

# CONTRACTS

FALL 2023

JOHNNY REX BUCKLES

PROFESSOR OF LAW

CLASSROOM: 102A

MONDAY, WEDNESDAY, AND THURSDAY: 1:00-2:30 P.M.

## I. Purpose of Course.

This course is designed to teach students the law of contracts, including (i) the elements of an enforceable contract; (ii) the interpretation of contract terms; (iii) contract performance and breach of contract; (iv) defenses to breach of contract; (v) remedies for breach of contract.

## II. Topics to Be Discussed in this Course and Corresponding Reading Assignments (Subject to Revision by the Professor).<sup>1</sup>

### *Introduction*

**Assignment 1:** 1-2; *Hawkins* (2)

**Assignment 2:** *Bayliner* (4); 8-10; *Hawkins* (11); *Sullivan* (13)

**Assignment 3:** 20-21; *USNI* (21); 26; *Morris* (27); 34-48

### *Contract Formation*

#### *A. Consideration and Alternatives to Consideration*

**Assignment 4:** 48-53; *Hamer* (53); 60-61; *Dyer* (62)

**Assignment 5:** *Feinberg* (68); *Kirksey* (80); 83; *Lake Land* (83); 90-93

**Assignment 6:** 93-96; *Strong* (96) (omit problem); 99-100; *Mattei* (100)

**Assignment 7:** 105; *Zoltek* (106); UCC 2-306 and comments; *Wood* (111); 115-118

**Assignment 8:** *Ricketts* (119); 122-124; *Feinberg* (125); 126-128; 142-144; *Cotnam* (144) (omit notes); *Callano* (148)

#### *B. Offer, Acceptance, and Termination of Power to Accept*

**Assignment 9:** 161-163; *Lucy* (163); *Lamps Plus* (174); 179-184

**Assignment 10:** 184-185; *Owen* (186); *Fairmount Glass Works* (189); 192-193; *Lefkowitz* (194); 198-203

**Assignment 11:** 204; *Wucherpennig* (205); *International Filter* (207); 218-220; 220; *Corinthian Pharmaceutical Systems* (220); 225-227

**Assignment 12:** 228-232; *Dickinson* (233); 237-240

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<sup>1</sup> Unless otherwise indicated in this syllabus or in class, all reading assignments in this schedule are from the required textbook. *Assigned cases include the notes and problems immediately following the assigned cases unless otherwise indicated.* All assignments should be read carefully unless they are expressly designated as suitable for skimming.

**Assignment 13:** 240-241; *Drennan* (241); 248-251; *Wilson* (251); Handout

**Assignment 14:** 257-264; *Dorton* (264); *C. Itoh* (269); 271-272; 277; *Northrop* (277)

### ***C. Precontractual Liability***

**Assignment 15:** 297-298; *Hoffman* (299); 316; *Grossman* (316); 323-324; 328-332

### ***D. Statutes of Fraud***

**Assignment 16:** 339-349; 356 (starting with Informal Extensions)-364; 370-375; 380-389; 392-94

### ***E. Policing the Bargaining Process***

**Assignment 17:** 415-418; *Douglass* (418); 435-438; *Alaska Packers* (438) (omit Problem)

**Assignment 18:** 443-445; *Watkins* (445); 468-469; *Swinton* (470); *Kannavos* (473); 478-481; *Vokes* (483)

## ***Contract Interpretation***

**Assignment 19:** 487-490; *Mitchell* (490); *Masterson* (496); *Bollinger* (503); 505-508

**Assignment 20:** *Pacific Gas* (508); *Greenfield* (513); *Trident* (520); 524-529

**Assignment 21:** *Frigalment* (535); *Hurst* (542); 544; *Nanakuli Paving* (544)

**Assignment 22:** *Figgie* (553); *Columbia Nitrogen* (556); 558-559; *Raffles* (559); *Colfax* (562)

**Assignment 23:** 567-572; *Koken* (572); 575; *Lewis* (575); 579-580; *S. Carolina Electric* (580) (omit Problem)

**Assignment 24:** 584-585; *Keith* (585); 592

## ***Limits on the Bargain and Its Performance***

**Assignment 25:** 593-595; *McKinnon* (595); 607-609; *O'Callaghan* (610); *Graham* (616); 618-628

**Assignment 26:** *James v. National Financial, LLC*, 132 A.3d 799 (2016) [NOT IN BOOK]

## ***Performance***

**Assignment 27:** 755-756; *Luttinger* (756); 763 n.3; 764-766; *Peacock* (766); *Gibson* (770)

**Assignment 28:** 774-775; 778-779; 780-781; 784-788; 791-792; UCC §§ 2-601, 2-508, 2-608, 2-612

**Assignment 29:** 796-797; *Jacob & Young* (797) (omit Problems 2 & 3); 803-805; *Walker* (805) (omit Note 5); 820-821; *Gill* (822); UCC §2-609

## ***Remedies***

### ***A. Specific Performance***

**Assignment 30:** 885-886; *Wentz* (886); *Van Wagner* (890); *Laclede* (895)

### ***B. Measuring Expectation***

**Assignment 31:** *Walgreen* (902); 905-908; *Vitex* (908); *Laredo Hides* (913)

**Assignment 32:** *Groves* (923); *Peevyhouse* (929); *Diasonics* (932)

### ***C. Limitations on Damages***

**Assignment 33:** 942; *Luten Bridge* (943); 945-947; *Cosden Oil* (947); 958-959; *Parker* (959)

**Assignment 34:** 964-965; *Hadley* (965); *Delchi* (970); 979-982; *Fera* (983)

**Assignment 35:** 991-992; *Figgie* (992); 995; *Dave Gustafson* (995); *Wasserman* (1004)

### ***Defenses to Breach***

**Assignment 36:** 1021-1022; *Steas* (1022); *Renner* (1026); *Sumerel* (1029)

**Assignment 37:** 1039-1046; *Mineral Park* (1047); *Taylor* (1051)

**Assignment 38:** 1055; *Transatlantic Fin.* (1056); 1063-1066; *Selland Pontiac* (1066); 1069-1072; UCC §§ 2-613, 2-614, 2-615

**Assignment 39:** *Krell* (1087); *Swift Canadian* (1091); *Chase* (1094)

**Assignments 40 & 41:** Problems

## **III. Required Materials.**

**A. Textbook:** Farnsworth, Young, Sanger, Cohen, Brooks and Garvin, *CONTRACTS: CASES AND MATERIALS* (9th ed. 2019)

**B. Supplement:** Farnsworth, Young, Sanger, Cohen, Brooks and Garvin, *SELECTIONS FOR CONTRACTS* (2023 edition)

In addition to these required materials, students may receive photocopied materials or links to electronic sources to supplement or replace material appearing in the textbook. Students are responsible for reading such materials as assigned.

## **IV. Reading Assignments.**

Students must read the assigned portions of the required textbook in accordance with this syllabus. Each reading assignment must be completed by the date corresponding to the assignment in this syllabus. ***When a reading assignment includes a case, the assignment includes not just the named case, but also the accompanying notes and problems immediately following the assigned case unless otherwise indicated in the syllabus.*** Students are also responsible for reading those selections of the supplement to which assigned textual material refers.

## V. Class Participation and Professionalism.

In this course, all students are welcome and must be respected regardless of socio-economic status, age, race, ethnicity, disability, religion, national or regional origin, veteran's status, sex, sexual orientation, gender identity, gender expression, political affiliation or preference, marital status, family background, educational background, occupational history, and any other physical, mental, or social attribute not previously identified.

One aspect of respect is referring to people in a dignified, considerate manner. Please tell me how you prefer to be identified (e.g., by your first, middle or last name or by an appropriate nickname), and also tell me your preferred title (e.g., Mr., Ms., Rev., Dr., etc.) when invoking your surname. I prefer "Professor Buckles." If you do not express a preference, I will refer to you by your first name.

The professionalism expected of students includes (1) **respect** for every class member at all times; (2) **advance, diligent preparation** for every class unless you notify me in advance of a legitimate reason for not being prepared adequately; (3) **seriously striving** to learn the material as it is presented in class, even if that requires you to schedule office visits and/or participate in a study group; and (4) **adhering to the requirements for synchronous distance education** in section XII of this syllabus.

**GROUND FOR FAILING THE PROFESSIONALISM REQUIREMENT OF THIS COURSE INCLUDE USE DURING CLASS OF ANY TECHNOLOGY FOR PURPOSES OTHER THAN THOSE DIRECTLY RELATED TO LEARNING THE SUBJECT MATTER OF THIS COURSE. EXAMPLES OF UNAUTHORIZED ACTIVITIES INCLUDE, BUT ARE NOT LIMITED TO, SURFING THE WEB FOR PERSONAL REASONS, ROUTINELY CHECKING OR SENDING TEXT MESSAGES, AND VIEWING ONLINE CONTENT UNRELATED TO THIS COURSE.**

## VI. Evaluation.

Assuming sufficient class participation and professional conduct, a student's grade will be based upon the student's performance on the final exam. The final exam is open-textbook, open-statute book, open-other-assigned materials, open-notes, and open-outline (provided that the outline is produced primarily by the student using it, acting alone or in collaboration with other students enrolled in this section of the course). However, all sources that are "open" must be in hard-copy form when accessed during the exam; they cannot be accessed electronically. **The final exam is scheduled for December 11, 1:00-5:00 p.m.**

## VII. Office Hours.

Unless otherwise announced, office hours will be Monday and Wednesday, 2:45 - 3:45 p.m. (Room 342J), and other times by appointment. The professor will follow a literal "open door" policy when a student is in his office – no exceptions.

## VIII. Mental Health and Wellness Resources.

The University of Houston has a number of resources to support students' mental health and overall wellness, including CoogsCARE and the UH Go App. UH Counseling and Psychological Services (CAPS) offers 24/7 mental health support for all students, addressing various concerns like stress, college adjustment and sadness. CAPS provides individual and couples counseling, group therapy, workshops and connections to other support services on and off-campus. For assistance visit [uh.edu/caps](http://uh.edu/caps), call 713-743-5454, or visit a Let's Talk location in-person or virtually. Let's Talk are daily, informal confidential consultations with CAPS therapists where no appointment or paperwork is needed.

The Student Health Center offers a Psychiatry Clinic for enrolled UH students. Call 713-743-5149 during clinic hours, Monday through Friday 8 a.m. - 4:30 p.m. to schedule an appointment.

The A.D. Bruce Religion Center offers spiritual support and a variety of programs centered on well-being.

Need Support Now? - If you or someone you know is struggling or in crisis, help is available. Call CAPS crisis support 24/7 at 713-743-5454, or the National Suicide and Crisis Lifeline: call or text 988, or chat [988lifeline.org](http://988lifeline.org).

#### **IX. Reasonable Academic Adjustments/Auxiliary Aids.**

The University of Houston is committed to providing an academic environment and educational programs that are accessible for its students. Any student with a disability who is experiencing barriers to learning, assessment or participation is encouraged to contact the Justin Dart, Jr. Student Accessibility Center (Dart Center) to learn more about academic accommodations and support that may be available to them. Students seeking academic accommodations will need to register with the Dart Center as soon as possible to ensure timely implementation of approved accommodations. Please contact the Dart Center by visiting the website: <https://uh.edu/accessibility/> calling (713) 743-5400, or emailing [jdcenter@Central.UH.EDU](mailto:jdcenter@Central.UH.EDU).

#### **X. Learning Outcomes.**

Through this course, students should be able to identify, explain, and apply the basic doctrinal features of the law of contracts, including (i) the elements of an enforceable contract; (ii) the interpretation of contract terms; (iii) contract performance and breach of contract; (iv) defenses to breach of contract; and (v) remedies for breach of contract.

#### **XI. Student Handbook, Compliance with Honor Code, and Attendance.**

The UHLC Honor Code applies to all aspects of this course. You are responsible for knowing all Honor Code provisions and for complying with the Honor Code. Please inquire if you have any questions regarding how the Honor Code's provisions apply to specific activities or situations related to this course. Your continuing enrollment in this course is deemed to be a pledge by you under the Honor Code to comply with the Honor Code in relation to this course and to comply with the instructions in the course syllabus.

**With respect to the attendance policy, each student must record his or her class attendance by using the Google electronic attendance link supplied to students. Students arriving more than fifteen (15) minutes after the scheduled beginning of class must mark themselves absent for the day unless a compelling justification for tardiness exists, as determined by the Professor after explanation by the student. Failure to allow adequate time for traffic and/or parking is almost never a compelling justification.**

## **XII. Synchronous Distance Education Requirements.**

At times students may be required or permitted through a special accommodation granted by UH to participate remotely in class via Zoom.

For any student using the internet videoconferencing capability for synchronous distance education via Zoom, that student must meet the following requirements:

- a. Be connected to the internet videoconference when class starts;
- b. Use a computer with a working video camera **with the video function always turned on during class** and with quality audio capability; joining by audio only will be treated as an absence (you may need an external mic or headset for sufficient audio quality);
- c. Do not multitask; you must not be distracted by traveling, texting, checking email, or engaging in other activities when you join the internet videoconference;
- d. Do not join the class internet videoconference from a phone except in an emergency;
- e. Listen closely and speak clearly and audibly;
- f. Identify yourself with your class roll name in the internet videoconferencing software;
- g. Present yourself **professionally in the video stream** (e.g., dress appropriately, do not eat, remain stationary except when you must excuse yourself for a brief personal break, etc.).
- h. Keep your audio function muted when you are not speaking in class.

## **XIII. Syllabus Changes.**

The Professor may need to make modifications to the course syllabus and may do so at any time. Notice of such changes will be announced through email.

## **XIV. Email Communications.**

Please check and use your Cougarnet email for communications related to this course. The Professor will communicate with students outside of class through Cougarnet email. To access your Cougarnet email, login to your Microsoft 365 account with your Cougarnet credentials. Visit University Information Technology (UIT) for instructions on how to connect your Cougarnet e-mail on a mobile device.

## **XV. Recording of Class.**

Students may not record all or part of class, livestream all or part of class, or make/distribute screen captures, without advanced written consent of the instructor. If you have or think you may have a disability such that you need to record class-related activities, please contact the Justin Dart,

Jr. Student Accessibility Center. If you have an accommodation to record class-related activities, those recordings may not be shared with any other student, whether in this course or not, or with any other person or on any other platform. Classes may be recorded by the instructor. Students may use instructor's recordings for their own studying and notetaking. Instructor's recordings are not authorized to be shared with anyone without the prior written approval of the instructor. Failure to comply with requirements regarding recordings will result in a disciplinary referral to the Dean of Students Office and may result in disciplinary action.

Normally, the professor will record class sessions to allow students to review the class presentation. Any recordings created will be deleted and destroyed shortly after the final exam for the class. Your contributions to class discussion will be included in the recording. Your continued registration in this class constitutes your acquiescence to all such recording for the purposes described above.

#### **XVI. Title IX/Sexual Misconduct.**

Per the UHS Sexual Misconduct Policy, your instructor is a “responsible employee” for reporting purposes under Title IX regulations and state law and must report incidents of sexual misconduct (sexual harassment, non-consensual sexual contact, sexual assault, sexual exploitation, sexual intimidation, intimate partner violence, or stalking) about which they become aware to the Title IX office. Please know there are places on campus where you can make a report in confidence. You can find more information about resources on the Title IX website at <https://uh.edu/equal-opportunity/title-ix-sexual-misconduct/resources/>.

#### **XVII. Security Escorts and Cougar Ride.**

UHPD continually works with the University community to make the campus a safe place to learn, work, and live. The security escort service is designed for the community members who have safety concerns and would like to have a Security Officer walk with them, for their safety, as they make their way across campus. Based on availability either a UHPD Security Officer or Police Officer will escort students, faculty, and staff to locations beginning and ending on campus. If you feel that you need a Security Officer to walk with you for your safety, please call 713-743-3333. Arrangements may be made for special needs.

Parking and Transportation Services also offers a late-night, on-demand shuttle service called “Cougar Ride” that provides rides to and from all on-campus shuttle stops, as well as the MD Anderson Library, Cougar Village/Moody Towers and the UH Technology Bridge. Rides can be requested through the UH Go app. Days and hours of operation can be found at <https://uh.edu/af-university-services/parking/cougar-ride/>.

#### **XVIII. AI Generated Text.**

The software technology known as artificial intelligence has recently expanded its capability to generate text (AI Generated Text). Examples of the technology include what are known as “generative” large language models (LLMs), and a specific implementation what is well known in the general public is ChatGPT. These systems can generate text in response to prompts and/or input of other text/documents/code/images. The output, the AI Generated Text, appears to have

human-mimicking “intelligence” and is thus potentially usable as a substitute for written work product one might generate themselves. AI Generated Text can include computer code or programs as well as human language content.

Your continuing enrollment in this course is deemed to be a pledge by you under the Honor Code **not** to prompt, generate, obtain, read, or use any AI Generated Text in relation to any assessment in this course unless doing so is expressly permitted under this syllabus. This applies to AI Generated Text from yourself or others. This pledge includes a representation that your assessment work product in the course is without any contribution from AI Generated Text. This specifically extends to the plagiarism policy and unauthorized aid/materials parts of the Honor Code: AI Generated Text will be treated as from another/other in applying the plagiarism policy to this course. The term “assessment work product” means any work product, generated for this course in response to an assessment, that is submitted to the instructor or presented in writing or orally in a class session, regardless of whether it is graded content. “Assessment” means any mode employed by the Professor to determine a student’s comprehension and understanding of course content. Assessments include final exams, assigned practice problems (including old exams assigned by the Professor), and hypotheticals posed in class discussions. **AI Generated Text may not be used in the development or drafting of any assessment work product, whether in writing or oral. This means, for example, that you may not use ChatGPT to assist you in formulating a response to a question posed by the Professor in class.**

The following activities are not prohibited by the preceding paragraph and are thus permissible: (1) Creating content for an outline that you use to summarize the course subjects outside of class; (2) “conversing” with the AI Generated Text software system to create hypotheticals to better understand course content, alone or with others, outside of class; (3) drafting sample exam questions and analyzing AI Generated Text as a study aid outside of class; and (4) using AI Generated Text in any other manner that the Professor announces is acceptable. **Notwithstanding the permissibility of these uses of AI Generated Text, the student should not rely primarily on it to learn the law of contracts. AI is no substitute for thinking deeply and critically as you engage directly with assigned materials.**