



Problems in Contract Law Cases and Materials

Fifth Edition

Charles L. Knapp

Joseph W. Cotchett Distinguished Professor of Law
University of California, Hastings College of the Law
Max E. Greenberg Professor Emeritus of Contract Law
New York University School of Law

Nathan M. Crystal

Class of 1969 Professor of Law
University of South Carolina

Harry G. Prince

Professor of Law
University of California, Hastings College of the Law

Biblioteca de la Corte Suprema	
Nº de Orden	119.538
Ubicación	J4362

ASPEN
PUBLISHERS

1185 Avenue of the Americas, New York, NY 10036
www.aspenpublishers.com

Contents

Preface	xxi ✓
Acknowledgements	xxv
1 An Introduction to the Study of Contract Law	1 ✓
A. Contract Law in the First-Year Law Curriculum	2
B. The Sources of Contract Law	3
1. Judicial Opinions	4
2. Statutory Law	5
3. The Restatements	7
4. Legal Commentary	8
5. International Commercial Law	9
C. The Perspective of Contract Theory	10
D. The Lawyering Perspective	13
E. Contract Law Through Case Study: An Example	15
<i>Burch v. Second Judicial District Court of Nevada</i>	15
Notes and Questions	18
Selected Bibliography	21
2 Enforcing Promises: Bases of Legal Obligation	25 ✓
A. Intention to Be Bound: The Objective Theory of Contract	27
<i>Ray v. William G. Eurice & Bros., Inc</i>	27
Notes and Questions	33
<i>Park 100 Investors, Inc. v. Kartes</i>	36
Notes and Questions	39
B. Enforcing Exchange Transactions: The Doctrine of Consideration	40
<i>Hamer v. Sidway</i>	41
Notes and Questions	44
Comment: History of the Consideration Doctrine	45
<i>Baehr v. Penn-O-Tex Oil Corp.</i>	47

Notes and Questions	50
<i>Dougherty v. Salt</i>	54
Notes and Questions	55
Comment: The Lawyer's Role in Counseling for Legal Effect	57
<i>Batsakis v. Demotsis</i>	59
Notes and Questions	62
<i>Plowman v. Indian Refining Co.</i>	64
Notes and Questions	68
Comment: The Power of Agents to Bind Their Principals	71
C. Protection of Promisee Reliance: The Doctrine of Promissory Estoppel	73
1. Promises Within the Family	74
<i>Kirksey v. Kirksey</i>	74
Notes and Questions	75
<i>Greiner v. Greiner</i>	76
Notes and Questions	79
<i>Wright v. Newman</i>	80
Notes and Questions	84
2. Charitable Subscriptions	85
<i>Allegheny College v. National Chautauqua County Bank</i>	86
Notes and Questions	91
<i>King v. Trustees of Boston University</i>	93
Notes and Questions	98
<i>Problem 2-1</i>	100
3. Promises in a Commercial Context	101
<i>Katz v. Danny Dare, Inc.</i>	102
Notes and Questions	106
<i>Shoemaker v. Commonwealth Bank</i>	108
Notes and Questions	112
Comment: The Status and Future of Promissory Estoppel	114
D. Liability for Benefits Received: The Principle of Restitution	116
1. Restitution in the Absence of a Promise	118
<i>Credit Bureau Enterprises, Inc. v. Pelo</i>	118
Notes and Questions	124
<i>Commerce Partnership 8098 Limited Partnership v. Equity Contracting Co., Inc.</i>	127
Notes and Questions	132
<i>Watts v. Watts</i>	134
Notes and Questions	142
2. Promissory Restitution	146
<i>Mills v. Wyman</i>	146
Notes and Questions	149
<i>Webb v. McGowin</i>	151
Notes and Questions	154
<i>Problem 2-2</i>	158
<i>Problem 2-3</i>	159

3	Reaching Agreement: The Process of Contract Formation	161
A.	Offer and Acceptance: Bilateral Contracts	161
	<i>Lonergan v. Scolnick</i>	162
	Notes and Questions	164
	<i>Izadi v. Machado (Gus) Ford, Inc.</i>	166
	Notes and Questions	170
	<i>Normile v. Miller</i>	171
	Notes and Questions	176
B.	Offer and Acceptance: Unilateral Contracts	177
	<i>Petterson v. Pattberg</i>	179
	Notes and Questions	182
	<i>Cook v. Coldwell Banker / Frank Laiben Realty Co.</i>	184
	Notes and Questions	187
	Comment: Remedies for Breach of Contract	188
C.	Limiting the Offeror's Power to Revoke: The Effect of Pre-acceptance Reliance	189
	<i>James Baird Co. v. Gimbel Bros., Inc.</i>	190
	Notes and Questions	192
	<i>Drennan v. Star Paving Co.</i>	193
	Notes and Questions	197
	Comment: Contract Law and Business Practice	199
	<i>Berryman v. Knoch</i>	202
	Notes and Questions	206
	<i>Pop's Cones, Inc. v. Resorts International Hotel, Inc.</i>	208
	Notes and Questions	213
	<i>Problem 3-1</i>	215
D.	Irrevocability by Statute: The "Firm Offer"	217
	<i>Problem 3-2</i>	219
	<i>Problem 3-3</i>	220
E.	Qualified Acceptance: The "Battle of Forms"	221
	<i>Princess Cruises, Inc. v. General Electric Co.</i>	223
	Notes and Questions	229
	<i>Brown Machine, Inc. v. Hercules, Inc.</i>	231
	Notes and Questions	236
	<i>Dale R. Horning Co. v. Falconer Glass Industries, Inc.</i>	240
	Notes and Questions	248
	<i>Problem 3-4</i>	253
F.	Electronic Contracting	255
	<i>Hill v. Gateway 2000, Inc.</i>	255
	Notes and Questions	258
	<i>Klocek v. Gateway, Inc.</i>	259
	Notes and Questions	265
	<i>Problem 3-5</i>	268
E.	Postponed Bargaining: The "Agreement to Agree"	270
	<i>Walker v. Keith</i>	271
	Notes and Questions	276

<i>Quake Construction, Inc. v. American Airlines, Inc.</i>	278
Notes and Questions	285
Comment: The Pennzoil / Texaco Case	289
<i>Problem 3-6</i>	291
<i>Problem 3-7</i>	292
<i>Problem 3-8</i>	293

4 The Statute of Frauds

295 ✓

A. General Principles: Scope and Application	298
<i>Crabtree v. Elizabeth Arden Sales Corp.</i>	298
Notes and Questions	302
<i>Winternitz v. Summit Hills Joint Venture</i>	305
Notes and Questions	311
Comment: The Historical Development of Law and Equity	313
<i>Alaska Democratic Party v. Rice</i>	314
Notes and Questions	320
<i>Problem 4-1</i>	323
B. The Sale of Goods Statute of Frauds: UCC §2-201	325
<i>Buffaloe v. Hart</i>	326
Notes and Questions	331
<i>Bazak International Corp. v. Mast Industries, Inc.</i>	333
Notes and Questions	342
<i>Problem 4-2</i>	346

5 The Meaning of the Agreement: Principles of Interpretation and the Parol Evidence Rule

349 ✓

A. Principles of Interpretation	350
<i>Joyner v. Adams</i>	352
Notes and Questions	356
<i>Frugaliment Importing Co. v. B.N.S. International Sales Corp.</i>	360
Notes and Questions	364
<i>C & J Fertilizer, Inc. v. Allied Mutual Insurance Co.</i>	369
Notes and Questions	376
B. The Parol Evidence Rule	381
<i>Thompson v. Libby</i>	384
Notes and Questions	386
<i>Taylor v. State Farm Mutual Automobile Insurance Co.</i>	392
Notes and Questions	400
<i>Sherrodd, Inc. v. Morrison-Knudsen Co.</i>	407
Notes and Questions	411
<i>Nanakuli Paving & Rock Co. v. Shell Oil Co.</i>	414
Notes and Questions	425

<i>Problem 5-1</i>	426
<i>Problem 5-2</i>	429

6 Supplementing the Agreement: Implied Terms, the Obligation of Good Faith, and Warranties

431 ✓

A. The Rationale for Implied Terms	431
<i>Wood v. Lucy, Lady Duff-Gordon</i>	432
Notes and Questions	433
<i>Leibel v. Raynor Manufacturing Co.</i>	435
Notes and Questions	438
B. The Implied Obligation of Good Faith	441
<i>Locke v. Warner Bros., Inc.</i>	444
Notes and Questions	451
<i>Empire Gas Corp. v. American Bakeries Co.</i>	455
Notes and Questions	462
<i>Donahue v. Federal Express Corp.</i>	466
Notes and Questions	472
<i>Problem 6-1</i>	477
<i>Problem 6-2</i>	478
C. Warranties	483
<i>Bayliner Marine Corp. v. Crow</i>	485
Notes and Questions	489
<i>Problem 6-3</i>	498
<i>Caceci v. Di Canio Construction Corp.</i>	499
Notes and Questions	502

7 Avoiding Enforcement: Incapacity, Bargaining Misconduct, Unconscionability, and Public Policy

507 ✓

A. Minority and Mental Incapacity	507
<i>Problem 7-1</i>	509
<i>Dodson v. Shrader</i>	509
Notes and Questions	512
<i>Hauer v. Union State Bank of Wautoma</i>	515
Notes and Questions	522
B. Duress and Undue Influence	526
<i>Totem Marine Tug & Barge, Inc. v. Alyeska Pipeline Service Co.</i>	526
Notes and Questions	532
<i>Odorizzi v. Bloomfield School District</i>	535
Notes and Questions	541
C. Misrepresentation and Nondisclosure	543
<i>Syester v. Banta</i>	544
Notes and Questions	551

	<i>Hill v. Jones</i>	553
	Notes and Questions	559
	Comment: Lawyers' Professional Ethics	563
D.	Unconscionability	564
	<i>Williams v. Walker-Thomas Furniture Co.</i>	566
	Notes and Questions	570
	Comment: Consumer Protection Legislation	576
	<i>Adkins v. Labor Ready, Inc.</i>	578
	Notes and Questions	583
	<i>Cooper v. MRM Investment Co.</i>	584
	Notes and Questions	593
	Comment: Unconscionability in Commercial Cases	595
E.	Public Policy	598
	<i>Problem 7-2</i>	598
	<i>Valley Medical Specialists v. Farber</i>	599
	Notes and Questions	608
	<i>Borelli v. Brusseau</i>	611
	Notes and Questions	618
	<i>R.R. v. M.H. & another</i>	619
	Notes and Questions	626
	<i>Problem 7-3</i>	629
	<i>Problem 7-4</i>	630

8 Justification for Nonperformance: Mistake, Changed Circumstances, and Contractual Modifications 633 ✓

A.	Mistake	634
	<i>Lenawee County Board of Health v. Messerly</i>	634
	Notes and Questions	640
	<i>Wil-Fred's, Inc. v. Metropolitan Sanitary District</i>	643
	Notes and Questions	649
B.	Changed Circumstances, Impracticability, and Frustration	652
	<i>Karl Wendt Farm Equipment Co. v. International Harvester Co.</i>	655
	Notes and Questions	663
	<i>Mel Frank Tool & Supply, Inc. v. Di-Chem Co.</i>	668
	Notes and Questions	675
	<i>Problem 8-1</i>	677
	<i>Problem 8-2</i>	679
C.	Modification	679
	<i>Problem 8-3</i>	679
	<i>Alaska Packers' Association v. Domenico</i>	681
	Notes and Questions	684
	<i>Kelsey-Hayes Co. v. Galtaco Redlaw Castings Corp.</i>	688
	Notes and Questions	693
	<i>Brookside Farms v. Mama Rizzo's, Inc.</i>	695
	Notes and Questions	701

9 Rights and Duties of Third Parties 705 ✓

A.	Rights of Third Parties as Contract Beneficiaries	705
	<i>Vogan v. Hayes Appraisal Associates, Inc.</i>	708
	Notes and Questions	713
	<i>Zigas v. Superior Court</i>	717
	Notes and Questions	722
B.	Assignment and Delegation of Contractual Rights and Duties	725
	<i>Herzog v. Irace</i>	727
	Notes and Questions	729
	<i>Sally Beauty Co. v. Nexxus Products Co.</i>	732
	Notes and Questions	740
	<i>Problem 9-1</i>	742

10 Consequences of Nonperformance: Material Breach, Anticipatory Repudiation, and Express Conditions 743 ✓

A.	Material Breach	745
	<i>Jacob & Youngs, Inc. v. Kent</i>	745
	Notes and Questions	749
	Comment: The Doctrine of Constructive Conditions	753
	<i>Sackett v. Spindler</i>	755
	Notes and Questions	759
B.	Anticipatory Repudiation	762
	<i>Truman L. Flatt & Sons Co. v. Schupf</i>	763
	Notes and Questions	768
	<i>Hornell Brewing Co. v. Spry</i>	770
	Notes and Questions	775
C.	Express Conditions	779
	<i>Oppenheimer & Co. v. Oppenheim, Appel, Dixon & Co.</i>	780
	Notes and Questions	786
	<i>J. N. A. Realty Corp. v. Cross Bay Chelsea, Inc.</i>	791
	Notes and Questions	796
	<i>Morin Building Products Co. v. Baystone Construction, Inc.</i>	799
	Notes and Questions	802
	<i>Problem 10-1</i>	804
	<i>Problem 10-2</i>	805
	<i>Problem 10-3</i>	806

11 Expectation Damages: Principles and Limitations 807 ✓

A.	Computing the Value of Plaintiff's Expectation	809
	<i>Turner v. Benson</i>	813
	Notes and Questions	817

<i>Handicapped Children's Education Board v. Lukaszewski</i>	820
Notes and Questions	824
<i>American Standard, Inc. v. Schectman</i>	824
Notes and Questions	828
B. Restrictions on the Recovery of Expectation Damages: Foreseeability, Certainty, and Causation	831
<i>Hadley v. Baxendale</i>	831
Notes and Questions	833
<i>Florafax International, Inc. v. GTE Market Resources, Inc.</i>	836
Notes and Questions	844
C. Restrictions on the Recovery of Expectation Damages: Mitigation of Damages	847
<i>Rockingham County v. Luten Bridge Co.</i>	848
Notes and Questions	851
<i>Boehm v. American Broadcasting Co.</i>	851
Notes and Questions	855
<i>Jetz Service Co. v. Salina Properties</i>	859
Notes and Questions	863
D. Nonrecoverable Damages: Items Commonly Excluded from Plaintiff's Damages for Breach of Contract	866
<i>Zapata Hermanos Sucesores, S.A. v. Hearthside Baking Co.</i>	866
Notes and Questions	870
<i>Erllich v. Meneses</i>	874
Notes and Questions	882
Comment: Recovery of Punitive Damages for Bad Faith Breach of Contract	884
<i>Problem 11-1</i>	888
E. Buyers' and Sellers' Remedies Under the Uniform Commercial Code	890
1. Buyers' Remedies	891
a. Cancellation	891
(1) Rejection: The Perfect Tender Rule	891
(2) Acceptance	893
(3) Revocation of Acceptance	893
(4) Cure	894
(5) Installment Contracts	895
b. Damages	895
(1) Cover, UCC §2-712	895
(2) Market Damages, UCC §2-713	896
(3) Damages for Accepted Goods, UCC §2-714	898
(4) Incidental and Consequential Damages, UCC §2-715	898
c. Specific Performance	900
d. Other Remedies Available to Buyers	900
<i>Problem 11-2</i>	901
2. Sellers' Remedies	901
a. Cancellation	901
b. Damages	902
(1) Resale Damages, UCC §2-706	902
(2) Market Damages, UCC §2-708(1)	903

(3) Lost Profits, UCC §2-708(2)	903
(4) Seller's Action for the Price, UCC §2-709	905
(5) Seller's Incidental and Consequential Damages, UCC §2-710	906
c. Other Remedies Available to Sellers	906
<i>Problem 11-3</i>	906
F. Justifications for the Expectation Damage Rule	907
1. Protecting the Expectation Interest Under a Wholly Executory Contract	907
2. Encouraging Breach of Contract: The Theory of "Efficient Breach"	913
<i>Roth v. Speck</i>	919
Notes and Questions	921
<i>Problem 11-4</i>	924

12 Alternatives to Expectation Damages: Reliance and Restitutionary Damages, Specific Performance, and Agreed Remedies 925 ✓

A. Reliance Damages	925
<i>Wartzman v. Hightower Productions, Ltd.</i>	925
Notes and Questions	931
<i>Walser v. Toyota Motor Sales, U.S.A., Inc.</i>	934
Notes and Questions	938
B. Restitutionary Damages	942
<i>United States ex rel. Coastal Steel Erectors, Inc. v. Algernon Blair, Inc.</i>	942
Notes and Questions	944
<i>Lancellotti v. Thomas</i>	946
Notes and Questions	951
<i>Ventura v. Titan Sports, Inc.</i>	953
Notes and Questions	961
<i>Problem 12-1</i>	964
C. Specific Performance	965
<i>City Stores Co. v. Ammerman</i>	967
Notes and Questions	974
<i>American Broadcasting Co. v. Wolf</i>	978
Notes and Questions	986
D. Agreed Remedies	989
<i>Wasserman's Inc. v. Township of Middletown</i>	989
Notes and Questions	998
Comment: Commercial Arbitration	1003
<i>Problem 12-2</i>	1006
<i>Problem 12-3</i>	1007

Table of Cases	1009
Table of Uniform Commercial Code Provisions	1021
Table of Provisions from Restatement (Second) of Contracts	1025

Table of Provisions from Restatement (First) of Contracts	1029
Table of Provisions from Other Restatements	1031
Table of Other Acts, Codes, and Rules	1033
Table of Secondary Authorities	1035
Index	1049