



CONTENTS

<i>Preface</i>	xxvii
<i>Acknowledgments</i>	xxxiii
<i>Author's Note</i>	xxxix

PART I

AN INTRODUCTION TO CONTRACT LAW	1
--	----------

CHAPTER 1

AN INTRODUCTION TO THE SOURCES, BACKGROUND, AND DOCTRINES OF CONTRACT LAW	3
A. Sources of Law	3
B. How to Brief Legal Cases	5
C. An Introduction to the Forces Shaping Contract Law	8
D. An Introduction to Contract Law Doctrine	15
1. Promises and Agreements: Have the parties promised or agreed to do something?	15
2. Enforceability: Should the court enforce the promise or agreement between the parties?	17
3. Remedies: How should the court enforce the parties' contract?	18
4. Interpretation: How should the court interpret the parties' contract?	20
5. Performance: How should the court determine whether a party has breached its contract?	21
6. Defenses: Can the breaching party assert any defenses to excuse its nonperformance?	22
7. Third Parties: How, if at all, does the parties' agreement affect third parties?	24

PART II	
A GENERAL OVERVIEW OF CONTRACT LAW	27
<hr/>	
CHAPTER 2	
A GENERAL OVERVIEW OF THE MAJOR DOCTRINES OF CONTRACT LAW	29
Thinking Tool: Reading Critically	31
Notes and Questions	33
A. Public Policy, Freedom of Contract, and the Limits of Contract Law	35
In the Matter of Baby “M”	37
Notes and Questions	50
Thinking Tool: Contracts and Justice	53
B. Promises and Agreements	58
1. Making Promises: The Manifestation of Intention	59
On the Nature of Promise	59
Notes and Questions	60
<i>Pappas v. Bever</i>	61
Notes and Questions	62
2. Why Do We Make Promises?	64
Thinking Tool: Marginal Analysis and Efficiency	65
3. Forming Agreements: The Manifestation of Mutual Assent	69
<i>Embry v. Hargadine, McKittrick Dry Goods Co.</i>	69
Notes and Questions	73
Three Views of Assent	74
Thinking Tool: Administrative Costs and Standards v. Rules	77
Notes and Questions	79
4. Why Do We Keep Our Promises and Agreements?	79
The Moral Obligation of Promise	80
C. Enforceability	81
The Philosophical Foundations of Contract Law	82
1. Which Promises Should Courts Enforce?	83
Justifying Contract Law	84
Notes and Questions	89
2. Which Promises Have Courts Enforced?	89
The Rise of Contracts	90
Notes and Questions	95
3. Which Promises Do Courts Enforce?	95
<i>Hamer v. Sidway</i>	96
Notes and Questions	99
Thinking Tool: Thinking Clearly About Legal Relationships	100
Contextual Perspective: More on <i>Hamer v. Sidway</i>	102
The Non-Enforceability of Gratuitous Promises	104
Applying the <i>Restatement</i>	106

D. Remedies	108
<i>Hawkins v. McGee</i> Supreme Court of New Hampshire	
146 A. 641 (1929) check whether it should come	109
Thinking Tool: Property Rules and Liability Rules	113
Notes and Questions	115
Contextual Perspective: More on <i>Hawkins v. McGee</i>	115
The Hand as a Machine?	118
Three Damage Interests	121
What a Promise Is Worth	123
E. Interpretation	124
<i>Frugaliment Importing Co. v. B.N.S. International Sales Corp.</i>	125
Notes and Questions	130
Thinking Tool: Gap Filling and Default Rules	131
F. Performance and Breach	135
<i>Jacob & Youngs, Inc. v. Kent</i>	136
Notes and Questions	141
Contextual Perspective: More on <i>Jacob & Youngs v. Kent</i>	142
Thinking Tool: Acoustic Separation	144
G. Defenses	147
<i>Williams v. Walker-Thomas Furniture Co.</i>	148
Notes and Questions	152
A Reexamination of Nonsubstantive Unconscionability	155
Thinking Tool: The Theory of Second Best	156
H. Third Parties	159
<i>Lawrence v. Fox</i>	160
Notes and Questions	162
Contextual Perspective: More on <i>Lawrence v. Fox</i>	163
Thinking Tool: Ex Ante v. Ex Post, and a Note on Formalism v. Realism	164

PART III

AN IN-DEPTH EXAMINATION OF CONTRACT LAW	167
--	-----

CHAPTER 3

PROMISES AND AGREEMENTS	169
--------------------------------	-----

A. Mutual Assent	171
1. Mutual Assent in General	172
<i>Embry v. Hargadine, McKittrick Dry Goods Co.</i>	172
<i>Lucy v. Zehmer</i>	172
Notes and Questions	180
2. International Perspective: Mutual Assent and the CISG	182
<i>MCC-Marble Ceramic Center v. Ceramica Nuovo D'Agostino</i>	182
Notes and Questions	188

3. Internet Commerce: Contracts in the Digital Age	189
<i>Nguyen v. Barnes & Noble, Inc.</i>	190
Notes and Questions	196
B. Making Offers	198
1. Offers in General	198
On the Relationship Between Mutual Assent and Offer and Acceptance	199
Doctrinal Overview: The Offer	200
Thinking Tool Applied: Understanding Offer	201
<i>Fairmount Glass Works v. Crunden-Martin Woodenware Co.</i>	203
Notes and Questions	205
<i>Lonergan v. Scolnick</i>	205
Notes and Questions	208
2. Advertisements, Rewards, and Auctions as Offers	210
Doctrinal Overview: Advertisements, Rewards, and Auctions as Offers	210
<i>Lefkowitz v. Great Minneapolis Surplus Store, Inc.</i>	211
Notes and Questions	214
Distinguishing Between Offers and Invitations to Bargain	215
<i>Leonard v. Pepsico</i>	217
Notes and Questions	227
C. Accepting Offers	228
1. Acceptance in General	228
Doctrinal Overview: The Acceptance	229
Thinking Tool Applied: Understanding Acceptances	230
2. The Mirror Image Rule	231
Doctrinal Overview: The Mirror Image Rule	231
<i>Ardente v. Horan</i>	232
Notes and Questions	235
3. The Mailbox Rule	236
Doctrinal Overview: Contracts by Correspondence	236
<i>Adams v. Lindsell</i>	237
Notes and Questions	238
International Perspective: The Mailbox Rule and the CISG	241
4. Acceptance by Performance: Unilateral Contracts	243
Doctrinal Overview: Bilateral and Unilateral Contracts	243
<i>Carlill v. Carbolic Smoke Ball Co.</i>	244
Notes and Questions	248
Contextual Perspective: More on <i>Carlill v. Carbolic Smoke Ball Co.</i>	249
<i>Petterson v. Pattberg</i>	258
Notes and Questions	263

The True Conception of Unilateral Contracts	264
Reassessing Unilateral Contracts	267
Notes and Questions	268
Thinking Tool Applied: Option Contracts	269
<i>Davis v. Jacoby</i>	271
Notes and Questions	279
5. Acceptance by Silence	281
Doctrinal Overview: Acceptance by Silence	281
<i>Hobbs v. Massasoit Whip Co.</i>	282
Notes and Questions	283
D. Terminating Offers	285
1. Termination in General	285
Doctrinal Overview: Revocation	286
<i>Dickinson v. Dodds</i>	287
Notes and Questions	291
2. Revocation and Option Contracts	294
Doctrinal Overview: Option Contracts	294
<i>James Baird Co. v. Gimbel Bros., Inc.</i>	296
<i>Drennan v. Star Paving Co.</i>	299
Freedom and Interdependence in Twentieth-Century Contract Law	304
Notes and Questions	306
International Perspective: Firm Offers and the CISG	308
E. Chapter Capstone: Putting It All Together	310
<i>Kolodziej v. Mason</i>	310
CHAPTER 4	
ENFORCEABILITY	321
A. Bargain-Based Contracts: The Doctrine of Consideration	323
1. Consideration and the Bargain Principle: Distinguishing Bargains from Gifts	324
Doctrinal Overview: The Bargain Test of Consideration	324
<i>Kirksey v. Kirksey</i>	325
Notes and Questions	326
<i>Whitten v. Greeley-Shaw</i>	327
Notes and Questions	330
<i>McInerney v. Charter Golf, Inc.</i>	333
Notes and Questions	336
<i>Barfield v. Commerce Bank, N.A.</i>	337
Notes and Questions	340
The Role of Legal Formalities	343

2. Determining the Validity of Consideration	346
a. Adequacy of Consideration	346
Doctrinal Overview: The Peppercorn Theory of Consideration	346
<i>Schnell v. Nell</i>	347
Notes and Questions	350
The Seal (I)	351
The Seal (II)	351
<i>Batsakis v. Demotsis</i>	353
Notes and Questions	356
Comparative Perspective: The Sale of a Birthright	359
Notes and Questions	361
b. Forbearing to Sue as Consideration	361
Doctrinal Overview: Settlement of Invalid Claims as Consideration	362
<i>Fiege v. Boehm</i>	362
Notes and Questions	366
c. Past and Moral Consideration	368
Doctrinal Overview: Past Consideration and Moral Obligations	368
<i>Mills v. Wyman</i>	369
Notes and Questions	372
Contextual Perspective: More on <i>Mills v. Wyman</i>	374
<i>Webb v. McGowin</i>	377
3. Consideration and Contract Modification	377
Doctrinal Overview: The Pre-Existing Duty Rule	377
<i>Stilk v. Myrick</i>	378
Notes and Questions	380
<i>Alaska Packers' Ass'n v. Domenico</i>	380
Contextual Perspective: More on <i>Alaska Packers</i>	384
Notes and Questions	384
<i>Angel v. Murray</i>	385
Notes and Questions	390
B. Reliance-Based Contracts: The Doctrine of Promissory Estoppel	392
1. Cracks in the Foundation: Consideration and its Limitations	393
Doctrinal Overview: The Limitations of the Bargain Principle	393
<i>Ricketts v. Scothorn</i>	394
Notes and Questions	397
<i>Allegheny College v. National Chautauqua County Bank of Jamestown</i>	398
Notes and Questions	404
Historical Perspective: The Birth of Promissory Estoppel	407
<i>James Baird Co. v. Gimbel Bros., Inc.</i>	411
2. The Rise of Promissory Estoppel	411
Doctrinal Overview: Promissory Estoppel	411
<i>Feinberg v. Pfeiffer Co.</i>	414
Notes and Questions	420

<i>Hoffman v. Red Owl Stores, Inc.</i>	422
Notes and Questions	431
<i>Hoffman</i> , the Duty to Bargain in Good Faith, and the Firm Offer Rule	432
<i>Hoffman v. Red Owl Stores</i> : The Rest of the Story	433
<i>Cohen v. Cowles Media Co.</i>	434
Notes and Questions	438
<i>Skebba v. Kasch</i>	439
Notes and Questions	445
Empirical Perspective: Promissory Estoppel and the Remedial Landscape	445
C. Benefit-Based Contracts: The Doctrine of Unjust Enrichment	450
1. Quantum Meruit	452
<i>Britton v. Turner</i>	452
Contextual Perspective: More on <i>Britton v. Turner</i>	457
Notes and Questions	459
Thinking Tool: The Coase Theorem, Transaction Costs, and Distributive Justice	460
Notes and Questions	463
2. Quasi-Contracts	463
<i>Cotnam v. Wisdom</i>	464
Notes and Questions	467
<i>Bailey v. West</i>	469
Notes and Questions	473
When Is Enrichment Unjust?	475
3. Past and Moral Consideration	478
Past Promises and Unjust Enrichment	479
<i>Mills v. Wyman</i>	480
<i>Webb v. McGowin</i> (1935)	480
<i>Webb v. McGowin</i> (1936)	483
Notes and Questions	483
D. Chapter Capstone: Putting It All Together	486
<i>Blackmon v. Iverson</i>	486
CHAPTER 5	
REMEDIES	497
Doctrinal Overview: The Purpose of Contract Remedies	499
A. Legal Remedies	501
1. Expectation Damages	504
a. Expectation Damages: The General Rule	504
Doctrinal Overview: General Measure of Damages	504
<i>Hawkins v. McGee</i>	506
b. Expectation Damages: The Sale of Goods	507
i. Sellers' Remedies	507

<i>Neri v. Retail Marine Corp.</i>	507
<i>Notes and Questions</i>	510
ii. Buyers' Remedies	511
<i>Tongish v. Thomas</i>	511
<i>Notes and Questions</i>	515
<i>The Economic Basis of Contract Remedies</i>	517
<i>Efficient Breach and the "Bad Man's" Theory of Contracts</i>	520
c. Expectation Damages Revisited: Cost of Completion	
v. Diminution in Value	522
Doctrinal Overview: Avoidability and Cost to Remedy Defect	523
Notes and Questions	523
Thinking Tool Applied: Sorting Out Complex Legal Relations	524
Compensation or Punishment? Cost of Completion Versus	
Diminution in Value Damages in <i>Jacob & Youngs v. Kent</i>	525
<i>Groves v. John Wunder Co.</i>	527
<i>Peevyhouse v. Garland Coal Mining Co.</i>	531
Notes and Questions	538
Thinking Tool Applied: Coasean Bargaining and Specific	
Performance	540
2. Reliance Damages	543
Doctrinal Overview: Reliance as an Alternative Measure of	
Damages	543
<i>Sullivan v. O'Connor</i>	544
Notes and Questions	550
3. Restitution Damages	551
Doctrinal Overview: Restitution as a Remedy for Breach	551
<i>Bush v. Canfield</i>	552
Notes and Questions	555
<i>United States v. Algernon Blair, Inc.</i>	555
Notes and Questions	558
4. Limiting Damages	559
Doctrinal Overview: Limiting Damages	559
Thinking Tool Applied: Injury Without Compensation and	
Hohfeld's Attack on Formalism	560
a. Foreseeability	561
Doctrinal Overview: Unforeseeability as a Limitation	561
<i>Hadley v. Baxendale</i>	562
Contextual Perspective: More on <i>Hadley v. Baxendale</i>	565
Notes and Questions	569
Penalty Default Rules	572
International Perspective: Foreseeability and the CISG	575
<i>Delchi Carrier S.p.A. v. Rotorex Corp.</i>	576
Notes and Questions	582

b. Certainty	582
Doctrinal Overview: Uncertainty as a Limitation	583
<i>Freund v. Washington Square Press, Inc.</i>	584
Notes and Questions	587
<i>Drews Company, Inc. v. Ledwith-Wolfe Associates, Inc.</i>	588
Notes and Questions	590
c. Avoidability	592
Doctrinal Overview: Avoidability as a Limitation	592
<i>Rockingham County v. Luten Bridge Co.</i>	593
Notes and Questions	595
Thinking Tool Applied: Reading Critically	596
<i>Drennan v. Star Paving Co.</i>	597
<i>Parker v. Twentieth Century-Fox Film Corp.</i>	597
Notes and Questions	603
The “Duty” to Mitigate	603
B. Equitable Remedies	604
Doctrinal Overview: Historical Development of Equitable Relief	604
Thinking Tool: Property Rules and Liability Rules	607
1. Land	608
Doctrinal Overview: Specific Performance for Land	608
<i>Wollums v. Horsley</i>	609
Notes and Questions	611
<i>Van Wagner Advertising Corp. v. S&M Enterprises</i>	611
Notes and Questions	614
<i>Walgreen Co. v. Sara Creek Property Co.</i>	615
Notes and Questions	620
2. Goods	620
Doctrinal Overview: Specific Performance for Goods	620
<i>Campbell Soup Co. v. Wentz</i>	621
Notes and Questions	623
<i>King Aircraft Sales, Inc. v. Lane</i>	625
Notes and Questions	629
International Perspective: Specific Performance and the CISG	630
3. Services	631
Doctrinal Overview: Specific Performance for Services	631
<i>Lumley v. Wagner</i>	631
Notes and Questions	635
Thinking Tools: Property Rules, Liability Rules, and Efficient Breach	636
4. Contorts: Tortious Interference with Contract	641
<i>Lumley v. Gye</i>	641
Notes and Questions	643

C. Contractual Remedies	644
Doctrinal Overview: Liquidated Damages, Penalties, and Other Agreed Remedies	645
1. Liquidating Damages	646
<i>Kemble v. Farren</i>	646
Notes and Questions	647
<i>Lake River Corp. v. Carborundum Co.</i>	648
Notes and Questions	651
<i>Samson Sales, Inc. v. Honeywell, Inc.</i>	652
Notes and Questions	654
2. Limiting Damages	655
<i>Wedner v. Fidelity Security Systems, Inc.</i>	655
Notes and Questions	660
3. Punitive Damages	660
<i>Allapattah Services, Inc. v. Exxon Corp.</i>	660
Notes and Questions	666
CHAPTER 6	
INTERPRETATION	667
A. Identifying Contract Terms	669
1. Standardized Contracts	669
Doctrinal Overview: Standardized Agreements	670
<i>Carnival Cruise Lines v. Shute</i>	672
Notes and Questions	677
Standard Form Contracts	678
2. The Battle of the Forms	680
Doctrinal Overview: Battle of the Forms	680
The Problem of Conflicting Forms	682
<i>Step-Saver Data Systems, Inc. v. Wyse Technology</i>	683
Notes and Questions	693
Thinking Tool Applied: Rules, Standards, and the Battle of the Forms	694
<i>Application of Doughboy Industries, Inc. to Stay Arbitration</i>	696
Notes and Questions	701
Handling “Battle of the Forms” Problems Under the UCC	701
International Perspective: The Battle of the Forms and the CISG	702
<i>Filanto, S.p.A. v. Chilewich International Corp.</i>	704
Notes and Questions	711
3. Identifying Contract Terms in the Internet Age	712
<i>ProCD v. Zeidenberg</i>	712
Notes and Questions	717
ProCD and Cognitive Overload in Contractual Bargaining	717
<i>Hill v. Gateway 2000</i>	719
Notes and Questions	723

<i>Klocek v. Gateway</i>	723
Notes and Questions	727
B. Interpreting Contract Terms	727
Doctrinal Overview: The Process of Interpretation	728
1. Vagueness and Ambiguity	729
Doctrinal Overview: Vagueness and Ambiguity	729
<i>Frigalment Importing Co. v. B.N.S. International Sales Corp.</i>	729
<i>Raffles v. Wichelhaus</i>	730
Notes and Questions	731
Meaning, Vagueness, and Ambiguity in Contract Law	734
Drafting Problems: Identifying and Avoiding Ambiguity	737
2. Parol Evidence Rule	739
Doctrinal Overview: The Parol Evidence Rule	739
<i>Thompson v. Libbey</i>	740
Notes and Questions	742
The Admissibility of Parol Evidence for Purposes of Interpretation	742
<i>Pacific Gas and Electric Co. v. G.W. Thomas</i>	
<i>Drayage & Rigging Co.</i>	743
Notes and Questions	746
Justice Traynor and the Law of Contracts	746
<i>Trident Center v. Connecticut General Life Insurance Co.</i>	751
Notes and Questions	755
Plain Meaning and the Parol Evidence Rule	755
Thinking Tool Applied: Rules v. Standards	758
International Perspective: The Parol Evidence Rule and the CISG	760
<i>MCC-Marble Ceramic Center v. Ceramica Nuova D'Agostino</i>	761
Notes and Questions	764
C. Filling in Contract Gaps	766
Doctrinal Overview: Filling in Contract Gaps	767
1. Implied Terms	768
<i>Wood v. Lucy, Lady Duff-Gordon</i>	768
Notes and Questions	771
<i>Sun Printing & Publishing Ass'n v. Remington Paper & Power Co.</i>	772
Notes and Questions	779
Thinking Tools Applied: The Coase Theorem and Default Rules	779
<i>Parev Products Co. v. I. Rokeach & Sons</i>	780
Notes and Questions	785
2. The Implied Duty of Good Faith	786
Doctrinal Overview: The Implied Duty of Good Faith	786
Historical Perspective: The Implied Covenant of Good Faith and Formalist Contract Interpretation	787
<i>Eastern Air Lines, Inc. v. Gulf Oil Corp.</i>	787
Notes and Questions	792
Thinking Tool: The Single Owner	793

<i>Dalton v. Educational Testing Service</i>	794
Notes and Questions	799
International Perspective: Good Faith in International Commercial Law	799
3. Warranties and Consumer Legislation	800
a. Express and Implied Warranties	800
b. Limiting or Disclaiming Warranties and Remedies	801
<i>Henningsen v. Bloomfield Motors</i>	801
Contracts of Frustration	808
c. Consumer Legislation	810
Doctrinal Overview: Consumer Legislation	810
CHAPTER 7	
PERFORMANCE AND BREACH	813
Doctrinal Overview: Performance in General	815
A. Conditions	816
Doctrinal Overview: Performance in General	817
Understanding and Classifying Conditions	817
1. Conditions in General	820
<i>Luttinger v. Rosen</i>	820
Notes and Questions	821
<i>Howard v. Federal Crop Insurance Corp.</i>	822
Notes and Questions	826
Distinguishing Between Promises and Conditions	827
2. Constructive Conditions	829
Doctrinal Overview: Constructive Conditions	829
<i>Kingston v. Preston</i>	830
Notes and Questions	831
<i>Jacob & Youngs v. Kent</i>	832
<i>K&G Construction Co. v. Harris</i>	832
Notes and Questions	837
3. Excusing Conditions	838
Doctrinal Overview: Excusing Conditions by Waiver	838
<i>Clark v. West</i>	839
Notes and Questions	844
B. Performance and Breach	844
1. Material Breach, Suspending Performance, and Terminating the Contract	845
Doctrinal Overview: Material Breach, Suspending Performance, and Terminating the Contract	845
<i>Walker & Co. v. Harrison</i>	847
Notes and Questions	851
<i>Shah v. Cover-It, Inc.</i>	851
Notes and Questions	855

2. Anticipatory Repudiation	856
Doctrinal Overview: Anticipatory Repudiation as a Breach	856
<i>Hochster v. De La Tour</i>	856
Notes and Questions	859
Williston, <i>Repudiation of Contracts</i>	861
Vold, <i>Repudiation of Contracts</i>	862
3. Adequate Assurance of Performance	863
Doctrinal Overview: Adequate Assurance of Performance	863
<i>AMF, Inc. v. McDonald's Corp.</i>	864
Notes and Questions	868
4. The Perfect Tender Rule	870
Doctrinal Overview: The Perfect Tender Rule	870
<i>Ramirez v. Autosport</i>	871
Notes and Questions	877
International Perspective: The Perfect Tender Rule and the CISG	878
CHAPTER 8	
DEFENSES	881
Doctrinal Overview: Policing Agreement for Unfairness	883
A. Public Policy, Freedom of Contracts, and the Limits of Public Policy	884
Doctrinal Overview: Public Policy as a Ground for Unenforceability	885
<i>Flood v. Fidelity & Guaranty Life Ins. Co.</i>	887
Gambling: Octogenarian Powerball Sisters	889
B. Incapacity	892
Doctrinal Overview: Incapacity in General	893
1. Infancy	893
Doctrinal Overview: Infancy as a Defense to Enforcement	894
<i>Kiefer v. Fred Howe Motors, Inc.</i>	895
Notes and Questions	899
2. Incompetence	902
Doctrinal Overview: Incompetency as a Defense to Enforcement	902
<i>Ortelere v. Teachers' Retirement Board of New York</i>	904
Notes and Questions	912
<i>Farnum v. Silvano</i>	913
Notes and Questions	916
C. Mistake	917
Doctrinal Overview: Mistake as a Defense to Enforcement	918
Mistake, Disclosure, Information, and the Law of Contracts	918
1. Mutual Mistake	919
Doctrinal Overview: Mutual Mistake as a Defense to Enforcement	919
<i>Sherwood v. Walker</i>	920

Notes and Questions	926
<i>Wood v. Boynton</i>	927
Notes and Questions	930
2. Unilateral Mistake	933
Doctrinal Overview: Unilateral Mistake as a Defense to Enforcement?	933
<i>Laidlaw v. Organ</i>	934
Notes and Questions	939
<i>First Baptist Church of Moultrie v. Barber Contracting Co.</i>	940
Notes and Questions	944
D. Deceit and Coercion	945
1. Misrepresentation	946
Doctrinal Overview: Misrepresentation as a Defense to Enforcement	947
<i>Swinton v. Whitinsville Savings Bank</i>	947
Notes and Questions	949
<i>Obde v. Schlemeyer</i>	949
Notes and Questions	952
Honesty in Fact	952
Notes and Questions	954
Fraud—Concealment and Non-Disclosure	954
Thinking Tool Applied: On Regulation	957
Thinking Tool: Baselines	958
<i>Stambovsky v. Ackley</i>	959
Notes and Questions	964
<i>Vokes v. Arthur Murray, Inc.</i>	965
Notes and Questions	969
2. Duress	970
Doctrinal Overview: Duress as a Defense to Enforcement	970
On Duress	972
a. Duress of Person	972
<i>Rubenstein v. Rubenstein</i>	973
b. Duress of Goods	976
<i>Hackley v. Headley</i>	976
Notes and Questions	979
c. Economic Duress	980
<i>Wolf v. Marlton Corp.</i>	981
<i>Austin Instrument, Inc. v. Loral Corp.</i>	986
Notes and Questions	991
The Vagueness of Economic Duress	991
3. Undue Influence	993
Doctrinal Overview: Undue Influence as a Defense to Enforcement	993
<i>Odorizzi v. Bloomfield School District</i>	994
Notes and Questions	1000

4. Unconscionability	1002
Doctrinal Overview: Unconscionability as a Defense to Enforcement	1002
<i>Campbell Soup Co. v. Wentz</i>	1004
<i>William v. Walker-Thomas Furniture Co.</i>	1005
<i>Higgins v. Superior Court of Los Angeles County</i>	1005
Notes and Questions	1013
E. Excusing Performance	1016
1. Discharging Contractual Obligations: The Traditional Rule	1017
<i>Steas v. Leonard</i>	1017
Notes and Questions	1020
Letting the Loss Lie Where It Falls	1021
2. Impossibility and Impracticability	1023
Doctrinal Overview: Excusing Performance Due to Impossibility or Impracticability	1023
<i>Taylor v. Caldwell</i>	1024
Notes and Questions	1028
<i>Facto v. Pantagis</i>	1028
Notes and Questions	1032
Is COVID-19 an Act of God?	1034
Contracts and Covid-19	1038
<i>Hanford v. Connecticut Fair Ass'n</i>	1039
<i>In re Republican Party of Texas</i>	1042
Notes and Questions	1050
3. Frustration of Purpose	1053
Doctrinal Overview: Excusing Performance Due to Frustration of Purpose	1053
<i>Krell v. Henry</i>	1054
Notes and Questions	1058
<i>Northern Indiana Public Service Co. v. Carbon County Coal Co.</i>	1058
Notes and Questions	1062
Thinking Tool: The Least Cost Avoider	1063
Notes and Question	1064
F. The Statute of Frauds	1067
Doctrinal Overview: The Statute of Frauds and the Writing Requirement	1068
1. The General Rule and Some Important Exceptions	1070
<i>McInerney v. Charter Golf, Inc.</i>	1070
Notes and Questions	1076
<i>Dewberry v. George</i>	1077
<i>Browning v. Poirier</i>	1081
Notes and Questions	1084
2. Satisfying the Writing and Signature Requirements	1084
<i>Leonard v. Pepsico</i>	1084
Notes and Questions	1085

<i>Rosenfeld v. Basquiat</i>	1086
Notes and Questions	1088
A Contract Written in Blood	1088
Perception as Reality: Promissory Estoppel and the Statute of Frauds	1089
International Perspective: The Statute of Frauds and the CISG	1091
Notes and Questions	1092
G. Chapter Capstone: Putting It All Together	1093
<i>Ryan v. Weiner</i>	1093
CHAPTER 9	
THIRD PARTIES	1105
A. Third Party Beneficiaries	1106
Doctrinal Overview: Third Party Beneficiaries	1106
<i>Lawrence v. Fox</i>	1108
<i>Seaver v. Ransom</i>	1108
Notes and Questions	1111
<i>Rouse v. United States</i>	1112
Notes and Questions	1113
B. Assignment of Rights and Delegation of Duties	1114
Doctrinal Overview: Assignment of Rights and Delegation of Duties	1115
<i>Macke Co. v. Pizza of Gaithersburg, Inc.</i>	1117
Notes and Questions	1124
<i>Sally Beauty Co. v. Nexxus Products Co.</i>	1124
Notes and Questions	1135
C. Assumption and Novation	1136
Doctrinal Overview: Assumption and Novation	1137
<i>Rosenberg v. Son, Inc.</i>	1138
Notes and Questions	1144
Appendix A <i>Restatement (Second) of Contracts (1981)</i>	1147
Appendix B Uniform Commercial Code	1189
Appendix C United Nations Convention on Contracts for the International Sale of Goods (“CISG”)	1207
Appendix D <i>Restatement (Third) of Restitution and Unjust Enrichment (2011)</i>	1215
Appendix E <i>Restatement (Second) of Torts (1965)</i>	1223
<i>Table of Cases</i>	1225
<i>Index</i>	1229