will receive written feedback from the instructor on their assignments, where appropriate.

To the extent possible, it is recommended that students complete the assignments as the course proceeds rather than waiting until after the course ends.

Assignment Grading Rubric

Factor	4 (Excellent)	3(Good)	2(Satisfactory)	1 (Poor)	0 (no credit)
Thoroughness	Answers all questions in the exercise completely and in the appropriate order.	Answers all questions in the exercise but not completely and/or not in the appropriate order.	Answers most of the questions in the exercise but not completely and/or not in the appropriate order.	Does not answer many of the questions in the exercise but does make some reasonable effort to do so.	Makes little or no reasonable effort to answer the questions posed in the assignment.
Demonstrates Understanding of the Assignment and has come to an appropriate conclusion	Response demonstrates a thorough understanding of the exercise and the student has justified and enunciated an appropriate conclusion.	Response demonstrates an understanding of the exercise and comes to a conclusion.	Response demonstrates some understanding of the exercise. The conclusion that the student comes to may not be appropriately justified by the rest of the essay.	Response demonstrates some understanding of the exercise but shows a high level of confusion on the part of the student. The student's conclusion, if any, is not supported by the rest of the essay.	Response demonstrates a very poor understanding of the subject matter presented by the assignment.
Documentation/ Legal research (note: For assignments, sources should be those obtained through legal research; for exam essays, legal principles learned in class or the courseware is sufficient.)	Student has cited at least two excellent sources and has applied them appropriately. Appropriate sources are documented and well cited and well integrated.	Student has cited one excellent source or two or more good sources but has missed at least one excellent source. Sources are integrated well in the assignment.	Student has cited appropriate sources but has missed the best available OR student has cited good sources but has done a poor job of integrating them.	Student has cited poor or inappropriate authorities or has failed to establish the relevance of the sources that he or she has cited.	Student has not cited any legal authorities or has cited authorities that are irrelevant.
Organization	Essay is organized very well; the reader can clearly understand where the essay is going at all points and a cohesive easy-to-follow argument is made in the essay. Separate paragraphs are used for separate ideas.	Essay is well organized. The essay is coherent, though may not flow freely. Different components of the essay are broken up appropriately.	Essay shows some level of organization, but is difficult to follow. The essay is not as focused as it should be. Essay may go back and forth between points without using new paragraphs.	Essay is poorly organized and is very difficult to follow. The student did not appropriately separate thoughts and did not properly organize the essay.	Student's essay is in chaos. There is no reasonable attempt to organize the essay coherently.
Critical Thinking and Analysis	Shows excellent critical thinking and analysis. The student is able to apply the cited law to the facts of the given case in a clear and convincing manner.	Shows good critical thinking and analysis. The student's points are well argued and well supported.	Shows adequate critical thinking and analysis. The student's points are supported by logic, but are not exceptionally convincing.	Shows minimal critical thinking and analysis. The student's arguments are weak and unconvincing.	Shows no effort at critical thinking or analysis. The student's points make no sense.

Credit may also be taken off for poor spelling or grammar.

EXAMINATIONS:

Examinations will be posted on the NPC website when indicated on the syllabus of the course. The examinations consist entirely of "short essay" questions. The 3 examinations will cumulatively count for 60% of the student's course grade.

Examinations are non-cumulative; they cover only the material that was covered since the previous examination. The instructor will provide specific information regarding the content of each examination, as the examination time approaches.

All examinations are timed. A student may begin the examination any time after it is posted to the NPC website. Once begun, the examination must be completed within 4 hours.

Examinations will be graded on a conventional 0-100 scale. The number of points each question is worth is equal to 100 divided by the number of questions on the examination.

For each examination question, full credit will be awarded if the student:

1) Correctly identifies the legal issue(s) presented by the question
2) Applies the correct law to the legal issue(s) presented (note: full credit may also be awarded if the student's answer comes to an "incorrect" conclusion if the student bases his or her analysis on correct law and supports his or her position in a convincing manner)
3) Presents his or her answer in a clear and understandable manner

The amount of partial credit to be awarded, if any, for an answer that is not complete and correct is at the discretion of the instructor. Instructors are instructed to award partial credit that is proportional to the level of knowledge and legal skill displayed by the student in answering the question.

Please note that, even if not directly stated in the question, you must give reasons for your answers to open-ended questions. One word answers such as "yes" or "no" or answers that merely restate the question without explaining the answer given will not be credited.

The following factors are generally NOT taken into account in grading examinations:

Legal research: Although research is a key component of assignments, examinations are graded on the student's knowledge of the legal concepts taught and do not require independent research.

Grammar and spelling (unless they impact the ability of the grader to understand the student's answer): Although these are essential skills for a paralegal, examinations test legal knowledge and ability to apply the skills learned, not necessarily the ability to write professional legal memoranda (assignments test this skill). In addition, because exams are taken under time constraints, we would

rather see the students spend their time spotting legal issues and applying applicable law than on proofreading answers for typos and grammar mistakes.

For more information on assignments and examinations, please see the *NPC Student Handbook.*

To the extent possible, it is recommended that students complete the exams as the course proceeds rather than waiting until after the course ends.

Early Assignment Submission Incentive Policy

NPC encourages students to submit their assignments as early as possible. In order to facilitate early submissions, students are advised that in exchange for submitting assignments in the first six weeks of the course, they will be awarded the opportunity to re-do or fix up an assignment after it is graded in order to increase the grade.

The following limitations apply:

1. When resubmitting an assignment, a student will only be able to increase his or her grade to a maximum of 3 or by one full point, whichever is greater. For example, if a student submits an assignment within the first six weeks of the course and receives a 1.5 or a 2.0, the student may make corrections suggested by the instructor and can potentially raise the grade to a maximum of 3. A student who initially receives a grade of 2.5 may raise the grade as high as 3.5 with a resubmission.

2. A student may exercise this option up to two (2) times per course.

3. Students are not guaranteed the maximum increase if their corrections do not merit such a change. The grader has the discretion to award a smaller or no increase if the student does not follow the grader's feedback.

To resubmit an assignment under this policy, please contact the course grader.

NPC STUDENT MENTOR

Each NPC student is assigned a student mentor upon enrollment. Your student mentor is a resource that can and should be drawn on if you need academic assistance. This includes advice on studying, help with assignments, general academic questions, etc. You should have received an email from your student mentor upon enrollment. If you have not received such an email or do not know who your student mentor is, please contact Connie Erpelding at connie@nationalparalegal.edu or 800-371-6105 x 115.

NPC PLAGIARISM POLICY

All work done by NPC students on assignments, examinations and research projects is expected to be their own work. Quoting other sources as part of analyzing a subject is desirable and necessary in many cases. However, when other sources are quoted or used, they must be properly attributed to the original sources. This applies to direct quotes of sources and to paraphrasing other sources or using ideas obtained from other sources even if the exact text it not used.

Plagiarism means using the materials of others without appropriately citing the source and is an academic offense.

Under the NPC plagiarism policy, a student may not, as part of any assignment or exam submission:

1) Quote any text from any other source without:

    a) putting quotation marks around the quoted material;
    AND
    b) appropriately citing the source of the quote.

2) Pass off the work of another as his or her own, even if the student does not directly quote from the other source.

Please note that the NPC plagiarism policy does not mean that you cannot quote language from the courseware, textbook or slides as part of an answer to a question on an exam. These are resources that are meant to be used on an exam when applied in an appropriate manner. However, quoting any source ***without attribution*** is plagiarism.

In addition, NPC students may not share their completed work, answer keys, or sample answers which they have obtained by any method with any other student. Students may NOT upload any sample answer (whether written by themselves or any other person) to any publicly available website or database. **Any student who uploads a sample assignment or exam answer to a publicly available website or database shall be disciplined in a manner to be determined by the school Dean, up to and including expulsion from the college**.

For more information regarding the NPC Plagiarism Policy, penalties and due process rights where plagiarism is alleged, please see the NPC Plagiarism Policy at:

http://nationalparalegal.edu/pages/PlagiarismPolicy.pdf

WEEKLY INTERACTION REQUIREMENT

To ensure that all students are involved and participating in the course as the course moves forward, each student enrolled in this course must, at least once during each week, either:

1) Attend a live lecture and take and pass a short quiz given during class (where applicable)
OR
2) Submit at least one assignment
OR
3) Take at least one examination
OR
4) Answer a weekly "interaction" question or questions that will be posted on the "Assignments and Exams" page.

The weekly "interaction" question(s) will be straightforward and will cover material covered in class each week. Answers to these questions should be short (typically 1-3 sentences) and to the point.

The student's response (which is necessary only if the student does not attend a live lecture or take an exam or submit an assignment in the given week) will be graded on a pass/fail basis. The interaction questions will be posted no later than Monday of each week and must be answered on or before the following Sunday.

Any student who does not fulfill this requirement during a given week may receive a reduction in his or her over-all grade of 2 percentage points (10 raw points).

Please also note that a student who does not fulfill an interaction during the first two weeks of a course will be automatically withdrawn from that course, as it will be assumed that the student who does not interact during the first two weeks has no intention of attending the course. The student may re-join the class by prompt notification to NPC and by prompt completion of an interaction shortly thereafter.

If an emergency prevents attendance in this period, please email Susan Israel (susan@nationalparalegal.edu) or Stephen Haas (shaas@nationalparalegal.edu) as soon as possible.

Fulfilling the weekly interaction requirement is particularly important for students receiving financial aid. Federal regulations require the school to withdraw students from financial aid who go 14 consecutive days without fulfilling an interaction requirement and to return any outstanding financial aid money to the government unless the student interacts with the school prior to the time that the withdrawal is completed. If you are unable to fulfill a weekly interaction requirement, it is critical that you stay in contact with the school so that other arrangements can be made.

COURSE GRADES

The following formula will be used to calculate final grades

Cumulative exam scores + (assignment points x 10) = raw score

Because exams are worth up to 100 points and assignments up to 4 points each, the maximum raw score is 500. 10 raw points (2% of the raw point total) may be deducted for each missed weekly interaction. 4 raw points (0.8% of the raw point total) are deducted for each day of an extension beyond the course deadline. Extra credit may be available for certain in-class activities as may be announced by the instructor. Penalties for missed weekly interactions and/or for extensions are applied at the discretion of the instructor and/or the administration of NPC.

The following conversion chart is then applied based on the total raw points you have earned:

>474	=	A+
445-474	=	A
420-444	=	A-
395-419	=	B+
365-394	=	B
340-364	=	B-
315-339	=	C+
285-314	=	C
260-284	=	C-
230-259	=	D
<230	=	F

OPTIONAL STUDY SESSIONS

In addition to the 15 classes listed below, instructors and/or graders may run 1 or 2 additional study sessions to discuss assignments and/or the course materials. Attendance and participation in at these sessions is optional and they will be recorded for those who cannot make it to the live sessions.

Please keep an eye on the course message boards to details as to when these will be held.

All examinations and assignments are due no later than Sunday, January 7, 2018 at 11:59 PM EASTERN TIME; that's EASTERN time. That means 8:59 PM Pacific time, 9:59 PM Mountain time, 10:59 PM Central time, etc.

Please see the end of this syllabus for a note on NPC course extensions policy!

Lecture and reading assignments schedule

Class 1 **Tuesday, September 26, 2017**

This class will provide an in-depth look at the issues involving consideration. We will begin by examining the bargain theory and enforceable factor theories of consideration, including what is and is not adequate consideration to make a contract binding. We will look at the reasons for the consideration rules and how those reasons apply to various common situations.

Courseware Reading:

Chapter 1: Introduction and Consideration

- Introduction to Contracts and Consideration

- Problems in Consideration: Bargain Promises and the Mutuality Rule

Cases and Statutes:

Batsakis v. Demotsis
This case analyzes the limits of the consideration rule. If a person is forced by circumstances to enter into a contract that is unfair to him or herself, will that contract still be enforced by a court? This case will be analyzed to determine the limits of the consideration principle.

Class 2 **Thursday, September 28, 2017**

In this class, we will continue our discussion of consideration. We will look specifically at two interesting problems in the area of consideration: the mutuality rule and its exceptions and the pre-existing duty rule. We will also look at an employment agreement and discuss the responsibilities that a court will infer in this type of agreement to ensure that consideration exists in standard employer contracts.

Courseware Reading

Chapter 1: Introduction and Consideration

- Exceptions to the Mutuality Rule

- Problems in Consideration: Bargain Promises and the Legal Duty Rule I

- Problems in Consideration: Bargain Promises and the Legal Duty Rule II

Cases and Statutes:

Wood v. Lucy, Lady Duff Gordon
This interesting case discusses the "best efforts" rule and intertwines it with the rule of consideration. This case announced the rule that anyone hired to exclusively market a product for a commission on its sales inherently promises to use his or her "best efforts" in marketing that product. Therefore, both parties to such a contract are promising something and there is consideration for the lawsuit. This case presents an excellent look into the mechanics of the doctrine of consideration and the concept of "legal detriment."

Class 3 **Tuesday, October 3, 2017**

This class will consist of a Lexis tutorial/ assignment walkthrough. The instructor will use a research assignment from a past or current course to demonstrate the manner in which an assignment should be researched and composed.

The instructor will walk the students through the various Lexis databases and explain to students how to most efficiently use the Lexis system to complete research assignments. Various general aspects of navigating Lexis, including Shepardizing, seeking and finding appropriate search databases, getting a document by citation, etc., may be explored.

The Instructor will also discuss how to most effectively plan, outline, organize and draft research assignments. Model answers and/or past student submissions may be used to illustrate what a "4" assignment looks like and how to compose one.

There is no class on Thursday, October 5

Class 4 **Tuesday, October 10, 2017**

We will conclude our discussion of consideration by examining more special rules about consideration. We will examine the rules regarding special accords and the satisfaction of those accords and how accord and satisfaction ties in with the consideration rules. Finally, we will examine the enforceability of promises to give gifts and promises based on past consideration and moral obligation (or, in most cases, the lack thereof).

Assignment 1 can be completed at this point.

Courseware Reading:

Chapter 1: Introduction and Consideration

- Accord and Satisfaction

- Donative Promises

- Moral or Past Consideration

Cases and Statutes:

Webb v. McGowin
The rule of consideration can sometimes lead to harsh results and can make promises unenforceable when they certainly seem just to enforce. What can a court do in such a case? Should a court follow the letter of the law to a draconian result or should the court try to get around the harsh consequences of the law? This question is much wider than the

field of consideration, of course. This case presents an interesting struggle between the rule of law and the mandates of fairness that this court undertook.

There is no class on Thursday, October 12

Class 5 **Tuesday, October 17, 2017**

In this class, we will begin to understand the important principles of offer and acceptance. Specifically, we will examine what constitutes a legally valid offer and we will highlight the importance distinction between legally binding offers and non-binding invitations to negotiate. We will also review the numerous instances where an offeree does not have the legal authority to accept a valid offer.

Courseware Reading:

Chapter 2: Mutual Assent: Offer and Acceptance

- Mutual Assent

- Offers

- Termination of the Power of Acceptance

Cases and Statutes:

Lucy v. Zehmer
This case has several aspects and is interesting and important on so many levels. How do you determine when a statement should constitute an offer? How do you determine what a "reasonable person" would consider an offer? How do you handle an "offer" that the offeror meant as a joke, but the offeree thinks is serious? Also, how drunk does a person have to be to be considered unfit to form a contract? This case deals with all of these issues and is an excellent starting point when considering the rules of contract formation.

Dickenson v. Dodds
Another old case and another interesting story; this case presents the classic example to illustrate the rules of revoking an offer. Here, the offer was revoked not by words, but by conduct and the conduct was communicated to the offeree only by accident. Yet, the revocation was effective. This case further illustrates how the "reasonable expectations or reasonable people" standard dominates contract law.

Documents for Review:

Stock Option Agreement

Class 6 **Thursday, October 19, 2017**

In this class, we will continue our study of offer and acceptance. Specifically, we will focus on the rules of acceptance and the difference between acceptance of bi-lateral and unilateral contracts. We will also explore the mailbox rule and the related issues concerning when offers, acceptances, rejections and withdrawals become legally binding. Finally, we will briefly consider how courts settle disputes surrounding the interpretation of contractual language.

Courseware Reading:

Chapter 2: Mutual Assent: Offer and Acceptance

- Acceptance

- Silence as Acceptance

- The Mailbox Rule

- Interpretation

Cases and Statutes:

U.C.C. § 2-206
This section presents the UCC rules for offer and acceptance. It's true that we also focus on the common law contract formation rules because only sales contracts involving goods are covered by the UCC. Still, surveying the rules that apply to the sales of goods is also important.

International Filter Co., v. Conroe Gin, Light & Ice Co.
The "battle of the forms" may seem like a dull area to study. But slip-ups in this area can cost your clients lots of money. The "battle of the forms" refers to situations in which proposals and counter-proposals for contracts are shuttled back and forth between merchants and where the parties tack on provisions to the contracts during the negotiating process. Which provisions actually become parts of the final deal? What can you do to protect your client from being bound by an unfavorable provision? This case is a good starting point for a discussion of this issue.

Assignment 2 can be completed at this point.

Examination # 1 will be posted at this point.

Class 7 **Tuesday, October 24, 2017**

We will focus in this class on examining contracts and contract provisions. We will look at sample provisions in various types of contracts and analyze their purposes and effects. We will look at a sales agreement and a buy-sell agreement as well as certain other types of agreements and discuss their provisions and considerations that go into drafting those provisions.

Courseware Reading:

NONE

Documents for Review:

- Contract Drafting Tutorial
- Bill of Lading Form
- Sales Agreement
- Bill of Sale and Promissory Note for Car

Assignment 3 can be completed at this point.

Class 8 **Thursday, October 26, 2017**

In this class, we will begin to examine the various defenses to formation that a defendant has at his disposal. Specifically, we will look at the term requirements for contracts and whether and when the omission of these various terms renders the contract unenforceable. Additionally, we will examine the various mistakes in formation that will render a contract unenforceable.

Courseware Reading:

Chapter 3: Defenses to Formation

- Indefiniteness

- Mistake

- Misrepresentation, Nondisclosure, Duress and Undue Influence

Cases and Statutes:

U.C.C. §§ 2-305, 2-308, 2-309, 2-310
These provisions are the UCC's "gap filler" provisions. They determine what happens when terms of a binding contract did not address or anticipate issues that come up during the course of the execution of the contract. Although a contract can be voided for "vagueness" if the parties failed to discuss an important enough term, courts are loathe to refuse to enforce contracts if they can avoid it. The UCC has made this a little easier by providing certain default rules that apply to certain terms if they are left out of the contract itself.

Class 9 **Tuesday, October 31, 2017**

In this class, we will continue to examine the various defenses to formation that a defendant has at his disposal. We will first explore the issues surrounding the unconscionability of both the negotiating process and resulting terms of a contract. Additionally, we will examine the situations where people are not legally capable of entering into contracts and the consequences for those who do enter into a contract with this class of person. Finally, we will briefly examine the significance of illegal contracts.

Courseware Reading:

Chapter 3: Defenses to Formation

- Unconscionability

- Lack of Capacity

- Illegal Contracts

Cases and Statutes:

Kugler v. Romain
Unconscionability is a difficult doctrine to reconcile with the normal contract rules for consideration. The Unconscionability rule allows people to get out of contracts based on the fact that the contract is unfair, in some cases. Cases like this one, where door to door salesmen used questionable practices to pressure people to buy their materials is what really brought the unconscionability to fore. Cases like this also led to the creation of a whole new body of law that applied to door-to-door salesmen (a set of rules that crippled the industry, incidentally).

Class 10 **Thursday, November 2, 2017**

We will devote this class to a discussion of the statute of frauds. Although the general rule is that oral contracts are binding, there are certain types of agreements that must be in writing to be enforceable in court. We will look at the types of contracts covered by the statute of frauds (under the rules of most states) and then we will focus on the various methods under which the requirements of the statute of frauds may be satisfied.

Courseware Reading:

Chapter 3: Defenses to Formation

- The Statute of Frauds

Cases and Statutes:

U.C.C. § 2-201
Although Statutes of Frauds exist in every state, they differ from each other in exact content and in some details. The UCC Statute of Frauds, however, applies nationwide (though, of course, only to contracts for the sales of goods).

Assignment 4 can be completed at this point.

Class 11 **Tuesday, November 7, 2017**

In this class, we will look at the important issues of performance of contractual obligations and breach of performance. We will explore the timing of the performance required of each party and the various rules that are applied in determining when a party has actually performed his or her side of the agreement. We will also discuss the ramifications of "divisible" contracts, when contracts have many facets that may be independent of each other.

Courseware Reading:

Chapter 4: Performance and Breach

- Good Faith

- Conditions

- Order of Performance

- Substantial Performance

Cases and Statutes:

Duplex Safety Boiler Co., v. Garden
This case gives you a great look at how conditions are analyzed by courts. This case dealt with the age-old problem of how to deal with a contract that was conditional upon the satisfaction of a party. Can the party simply claim that he or she was not satisfied and therefore the condition was not fulfilled without giving a reason? No, says the New York Court of Appeals! We will also tie this case in with the rules of consideration and analyze the impact that such conditions can have on whether there was consideration for a promise.

Examination # 2 will be posted at this point.

There is no class on Thursday, November 9

Class 12 **Tuesday, November 14, 2017**

We will start this class with a discussion of the ramifications of "divisible" contracts, when contracts have many facets that may be independent of each other. Next, we will examine the practical applications of the term "breach" of contract. We will discuss when failure to live up to certain contractual requirements of a contract is considered a breach to the extent that it can excuse the other party from performance (material breach) as opposed to a breach that is not that severe (minor breach).

Courseware Reading:

Chapter 4: Performance and Breach

- Divisible Contracts

- Material Breach v. Minor Breach

Cases and Statutes:

None

Class 13 **Thursday, November 16, 2017**

We will start this class with a discussion of the "anticipatory repudiation" and "adequate assurance" rules laid out in UCC section 2-609 for scenarios in which one party to a contract has reason to believe that the other party will not perform under a sales agreement. We will also discuss the scenarios in which a party is excused from performing his or per part of the contract because of changed circumstances. Finally, we will look at discharge and mutual rescission as methods through which a contract can be completed.

Courseware Reading:

Chapter 4: Performance and Breach

- Anticipatory Breach

- Changed Circumstances: Impracticability

- Discharge

Cases and Statutes:

U.C.C. § 2-509
The rules of impracticability and frustration of purpose are generally common law rules. The UCC quantifies them by stating how the risk of loss should be allocated under a sales contract should something happen to the goods through no fault of a party. It's helpful to use the UCC rules as a basis for comparison when discussing the common law rules on this subject.

Anderson v. May
This case dealt with the impracticability issue in a sales case. But, since this happened before the UCC was promulgated, the common law rules had to be applied. It is instructive to compare the result in this case to what would have happened under the UCC. Could it be perhaps, that cases like this are what caused the UCC to set forth clear rules for impracticability?

Documents for Review:

- Mutual Release

Class 14 **Tuesday, November 21, 2017**

In this class, we will commence our discussion of contract remedies. We will focus tonight on the "expectation" remedy, which is the preferred remedy in dealing with contract damages. We will focus on various rules surrounding the expectation remedy, including the "duty to mitigate" and "consequential" damages rules. We will also look at the various UCC provisions regarding the expectation remedy.

Courseware Reading:

Chapter 5: Remedies

- Introduction and Expectation Damages

Cases and Statutes:

Parker v. Twentieth Century Fox
This case dealt with the issue of mitigation. To what extent is the victim of a breach of contract expected to go in order to minimize the negative effect of the breach? Does a person have to take an inferior job, in terms of prestige and comfort, in order to mitigate the loss caused by a breach of an employment contract? This issue was crystallized in this case when the court had to decide if Shirley MacLean was obligated to take a different acting job that would have compensated her for a contract that was breached.

Rockingham v. Luten Bridge Co.
Another "failure to mitigate" case: this case involved a city that had announced to a contractor that it would no longer honor its contract to construct a bridge. The construction company kept building anyway. Thus, should the city be liable for the full contract or only for the damages the plaintiff had suffered before the city's announcement? Try to detect the similarities between this case and the Shirley MacLean case, above.

Hadley v. Baxendale
This case, though very old, is one of the most important cases in the history of contracts law. This case determined that "consequential" damages resulting from a breach of contract (e.g., lost profits) must be foreseeable to be recoverable by the victim of the breach. If a reasonable person would not foresee, at the time of the making of the contract, the damage that was suffered as a result of the breach, those damages are not recoverable. Although there has been much change and debate in the doctrine and although there are exceptions to the rule, this doctrine has stood the test of time and still is as valid in 2017 as it was when it was decided, a century and a half earlier.

Assignment 5 can be completed at this point.

NOTE: There will not be class on Thursday, November 23.

Class 15 **Tuesday, November 28, 2017**

This final class will continue with our discussion of contract remedies. We will look at the reliance and restitution measures and discuss when they are applied. We will also discuss when "specific performance" may be awarded; i.e., in cases where monetary damages cannot adequately compensate the victim of a breach of contract.

Courseware Reading:

Chapter 5: Remedies

- Reliance Damages and Restitution

- Specific Performance

- Other Forms of Damages

Examination # 3 will be posted at this point.

All examinations and assignments are due no later than Sunday, January 7, 2018 at 11:59 PM EASTERN TIME; That's EASTERN time. That means 8:59 PM Pacific time, 9:59 PM Mountain time, 10:59 PM Central time, etc.

NPC EXTENSIONS POLICY

1) Extensions that conform to the rules below may be requested from the "Assignments and Exams" page on the NPC student website.

2) No extensions are possible unless the student has first submitted at least one assignment or examination by the course deadline.

3) The maximum possible extension allowed under the NPC system are as follows:

- **A student who has submitted one assignment or exam may take an extension of up to seven (7) days.**

- **A student who has submitted two assignments or exams (or any combination) may take an extension of up to seven (7) additional days (14 days total).**
- **A student who has submitted three assignments or exams (or any combination) may take an extension of up to seven (7) additional days (21 days total).**
- **A student who has submitted four assignments or exams (or any combination) may take an extension of up to seven (7) additional days (28 days total).**
- **A student who has submitted five assignments or exams (or any combination) may take an extension of up to two (2) additional days (30 days total).**
- **No extensions of more than thirty (30) days beyond the deadline are possible for any reason at all.**

4) Requested extensions are granted automatically. It is not necessary to give any reason for the request. However, for each day of extension you request, you may be penalized 3 raw points (of 500 that determine your final grade). This accounts for 0.6% of your course grade, per day of extension. This is necessary to compensate for the advantage that students who take more time to do their work enjoy over those who complete their work on time. This also means that a short extension (e.g., a day or two) is unlikely to affect your grade, but a long extension (e.g., two weeks) is guaranteed to affect your grade.

5) The penalty referenced in Paragraph 4 may be waived by the dean in extreme cases only. Extreme cases include circumstances beyond the control of the student that caused the student to be unable to complete work for *a significant period of time*. Circumstances such as being busy at work or at home, vacations, family occasions or power or internet outages lasting a few days, are foreseeable life circumstances. Extensions may be taken for these reasons (or, for that matter, for any reason at all), but the grade penalty discussed above applies. However, please note that the course deadline cannot be extended more than 30 days for any reason at all.