SYLLABUS

— COURSE DESCRIPTION —
This course introduces students to the legal principles governing the formation, interpretation, performance, enforcement, and discharge of contracts.

— CONTACT INFO. & OFFICE HOURS—
Please feel free to contact me anytime in person, by telephone, or by email. In particular, you are always welcome to stop by my office. If I am in the middle of something (such as preparing for class or writing on a deadline), I will let you know, and we will pick a different time together. My office hours should be seen as times when you can generally expect me to be in my office, rather than limitations on your ability to approach me. I generally try to have some cookies to share during my office hours, so, please do not hesitate to drop by. Should you need to schedule an appointment, please do not hesitate to contact my assistant Baiba Hicks.  
Baiba Hicks Contact Information: Phone: 801-581-5464; email: baiba.hicks@law.utah.edu  
Chris Peterson Contact Information: Phone: 801-581-6655; Email: christopher.peterson@law.utah.edu  
Office: Room 227; Office Hours: Tuesday, 3:15-4:30 pm, walk-in, or, by apt.

— CLASS MATERIALS & WEBSITE—
The assigned books for the class are KNAPP, CRYSTAL & PRINCE, PROBLEMS IN CONTRACT LAW: CASES AND MATERIALS (Aspen 6th ed. 2007) (“KC&P”) and BYRNE, CONTRACTS TEXTS: RESTATEMENT 2D CONTRACTS, US UCC ARTICLE 2 & THE CISG (Inst. Of Int’l Banking Law & Practice 4th ed. 2008) (“Statute book”). Also, I will maintain a course website through Westlaw’s TWEN services. “TWEN” is an educational internet software portal that allows law faculty to share class information with their students. For questions on obtaining a Westlaw password and registration on the class webpage, please consult your Westlaw representative. We will not use the TWEN web page extensively, but registration is nevertheless recommended.

— PROFESSIONALISM & COMPUTER USE POLICY—
I expect students to treat one another with mutual respect, professionalism, and decorum. Please try to remember to turn off cell phones and pagers. Computers are allowed (and encouraged) in my class. However, misuse of computers can be distracting to your fellow students. Moreover, it is unprofessional and disrespectful to misuse a computer while your fellow students are speaking. Please do not play computer games, instant message, check email, surf the web, etc. during class. A growing body of empirical research demonstrates that these activities inhibit the learning of even the most talented students. Finally, please do not pack up to leave until class is dismissed.
**DISABILITY ACCOMMODATION POLICY**

The University of Utah seeks to provide equal access to its programs, services and activities for people with disabilities. If you have a disability requiring accommodation, please contact the Associate Dean of Student Affairs, Barbara Dickey, and the Center for Disability Services (CDS). CDS is located at 200 S Central Campus Drive, (Union Building), Room 162 or you can call 801-581-5020. All written information in this course can be made available in alternative format with prior notification.

**ANNOUNCEMENTS**

I invite each of you to submit any announcements for law school activities or events at the beginning of the first day of class each week. This is a good way to encourage involvement in student organization meetings, community events, etc.

**PREPARATION, GRADING, AND ATTENDANCE POLICY**

You are each required to be present and fully prepared to discuss the assigned material each day. I understand the occasional absence may be necessary. Law school rules and accreditation requirements of the American Bar Association require that you must attend at least 80% of the classes each semester in order to pass the course. In general, your final grade will be determined by your final exam. However, I reserve the option to adjust grades to reflect classroom participation and attendance. If you productively contribute to classroom discussions, your grade may be enhanced at the end of the course. On the other hand, if you are not prepared when called upon, your grade will reflect your lack of preparation. I will circulate a seating chart on the second day of classes. Please legibly print your name on the chart for the seat you have selected, and occupy that seat throughout the semester.

**PRACTICE EXAM**

About half-way through the semester I will give an optional, mid-term practice exam. This exam is optional and will not be graded. However, I will discuss possible answers and strategies in class. The date of and further details regarding this practice exam will be announced during the semester.

**READING ASSIGNMENTS: CHAPTERS ONE, TWO, AND THREE**

As a general practice, we will attempt to cover two to three cases, along with any related Restatement or U.C.C. sections, each day of class. Part of your responsibility as a student is to keep track of where we are in the reading assignments and anticipate the material we will cover in class. The following outline gives a projection for this semester’s reading assignments. Please keep in mind that I may distribute one or more modified reading schedules as the semester progresses.

**I. An Introduction to Contract Law**
   - KC&P, pp. 1-20
   - Statute Book, pp. 171-73 and REST 2d CONTR §§ 1, 2, 4

**II. The Basis of Contractual Obligation: Mutual Assent and Consideration**
   - A. Mutual Assent
1. The Objective Theory of Contract
KC&P, pp. 21-33
REST 2d CONTR §21

2. Offer and Acceptance: Bilateral Contracts
KC&P, pp. 33-51
Normile v. Miller, 313 N.C. 98, 326 S.E.2d 11 (N.C. 1985)
REST 2d CONTR §§ 17, 22, 24, 26, 27, 36, 38, 39, 40, 43, 50, 58, 59, 60, 63, 69

3. Offer and Acceptance: Unilateral Contracts
KC&P, pp. 51-63
Petterson v. Pattberg, 248 N.Y. 86, 161 N.E. 428 (N.Y. 1928)
Cook v. Coldwell Banker/Frank Laiben Realty Co., 967 S.W.2d 654 (Mo. Ct. App. 1998)
REST 2d CONTR §§25, 32, 45,

4. Mutual Assent Under the Uniform Commercial Code
KC&P, pp. 63-70
Statute Book, pp. 1-4 and UCC §§ 1-103, 2-102, 2-105(1), 2-204, 2-207

B. Consideration
1. Defining Consideration
KC&P, pp. 71-87
Hamer v. Sidway, 124 N.Y. 538, 27 N.E. 256 (N.Y. 1891)
REST 2d CONTR, §§ 71, 79

2. Applying the Consideration Doctrine
KC&P, pp. 87-107
Dougherty v. Salt, 227 N.Y. 200, 125 N.E. 94 (1919)
Batsakis v. Demotsis, 226 S.W.2d 673 (1949)
REST 2d CONTR, §§ 73, 74, 77, 81

C. Issues Relating to Mutual Assent
1. Limiting the Offeror’s Power to Revoke: Pre-Acceptance Reliance
KC&P, pp. 108-137
James Baird Co. v. Gimbel Bros., Inc., 64 F.2d 344 (2d Cir. 1933)
REST 2d CONTR §§ 87, 90

2. Irrevocability by Statute: The “Firm Offer”
KC&P, pp. 138-143
UCC §§ 2-205
3. Qualified Acceptance: Battle of Forms
KC&P, pp. 143-167

*Princess Cruises, Inc. v. General Electric Co.*, 143 F.3d 828 (4th Cir. 1998)
UCC § 2-207

4. Postponed Bargaining: The “Agreement to Agree”
KC&P, pp. 167-193

*Walker v. Keith*, 382 S.W.2d 198 (Ky. Ct. App. 1964)
*Quake Construction, Inc. v. American Airlines, Inc.*, 141 Ill. 2d 281 (1990)
UCC §§ 2-204, 2-305

5. Electronic Contracting
KC&P, pp. 193-214

*Register.com, Inc. v. Verio, Inc.*, 356 F.3d 393 (2d Cir. 2004)
UCC § 2-302

III. Promissory Estoppel and Restitution

A. Promissory Estoppel

1. Promises Within the Family
KC&P, pp. 215-228

*Kirksey v. Kirksey*, 8 Ala. 131 (1845)
*Greiner v. Greiner*, 131 Kan. 760, 293 P. 759 (1930)
REST 2d CONTR § 90(1)

2. Charitable Subscriptions
KC&P, pp. 228-237

REST 2d CONTR § 90(2)

3. Commercial Context
KC&P, pp. 237-253

*Katz v. Danny Dare, Inc.*, 610 S.W.2d 121 (1980)

B. Restitution

1. In Absence of a Promise
KC&P, pp. 253-273


2. Promissory Restitution
KC&P, pp. 286-301

*Mills v. Wyman*, 20 Mass. (3 Pick.) 207 (1825)
REST 2d CONTR §§ 82, 83, 86

IV. The Statute of Frauds
A. General Principles: Scope and Application

KC&P, pp. 303-323

*Crabtree v. Elizabeth Arden Sales Corp.*, 305 N.Y. 48, 110 N.E.2d 551 (1953)


REST 2d CONTR §§ 130, 131, 132, 133

UCC § 2-201

V. Principles of Interpretation & Parole Evidence

A. Principles of Interpretation

KC&P, pp. 349-370


REST 2d CONTR §§ 20, 201, 202, 203, 204, 206, 207, 222, 223

UCC §§ 1-205

B. The Parol Evidence Rule

KC&P, pp. 382-410

*Thompson v. Libby*, 34 Minn. 374, 26 N.W. 1 (1885)


REST 2d CONTR §§ 209, 210, 213, 214, 215, 216

UCC §§ 2-202, 2-208

VI. Supplementing the Agreement: The Obligation of Good Faith and Other Implied Terms

A. Implied Terms

KC&P, pp. 437-442

*Wood v. Lucy, Lady Duff-Gordon*, 222 N.Y. 88, 118 N.E. 214 (1917)

REST 2d CONTR §§ 205

UCC § 2-309

B. Implied Obligation of Good Faith

KC&P, pp. 448-480


*Morin Building Products Co. v. Baystone Construction, Inc.*, 717 F.2d 413 (7th Cir. 1983)


REST 2d CONTR § 228

UCC §§ 1-201(19), 2-306

C. Warranties

KC&P, pp. 497-507


UCC §§ 1-203, 1-201(19); 2-103(1)(b); 2-104(1), 2-313, 2-314

VII. Avoiding Enforcement

A. Minority and Mental Incapacity

KC&P, pp. 517-526

*Dodson v. Shrader*, 824 S.W.2d 545 (Tenn. 1992)

REST 2d CONTR § 14, 15, 16
B. Duress and Undue Influence
KC&P, pp. 517, 537-556


REST 2d CONTR §§ 174, 175, 176, 177

C. Misrepresentation and Non-Disclosure
KC&P, pp. 556-584

*Syester v. Banta*, 257 Iowa 613, 133 N.W.2d 666 (1965)
*Park 100 Investors, Inc. v. Kartes*, 650 N.E. 2d 347 (Ind. 1995)

REST 2d CONTR §§ 161, 162, 163, 164, 172

D. Unconscionability
KC&P, pp. 584-610, 625-632


REST 2d CONTR § 208

UCC § 2-302

E. Public Policy
KC&P, pp. 632, 647-658


REST 2d CONTR § 178, 188

VIII. Justification for Nonperformance

A. Mistake
KC&P, pp. 663-684


REST 2d CONTR §152, 153, 154, 157

B. Changed Circumstances, Impracticability, and Frustration
KC&P, pp. 684-711

*Karl Wendt Farm Equipment Co. v. International Harvester Co.*, 931 F.2d 1112 (6th Cir. 1991)

REST 2d CONTR § 261, 262, 263, 264, 265, 271, 377

UCC § 2-613, 2-615

C. Modification
KC&P, pp. 713-723, 731-740

*Alaska Packers’ Association v. Domenico*, 117 F. 99 (9th Cir. 1902)

REST 2d CONTR § 89

UCC § 2-209

IX. Consequences of Nonperformance

Material Breach
KC&P, pp. 806-824

*Jacobs & Youngs, Inc. v. Kent*, 230 N.Y. 239, 129 N.E. 889 (1921)

REST 2d CONTR § 234, 235, 237, 238, 241, 242, 243, 245
X. **Expectations Damages**

A. **Computing**

   **KC&P**, pp. 845-868
   
   
   *Handicapped Children’s Education Board v. Lukaszewski*, 112 Wis.2d 197, 332 N.W.2d 774 (1983)
   

   REST 2d CONTR § 344, 347, 348

B. **Restrictions on Recovery of Expectation Damages: Foreseeability, Certainty, and Causation**

   **KC&P**, pp. 868-886
   
   

   REST 2d CONTR § 351, 352
   
   UCC § 2-715(2)

C. **Restrictions on Recovery of Expectation Damages: Mitigation**

   **KC&P**, pp. 886-910
   
   *Rockingham County v. Luten Bridge Co.*, 35 F.2d 301 (4th Cir. 1929)

   REST 2d CONTR § 350

XI. **Alternatives to Expectation Damages**

A. **Reliance Damages**

   **KC&P**, pp. 965, 975-983

   *Walser v. Toyota Motor Sales, U.S.A., Inc.*, 43 F.3d 396 (8th Cir. 1994)

   REST 2d CONTR §349

B. **Restitutionary Damages**

   **KC&P**, pp. 983-988

   *United States ex rel. Coastal Steel Erectors, Inc. v. Algernon Blair, Inc.*, 479 F.2d 638 (4th Cir. 1973)

   REST 2d CONTR § 158, 370, 371, 373, 374, 375, 376, 384