

Contracts

In this subject, CALI has Lessons, Podcasts and eLangdell Press Texts. There are also Casebook Correlations and CALI Topic Grids available on the CALI website to aid you in assigning lessons.

CALI Lessons:

Acceptance

This lesson deals with one aspect of contract formation, acceptance. Acceptance is the manifestation of assent that is made by the offeree in response to an offer. In this lesson, you will learn how a party can accept an offer at common law. The lesson takes up issues such as the manner of acceptance, who can accept, silence as acceptance, rejection and counter-offer. The lesson ends with a short analysis exercise on the subject of acceptance.

Lesson Completion Time: 1 hour

Authors: Jennifer Martin, Associate Professor of Law Saint Thomas University School of Law; Matthew McKinnon, Professor of Law, Michigan State University College of Law; Joseph Grohman, Professor of Law Nova Southeastern University Shepard Broad Law Center; Ronald Brown, Professor of Law Nova Southeastern University Shepard Broad Law Center

Accord and Satisfaction

This lesson explores discharge of a debt by accord and satisfaction. It can be run either as an introduction to the study of accord and satisfaction or as a review after you have completed your study.

Lesson Completion Time: 1 hour

Author: Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

Agreements Lacking Consideration: Gift Promises

This lesson takes a look at one type of agreement that lacks consideration: gift promises. Consideration is often described as the bargained-for-exchange. The bargained-for-exchange is what induces the making of the promise by the offeror and the promise induces the furnishing of the consideration by the offeree. Consideration is the ordinary

means for justifying the enforcement of the promises by the parties. Where a gift is made, bargained-for-exchange is lacking and the promises are not enforceable. This lesson sets out the basic requisites for identifying and evaluating a gift promise. The general attributes of consideration are covered in other lessons.

Lesson Completion Time: 40 minutes

Author: Jennifer Martin, Associate Professor of Law Saint Thomas University School of Law

Agreements Lacking Consideration: Past Consideration and Moral Obligation

This lesson takes a look at two types of agreements that lack consideration: those supported by past consideration or moral obligation. Consideration is often described as the bargained-for-exchange. The bargained-for-exchange is what induces the making of the promise by the offeror and the promise induces the furnishing of the consideration by the offeree. Consideration is the ordinary means for justifying the enforcement of the promises by the parties. Where consideration was given in the past or the promisee is only morally obligated to make the promise, bargained-for-exchange is lacking and the promises are not enforceable.

This lesson sets out the basic requisites for identifying and evaluating those promises that are only supported by past consideration or moral obligation. The general attributes of consideration are covered in other lessons.

Lesson Completion Time: 50 minutes

Author: Jennifer Martin, Associate Professor of Law Saint Thomas University School of Law

An Introduction to Contract Remedies

This lesson enumerates some general principles of contract remedies. You may want to run it before you run any of the individual lessons on contract remedies. It may be run as an introduction before you have studied contract remedies or as a review after you have studied the topic.

Lesson Completion Time: 1 hour

Author: Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

Anticipatory Repudiation and Assurances of Performance

This lesson explores the contours of anticipatory repudiation, including the repudiating promisor's ability to retract his repudiation, the nonrepudiating promisee's right to

demand adequate assurances of performance, and the effect of the promisor's repudiation on the promisee's obligation to perform.

Lesson Completion Time: 1 hour

Author: Keith Rowley, Associate Professor of Law, University of Nevada William S. Boyd School of Law

Assignment and Delegation

This lesson covers assignment of contract rights and delegation of contract duties. You can run it either as an introduction to the topic or as a review after you have studied it.

Lesson Completion Time: 1.5 hours

Author: Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

Battle of the Forms (UCC 2-207)

This lesson deals with the problem created by the Battle of the Forms. At common law, the mirror image rule requires an acceptance to be exactly like the offer. The rule is reversed under the Uniform Commercial Code, however. Under UCC § 2-207, an acceptance is still an acceptance even though it states different or additional terms from the offer. This lesson will explore the effect of such different or additional terms and when they are operative. This lesson can be worked as an introduction to the Battle of the Forms or as a review. This lesson may be a more in-depth study of UCC § 2-207 than many first year contracts courses require. However, prior to working this lesson, you should have an understanding of offer, acceptance and mutual assent.

Lesson Completion Time: 1.5 - 2.0 hours

Author: Jennifer Martin, Associate Professor of Law Saint Thomas University School of Law

Bilateral and Unilateral Contracts

Traditional contract law classifies contracts into bilateral and unilateral contracts. Bilateral contracts are those involving promises made by all parties, whereas unilateral contracts involve promises made by only one of the parties. This lesson explores the distinction between bilateral contracts (where both parties make promises) and unilateral ones (where only one party makes a promise) and the effect on the obligations of the parties resulting from the classification. This lesson ends with an analysis exercise on unilateral and bilateral contracts.

Lesson Completion Time: 30-40 minutes

Author: Jennifer Martin, Associate Professor of Law Saint Thomas University School of Law

Certainty

One of the rules that limits a plaintiff's recovery for breach of contract is the requirement that damages must be proven to a reasonable certainty. This lesson explores that principle. The lesson can be run either as an introduction to certainty or as a review after you have completed your study.

Lesson Completion Time: 30 minutes

Author: Richard Warner, Professor of Law and Faculty Director of the Center for Law and Computers, Chicago-Kent College of Law and Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

CISG Basics: Formation

This lesson is second in a series that takes a look at formation of agreements governed by the U.N. Convention on the International Sale of Goods (CISG). The CISG provides a uniform set of rules for international sales contracts where the parties are located in different signatory countries. There are 11 separate provisions on contract formation under the CISG. This lesson sets out the basic requisites for determining whether an offer exists, when it is accepted and how to address a battle of the forms if the CISG applies. The general attributes of domestic contracts and other CISG contracts are covered in other lessons.

Lesson Completion Time: 45 minutes

Author: Jennifer Martin, Associate Professor of Law Saint Thomas University School of Law

CISG Basics: Performance

This lesson is third in a series that takes a look at performance of agreements governed by the U.N. Convention on the International Sale of Goods (CISG). The CISG provides a uniform set of rules for international sales contracts where the parties are located in different signatory countries. There are 11 separate provisions on contract formation under the CISG. This lesson sets out the basic obligations of sellers and buyers, as well as looking at the ICC's Incoterms and how they affect the seller's obligations. The general attributes of domestic contracts and other CISG contract issues are covered in other lessons.

Lesson Completion Time: 1 hour

Author: Jennifer Martin, Associate Professor of Law Saint Thomas University School of Law

CISG Basics: Scope and General Provisions

This lesson is first in a series that takes a look at the basics of agreements governed by the U.N. Convention on the International Sale of Goods (CISG). The CISG provides a uniform set of rules for international sales contracts where the parties are located in different signatory countries. While some of the rules parallel those under the common law and Article 2 of the U.C.C., many are different. This lesson sets out the basic requisites for determining when the CISG applies and evaluating contracts governed by the CISG. The general attributes of domestic contracts and other CISG contracts are covered in other lessons.

Lesson Completion Time: 1 hour

Author: Jennifer Martin, Associate Professor of Law Saint Thomas University School of Law

Coase's Irrelevance 'Theorem'

This lesson tries to explain Coasean irrelevance (which is often known as the "Coase Theorem").

Lesson Completion Time: 45 minutes to 3 hours

Author: Nicholas Georgakopoulos, Harold R. Woodard Professor of Law Indiana University - Indianapolis School of Law

Conditions

This lesson explores the concept of conditions in the law of contracts. It distinguishes promises from conditions, discusses the various kinds of conditions, and explains ways

the courts relieve parties from the harsh effect of conditions. The lesson concludes with two sample exam questions.

Lesson Completion Time: 1.5 hours

Author: Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

Consideration: Advanced Issues

This lesson addresses a number of issues involving consideration, including whether there was a bargain, whether there is consideration for the settlement of a claim, and whether one of the promises was illusory. You should run it after you have run the lesson on Consideration: The Basics of Consideration and the Bargain Theory.

Lesson Completion Time: 1 hour

Author: Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

Consideration: The Basics of Consideration and the Bargain Theory

This lesson takes a look at the basic aspects of the contractual element of Consideration. In a typical transaction, the consideration (described as a bargained-for-exchange) is what induces the making of the promise by the offeror. In turn, the promise induces the furnishing of the consideration by the offeree. Consideration is the ordinary means for justifying the enforcement of the promises by the parties. This lesson sets out the basic requisites for establishing consideration. The general attributes of formation of contracts (mutual assent, offer and acceptance) are covered in other lessons.

Lesson Completion Time: 40 minutes + analysis exercise

Author: Jennifer Martin, Associate Professor of Law Saint Thomas University School of Law

Contract Assignments

This exercise deals only with duties and outright assignments of intangible rights that arise by contract. Such rights include debts, rights to non-monetary performance and rights to damages, whether or not the right has been earned by performance. It does not cover other choses in action such as tort claims and rights to recover possession of real or personal property. It also does not deal with assignments of rights which are intended as collateral security for an indebtedness. This exercise requires application of both common law principles and statutory rules under both Article 2 and Article 9 of the Uniform Commercial Code. This exercise, however, limits Article 9 coverage to outright assignments of accounts.

Lesson Completion Time: 1 hour

Author: Matthew McKinnon, Professor of Law, Michigan State University College of Law

Contract Formation I

This lesson deals with contract formation. Students are given a series of hypothetical problems dealing with basic contract law as reflected in Restatement of Contracts (Second) and the Uniform Commercial Code. Coverage includes: intent to contract, definiteness, options, rejection, revocation, counteroffer, lapse, consideration, promissory estoppel, moral obligations, and accord and satisfaction. The program not only responds with correct and incorrect answers, but also gives feedback regarding underlying reasons for answers. If an incorrect answer is given, the program follows up with additional questions on the topic to improve student understanding.

Lesson Completion Time: 1.0 - 1.5 hours

Author: Matthew McKinnon, Professor of Law, Michigan State University College of Law

Contract Formation II

This lesson deals with contract formation. Students are given a series of hypothetical problems dealing with basic contract law as reflected in Restatement of Contracts (Second) and the Uniform Commercial Code. Coverage includes: intent to contract, definiteness, options, rejection, revocation, counteroffer, lapse, consideration, promissory estoppel, moral obligations, and accord and satisfaction. The program not only responds with correct and incorrect answers, but also gives feedback regarding underlying reasons for answers. If an incorrect answer is given, the program follows up with additional questions on the topic to improve student understanding.

Lesson Completion Time: 45 minutes

Author: Matthew McKinnon, Professor of Law, Michigan State University College of Law

Contract Tutorials on Damages

This lesson is designed for first-year contracts students to use prior to class discussion of the topics. The lesson presents a case or a statute and then asks students to respond to questions designed to test their understanding of the text. The immediate reinforcement aids learning and frees up class time for investigating the rationale behind the rules. This work was supported in part by a grant from NCAIR (National Center for Automated Information Research).

Topics include:

- Expectation Damages
- Specific Performance
- Mitigation
- The cost of Completion
- Applying Expectation Damages
- Restitution Damages
- More Applications of Expectation Damages
- Substantial Performance / Substantial Breach
- The Lost Volume Seller
- Excuse of Performance
- Reliance Versus Expectation Damages
- Foreseeability of Damages
- Liquidated Damages

Lesson Completion Time: varies from unit to unit

Author: Richard Warner, Professor of Law and Faculty Director of the Center for Law and Computers, Chicago-Kent College of Law

Contract Tutorials on Remedies

This lesson is designed for first-year contracts students to use prior to class discussion of the specific topics. It presents basic rules and definitions, a case or a statute, and then asks questions designed to test their understanding of the text. Each section concludes with a series of review questions.

This lesson covers 17 topics. Due to the lesson's length, it is highly recommended that students work through this lesson over several days. For students who wish to further their understanding of this material, CALI has additional lessons that address each of the topics covered in this lesson.

Topics include:

- The Expectation Measure
- Mitigation of Damages
- Expectation Damages in Sale of Goods
- Expectation Damages in Sale of Goods: When the Buyer Does Not Cover
- UCC Damages Rules for Breaching Buyers

- More UCC Damages Rules for Breaching Buyers
- Overhead and Profit
- Proving Damages
- Reliance Damages
- Liquidated Damages
- Specific Performance
- Cost of Completion
- Substantial Performance/Substantial Breach
- Excuse of Performance
- Foreseeability

Lesson Completion Time: 9 hours

Author: Richard Warner, Professor of Law and Faculty Director of the Center for Law and Computers, Chicago-Kent College of Law

Cost of Completion

This lesson explores the issue of whether, in computing the expectation remedy, the court will award the cost of completion or the diminution in value. The lesson can be run either as an introduction to this aspect of damages or as a review after you have completed your study.

Lesson Completion Time: 30 minutes

Authors: Richard Warner, Professor of Law and Faculty Director of the Center for Law and Computers, Chicago-Kent College of Law and Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

Defenses

A contract has been formed if there is offer, acceptance, and consideration. But the contract is not necessarily enforceable, for there may be a defense to its formation. These defenses may arise because of the subject matter of the contract, because of its form, or because of the behavior of a party or the status of a party. This lesson provides an overview of the subject of defenses and introduces the user to the lessons that follow: Void, Voidable, and Unenforceable Contracts; Illegal Promises; Lack of Capacity; Duress and Undue Influence; Unjust Terms (Unconscionability); Fraud and Misrepresentation; Misunderstanding and Mistake and Statute of Frauds.

Lesson Completion Time: 10 minutes

Author: Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

Drafting a Contract: The Sale of Goods

This exercise reviews the substance of contract law and demonstrates the application of the substantive law in the process of drafting. The exercise begins with a form contract. The student must rewrite the contract to suit the needs of the client. On completion, the student will have reviewed applicable principles from both the common law and the U.C.C. In addition, the student will have learned principles of drafting that can be applied either to revision of a form or to drafting from scratch.

Lesson Completion Time: 1 - 1.5 hours

Author: Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

Drafting Contracts Using 'Shall', 'May' and 'Must'

A large percentage of litigation arising out of contracts results from poor drafting. In order to eliminate this litigation, it is imperative that law students master good drafting skills. One of the most important aspects of drafting a contract is the operative language—language that affects legal relationships. This lesson is designed to introduce law students to operative language commonly used in drafting contracts, in particular, language of obligation (shall), language of authorization (may) and language of condition precedent (must). The lesson begins with a segment explaining each of the three categories of operative language followed by exercises which permit the student to apply his or her understanding of proper usage of that category. The lesson concludes with a segment of general exercises that test whether students have mastered the distinctions among the different categories of operative language.

Lesson Completion Time: 45 minutes

Author: Debra Cohen, Professor of Law University of Massachusetts School of Law - Dartmouth

Drafting with 'And' and 'Or'

Drafters of contracts, wills and statutes are plagued with the ambiguities inherent in the use of these two connectors. This lesson is designed to identify these ambiguities and then help students to draft with conjunctions which eliminate those ambiguities. After completing this lesson students should be able not only to identify ambiguous uses of 'and' and 'or' so that they may better analyze contracts, wills or statutes which they read, but they should also be able to draft documents so that ambiguities are avoided. A variety of real life applications are presented for each drafting problem and students are called upon to draft solutions. Students will interview a client to determine which meaning is appropriate, thus reenforcing the notion that drafting is an iterative process calling upon the lawyer to identify and clarify ambiguities in the client's instructions.

This ambiguity inherent in 'and' and 'or' is discussed at length in Scott Burnham's Drafting and Analyzing Contracts (LexisNexis 3d edition). This lesson uses Burnham's taxonomy as its basis.

Lesson Completion Time: 30 minutes

Author: Marjorie McDiarmid, Steptoe & Johnson Professor of Law and Technology
West Virginia University College of Law

Duration of Offers

This lesson deals with the duration of offers. The existence of an offer is often an essential element of the bargaining process. Sometimes the offeree's power of acceptance will end so that the offer is no longer valid. This lesson will look at termination of the power of acceptance by termination, revocation and counteroffer, rejection, death and lapse.

Lesson Completion Time: 40 minutes

Author: Jennifer Martin, Associate Professor of Law Saint Thomas University School of Law

Duress and Undue Influence

Duress is one of those concepts that is easy to define and hard to apply. The lesson explores which kinds of "threats" are likely to provide a defense to contract formation and which are not.

Lesson Completion Time: 45 minutes

Author: Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

Equitable Remedies - An Overview

This exercise gives a basic overview of the types of equitable remedies. You need not have read any particular materials or taken any particular law school courses in order to complete the tutorial. It can be used to provide background in your courses where equity is especially relevant or to review the types of equitable remedies for use in a remedies course. The lesson will not examine doctrines of substantive equity (other than to note their existence) nor will the lesson explore the prerequisites for obtaining, defending against, or enforcing equitable remedies. Rather, the lesson is designed to introduce you to the basic vocabulary of equitable remedies.

Lesson Completion Time: 45 minutes

Author: Barbara Glesner Fines, Associate Dean & Rubey M. Hulen Professor of Law
University of Missouri - Kansas City School of Law

Excuse Doctrine: Impossibility, Frustration and Impracticability

This lesson takes a look at the doctrine of excuse. In particular, we will look at the doctrines of impossibility, frustration of purpose and impracticability. Each of these doctrines excuses performance of the parties to the agreement. This lesson sets out the basic requisites for when courts excuse contract performance and evaluating those situations that merit excuse. The general attributes of contract formation and breach are covered in other lessons.

Lesson Completion Time: 50 minutes

Author: Jennifer Martin, Associate Professor of Law Saint Thomas University School of Law

Expectation Damages

When the court awards money damages for breach of contract, it generally measures the damages by what is called the expectation measure or the expectancy. This lesson explains how those damages are calculated. It can be run either as an introduction to expectancy damages or as a review after you have completed your study.

Lesson Completion Time: 45 minutes

Authors: Richard Warner, Professor of Law and Faculty Director of the Center for Law and Computers, Chicago-Kent College of Law and Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

Exploring Article 2

The goal of this lesson is to take the user systematically through UCC Article 2. The lesson accomplishes this goal by having the user study a contract for the sale of goods. The concepts of Article 2 are thereby seen in the practical setting in which they are applied. Conversely, study of the contract reveals the source of each of the included provisions in the law. The user becomes familiar with the default rules and how those rules might be changed on behalf of a client. The user finishes with knowledge of the Code and how the Code may be applied in practice when drafting a contract.

Lesson Completion Time: 3 hours

Author: Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

Express and Implied Contracts

Contracts are sometimes referred to as express or implied. Implied contracts are in turn often referred to as contracts implied-in-fact or implied-in-law. The difference between express contracts and implied-in-fact ones results from the conduct of the party in making

the promise constituting the assent to the contract. Implied-in-law or quasi-contracts, however, are not really contracts at all, but merely a remedy in restitution. This lesson explores the nature of express contracts, implied-in-fact and implied-in-law contracts.

Lesson Completion Time: 20-30 minutes

Author: Jennifer Martin, Associate Professor of Law Saint Thomas University School of Law

Foreseeability

The damages a plaintiff can recover for breach of contract are limited to those that are reasonably foreseeable at the time of contracting. This lesson explores the concept of foreseeability from its origin in the Hadley rule to more contemporary applications. The lesson can be run either as an introduction to foreseeability or as a review after you have completed your study.

Lesson Completion Time: 40 minutes

Authors: Richard Warner, Professor of Law and Faculty Director of the Center for Law and Computers, Chicago-Kent College of Law and Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

Formation of Contracts under UCC Article 2

This lesson deals with the formation of contracts under Article 2 of the Uniform Commercial Code (excluding 2-207 issues). At common law, a contract is formed often by the showing of mutual assent plus a consideration. The rule is reversed under the Uniform Commercial Code, however. Under UCC 2-204, a contract can be formed in any manner sufficient to show agreement, even if the parties leave open terms. This lesson will explore the effect of the difference in formation between common law and Article 2. You can work this lesson as an introduction to the formation of contracts under the UCC or as a review. The material in this lesson may be a more in-depth study of Article 2 than some first year contracts courses require. However, prior to working this lesson, you should have an understanding of the common law on offer, acceptance and mutual assent.

Lesson Completion Time: 1 hour

Author: Jennifer Martin, Associate Professor of Law Saint Thomas University School of Law

Fraud and Misrepresentation

This lesson explores the elements of the fraud defense, looking at both affirmative misrepresentation of facts and failure to disclose facts. The user should finish with the ability to determine which element is in issue in a case.

Lesson Completion Time: 1 hour

Author: Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

Good Faith

This lesson considers probably the most common type of implied term, that of good faith. Courts often supply a term requiring the parties to exercise "good faith" or "good faith and fair dealing". The UCC provides that every contract is subject to good faith requirements, which cannot be disclaimed by agreement.

Lesson Completion Time: 20 minutes

Author: Jennifer Martin, Associate Professor of Law Saint Thomas University School of Law

Illegal Promises

This lesson explores the defense that a contract is illegal. In some cases, the legislature has ruled that certain kinds of contracts are illegal, while in other cases it is up to the court to make the determination. This lesson examines the criteria used to make that determination and the consequences to the parties if the determination is made. It also examines the ethics of a contract drafter including illegal provisions in a contract.

Lesson Completion Time: 1 hour

Author: Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

Implied Terms

The terms of a contract include express and implied promises, conditions, provisos and presuppositions that bind the parties. Contracts often have "gaps" in them, either intentionally or unintentionally left that way by the parties. This exercise considers how courts supply terms to fill those gaps both at common law and under the UCC.

Lesson Completion Time: 40 minutes

Authors: Jennifer Martin, Associate Professor of Law Saint Thomas University School of Law and Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

Indefiniteness

This exercise deals with offer, an essential element of the bargaining process. At common law, in order for a contract to be binding on the parties, the terms must be sufficiently definite or the contract will fail. This lesson explores the boundaries of the doctrine of indefiniteness.

Lesson Completion Time: 30 minutes

Author: Jennifer Martin, Associate Professor of Law Saint Thomas University School of Law

Interpretation of Contracts

Interpretation involves an ascertainment of the meaning of a contract. Whereas "construction" of a contract relates to the legal effect of the words used by the parties, "interpretation" addresses the meaning of the parties. Whose meaning is to be given effect with respect to certain contract terms? What evidence may be taken into account when courts engage in interpretation? In another lesson, the discussion of the parol evidence rule relates to the admissibility of agreements made prior to or contemporaneous with the writing. Here, the parol evidence rule will be considered with respect to the admissibility of extrinsic evidence to determine the meaning of the contract as formed.

Lesson Completion Time: 25 minutes

Author: Jennifer Martin, Associate Professor of Law Saint Thomas University School of Law

Invitations to Negotiate and other Expressions that are not Offers

This lesson explores invitations to negotiate/preliminary negotiations and other statements and expressions that are not offers, including advertisements, invitations to bid, price quotations and statements of intention. Determining whether a particular communication is an offer or preliminary negotiation (a matter determined according to the surrounding circumstances) prior to the formation of contract is essential to the determination of whether a contract exists.

Lesson Completion Time: 40 minutes

Author: Jennifer Martin, Associate Professor of Law Saint Thomas University School of Law

ITT v LTX. An Interactive Exploration of UCC Article 2

The goal of this program is to teach a substantial amount of Article 2 through the study of a single case. This exercise begins with a warranty case, ITT v. LTX. At any point in the program, however, you are free to explore any other part of the program. You may, for example, explore the issues in the case, which cover a large part of Article 2 and common law contracts. You can read what each opinion in the case says about the issue, explore treatises, go to the language of the UCC, or hear what the attorneys involved in the case have to say. Cap off your experience by taking a quiz on the issue which is similar to traditional CALI lessons.

Alternatively, you can learn more about the case by exploring such materials as the complaint, the pre-trial stipulations, and the trial testimony. Read treatises on case analysis or explore the elements of a claim for breach of contract and how the elements were proven in this case. The program contains such multimedia aspects as a videotape introduced in evidence at the trial, photographs, and statements by the attorneys.

Lesson Completion Time: 2-2.5 hours

Author: Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

Lack of Capacity

This lesson explores the capacity defense to contract formation, including when a contract may be avoided because of the minority, mental incapacity, or illiteracy of one of the parties.

Lesson Completion Time: 1.5 hours

Author: Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

Letters of Intent and Other Formal Preliminary Agreements

This lesson looks at formal preliminary agreements, often titled letters of intent or memorandums of understanding. Often parties sign a formal preliminary agreement at the beginning of negotiations without the intention of being bound to the transaction as a whole prior to the completion of a formal agreement. However, the formal preliminary agreement may bind the parties to negotiate in good faith and to other obligations related to the transaction. This lesson can be worked as an introduction to letters of intent or as a review. However, prior to working this lesson, you should have an understanding of offer, acceptance and mutual assent.

Lesson Completion Time: 20-30 minutes

Author: Jennifer Martin, Associate Professor of Law Saint Thomas University School of Law

Liquidated Damages

Liquidated damages clauses are provisions in a contract in which the parties agree on the amount of damages to be paid in the event of breach instead of having a court decide that issue. This lesson explores whether liquidated damages clauses are enforceable under the tests used in the Restatement, the UCC, and a California statute. The lesson can be run either as an introduction to liquidated damages or as a review after you have completed your study.

Lesson Completion Time: 45 minutes

Author: Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

Misunderstanding and Mistake

Mistake is one of the hardest defenses to analyze. After breaking the subject down into a number of different categories of mistake, the lesson focuses on the elements of mutual mistake. The concept of mutual mistake is then explored through a particular case, *Lenawee County Board of Health v. Messerly*, and a particularly problematic area, releases.

Lesson Completion Time: 1.5 hours

Author: Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

Mitigation

One of the limitations on the damages a plaintiff can recover for breach of contract is that the plaintiff has a duty to keep the damages as low as reasonably possible. This lesson explores this principle, which is called mitigation. The lesson can be run either as an introduction to mitigation or as a review after you have completed your study.

Lesson Completion Time: 40 minutes

Authors: Richard Warner, Professor of Law and Faculty Director of the Center for Law and Computers, Chicago-Kent College of Law and Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

Modification

This lesson explores discharge of a contract by modification, both at common law and under the UCC. It can be run either as an introduction to the study of modification or as a review after you have completed your study.

Lesson Completion Time: 1 hour

Author: Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

Mutual Assent

This lesson explores one of the fundamental requirements for contract formation, mutual assent. Mutual Assent is a mutual manifestation of assent to the terms of an agreement. This lesson looks at how parties establish mutual assent, including manifestations of mutual assent by words and conduct and the effect of misunderstanding. However, the attributes of offer and acceptance are covered in other lessons. This lesson concludes with a sample analysis exercise involving mutual assent.

Lesson Completion Time: 40 minutes

Author: Jennifer Martin, Associate Professor of Law Saint Thomas University School of Law

Mutuality of Obligation

The topic of this lesson is one of the fundamental components of contract formation—mutuality of obligation or commitment. The lesson includes a discussion of illusory promises.

Lesson Completion Time: 25 minutes

Author: Celia Taylor, Associate Professor of Law, University of Denver Sturm College of Law

Offer

This exercise deals with offer, an essential element of the bargaining process. There are basically three requirements to establish an offer: (1) intent; (2) definiteness; and (3) communication to the offeree.

Lesson Completion Time: 40 minutes

Author: Jennifer Martin, Associate Professor of Law Saint Thomas University School of Law

Option Contracts and Firm Offers

This lesson deals with option contracts and firm offers, both of which result in irrevocable offers. The existence of an offer is often an essential element of the bargaining process. Although most offers are revocable, sometimes the offeree's power of acceptance is irrevocable through the formation of an option contract. This lesson will look at formation of an option contract through part performance or tender, a signed writing supported by consideration, statutory firm offers, and detrimental reliance.

Lesson Completion Time: 30 minutes

Authors: Jennifer Martin, Associate Professor of Law Saint Thomas University School of Law; Matthew McKinnon, Professor of Law, Michigan State University College of Law; Joseph Grohman, Professor of Law Nova Southeastern University Shepard Broad Law Center; Ronald Brown, Professor of Law Nova Southeastern University Shepard Broad Law Center

Overview and Sources of Contract Law

This lesson provides an overview of Contract Law, including the sources of Contract Law. The lesson can be run either as an introduction to Contract Law or as a review any time during or after your study of Contract Law.

Lesson Completion Time: 45 minutes

Author: Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

Reliance Damages

This lesson explores the remedy of reliance, which can be available both 1) where there is no contract and 2) where there is a contract and the non-breaching party chooses an alternative to the expectancy measure of damages. The lesson can be run either as an introduction to reliance or as a review after you have completed your study.

Lesson Completion Time: 1 hour

Author: Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

Restitution

This lesson explores the remedy of restitution, which can be available both where there is no contract and where there is a contract and the non-breaching party chooses an alternative to the expectancy measure of damages. The lesson can be run either as an introduction to restitution or as a review after you have completed your study.

Lesson Completion Time: 1 hour

Author: Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

Risk of Loss

This lesson takes a look at the treatment of damaged and destroyed goods and how the U.C.C. allocates the risk of loss for such occurrences. Since casualties to goods do occur, there must be a mechanism for determining which party will suffer the loss. The party which will suffer the loss is said to bear the risk of loss of the goods. This lesson sets out the basic rules for determining which party bears the risk of loss in sales transactions in cases where there is no breach (UCC 2-509) and examines the effect of breach on the allocation of risk (UCC 2-510).

Lesson Completion Time: 55 minutes

Author: Jennifer Martin, Associate Professor of Law Saint Thomas University School of Law

Satisfaction Clauses

The subject of this lesson is satisfaction clauses. Satisfaction clauses require special attention because they could operate as illusory promises. The object of this lesson is to learn 1) to distinguish illusory promises from enforceable satisfaction clauses, and 2) to determine whether courts will apply an objective or subjective standard of satisfaction.

Lesson Completion Time: 25 minutes

Author: Celia Taylor, Associate Professor of Law, University of Denver Sturm College of Law

Specific Performance

The principal remedies for breach of contract are specific performance and money damages. This lesson explores the circumstances in which a court is likely to award specific performance as a remedy. The lesson can be run either as an introduction to specific performance or as a review after you have completed your study.

Lesson Completion Time: 30 minutes

Authors: Richard Warner, Professor of Law and Faculty Director of the Center for Law and Computers, Chicago-Kent College of Law and Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

Statutes Dispensing With Consideration

This lesson assumes you are familiar with the requirement of consideration. It also assumes you are familiar with the rule that past consideration is not good consideration. As you may recall, "past consideration" is a misnomer. If a party makes a promise to pay for a benefit previously conferred, there is no consideration for the promise because the benefit was not bargained for in exchange for the promise. The topic of this lesson is one of the exceptions to this general rule—statutes (whether derived from the common law or, for example, the Uniform Commercial Code) that dispense with consideration.

Lesson Completion Time: 25 minutes

Author: Celia Taylor, Associate Professor of Law, University of Denver Sturm College of Law

Substantial Performance

If a contracting party does not complete performance, that party is in breach. But if the party has given most of the promised performance, there may be substantial performance. Another way of saying this is that the breach is not material. This lesson examines the grounds for determining whether a breach is material and explores the consequences if it is. The lesson can be run either as an introduction to substantial performance or as a review after you have completed your study.

Lesson Completion Time: 45 minutes

Author: Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

The Mailbox Rule

This lesson takes a look at the the Mailbox Rule. The offeror, as master of the offer, may insist that the offeree accept by means of the mail (or some similar form delivery, such as e-mail). Alternatively, the offer may not specify a means of acceptance and the offeree

may decide to use the mail, where such acceptance would be permissible in accordance with the offer. This lesson sets out the ramifications of use of the mail (as well as e-mail and facsimiles, which follow the same rule). The general attributes of offer and acceptance are covered in other lessons.

Lesson Completion Time: 30 minutes

Author: Jennifer Martin, Associate Professor of Law Saint Thomas University School of Law

The Parol Evidence Rule

A hundred years ago, a law professor said of the parol evidence rule, “There are few things darker than this or fuller of subtle difficulties.” Many law students who have studied the rule would agree with that assessment. Hopefully this exercise will illuminate the rule. It does so by examining the functions served by the rule, taking the user through a series of questions that can be used to resolve most issues involving the application of the rule. The Uniform Commercial Code enactment of the rule is examined in detail.

Lesson Completion Time: 1 hour

Author: Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

The Pre-Existing Duty Rule, Contract Modification, and Accord & Satisfaction

This lesson presents an introduction to the doctrine that the performance of a pre-existing duty, or a promise to perform such a duty, does not constitute a sufficient consideration to make a promise binding. Through questions based on a series of hypothetical cases, underlying reasons for the doctrine are considered, as well as its ramifications in various contexts. Coverage includes: the performance of duties owed to the promisee or third parties as consideration; modifications on one side of executory contracts; substituted contracts following rescission; executory accords; satisfaction; liquidated claims and offers to settle unliquidated claims.

Lesson Completion Time: 2 to 3 hours

Author: John Humbach, Professor of Law, Pace University School of Law

The Seal

This lesson assumes you are familiar with the requirement of consideration. Specifically, it assumes familiarity with the rule that ordinarily, a promise is legally binding only if that promise is supported by consideration.

The topic of this lesson is one of the exceptions to this general rule. Historically, one situation where consideration was not required to create a binding contract was when the promise was made "under seal."

Lesson Completion Time: 25 minutes

Author: Celia Taylor, Associate Professor of Law, University of Denver Sturm College of Law

The Statute of Frauds

The Statute of Frauds is a defense to certain oral contracts. In this lesson, the student is guided to always ask three questions: 1) Is the agreement within the Statute of Frauds? 2) Is the agreement evidenced by a writing? 3) Is there an exception to the Statute? Experience with this framework should help in resolving any Statute of Frauds issue. A sample exam question is also included.

Lesson Completion Time: 1.5 hours

Author: Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

Third Party Beneficiaries

This lesson deals with third party beneficiary contracts. The initial questions in this exercise are intended to familiarize students with the various types of contract beneficiaries. Since there is no general agreement on terminology, the questions test the students on both the First Restatement of Contracts types, i.e., creditor, donee, and incidental, and the Second Restatement of Contract types, i.e., intended and incidental. Subsequent questions deal with vesting of contract beneficiaries' rights and with defenses which can be asserted by a promisor against a beneficiary.

Lesson Completion Time: 1.5 hours

Author: Matthew McKinnon, Professor of Law, Michigan State University College of Law

UCC Remedies: An Introduction

This lesson demonstrates how the principles of remedies are found in the UCC and provides some guidance for working with the UCC. This lesson may be run either as an introduction before the material is studied or as a review after it is studied.

Lesson Completion Time: 30 minutes

Author: Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

UCC Remedies: Buyer's Remedies When the Seller is in Breach

This lesson explores the remedies that are available in UCC Article 2 for the Buyer when the Seller is in breach. We first examine the remedies when the Seller has the goods, and then when the Buyer has the goods. This lesson may be run either as an introduction before the material is studied or as a review after it is studied.

Lesson Completion Time: 1 hour

Author: Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

UCC Remedies: Seller's Remedies When Buyer is in Breach

This lesson explores the remedies that are available in UCC Article 2 for the Seller when the Buyer is in breach. We first examine the remedies when the Buyer has the goods, and then when the Seller has the goods. This lesson may be run either as an introduction before the material is studied or as a review after it is studied.

Lesson Completion Time: 1 hour

Author: Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

Unjust Terms (Unconscionability)

A court has the power to police contracts, to determine whether they contain "unconscionable" provisions. This lesson explores the criteria courts use in exercising that power, focusing on the case of *Williams v. Walker-Thomas Furniture Co.*

Lesson Completion Time: 1 hour

Author: Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

Void, Voidable and Unenforceable Contracts

As you work through the various defenses to contract formation, you will find that sometimes the defense makes the contract void, sometimes voidable, and sometimes unenforceable. This lesson provides an examination of that vocabulary to assist the user when running the lessons that follow.

Lesson Completion Time: 20 minutes

Author: Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

Warranties

A contract can contain many different types of express and implied terms. Express and implied warranty terms are the subject of this lesson. When parties contract for the sale of goods, they have certain expectations about the goods to be sold. These expectations form the basis of warranties. That is, what has the seller agreed to sell?

Lesson Completion Time: 40 minutes

Authors: Jennifer Martin, Associate Professor of Law Saint Thomas University School of Law and Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

Written Agreement Contemplated v. Written Memorialization

This lesson looks at the process of negotiations discussing the terms of a contract when the parties contemplate a final written agreement. Often the intention is to put the terms into a final definitive writing and for the contract not to arise until signed. Other times, parties may actually agree to the terms of a contract with the obligation to execute a final contract in writing containing all the terms agreed upon. When they make such an agreement, this agreement itself may conclude the contract even prior to the signing of the final documents. This lesson illustrates both of these situations and concludes with a sample analysis problem looking at the existence of a contract after oral negotiations.

Lesson Completion Time: 30 minutes

Author: Jennifer Martin, Associate Professor of Law Saint Thomas University School of Law

Podcasts:

Advice to a 1L From a Law Professor Podcast

A Question and Answer session with Prof. McFarland, author of several of CALI's lessons in Tort Law and Civil Procedure. Prof. McFarland has been teaching for over 30 years. His comments in this podcast about the first semester of law school focus on the Socratic method, preparing for class, note-taking during class, class participation, "riding out" that "lost at sea" feel common during the first few weeks of law school, the appropriate use of study aids, advice about law school exams, and general advice on doing well in law school.

Run Time: 14:56 minutes

Author: Douglas McFarland, Professor of Law and Associate Dean for Teaching & Scholarship Hamline University School of Law

Battle of the Forms (UCC 2-207) PodCast

In this podcast, Prof. Martin provides advice to students studying acceptance, the mirror image rule and the problem of the Battle of the Forms. Prof. Martin's podcast expands on her coverage of this topic in her CALI lesson Battle of the Forms (UCC 2-207).

Run Time: 9:29 minutes

Author: Jennifer Martin, Associate Professor of Law Saint Thomas University School of Law

Choice of Law Podcast

Prof. Burnham, author of many CALI lessons and podcasts, discusses choice of law in contract cases. Choice of law occurs when there is an issue of which jurisdiction's law the courts will apply to a substantive issue. Choice of law is not a question of where a case will be heard, but instead what law applies when hearing the case. Prof. Burnham discusses how parties can influence what law will apply as well as what restrictions apply when doing so. Also discussed are the older and revised versions of UCC Art. 1, specifically the requirement of a reasonable connection with the jurisdiction and determining whether the contract has a significant relationship with the jurisdiction.

Run Time: 9:25 minutes

Author: Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

Contracts: Unconscionability and Reasonable Expectations Podcast

Professor Scott Burnham discusses unconscionability, the Williams v. Walker-Thomas case, and reasonable expectations. This podcast is a perfect supplement to Professor Burnham's Unjust Terms (Unconscionability) CALI tutorial.

Lesson Completion Time: 7:28 minutes

Author: Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

The Parol Evidence Rule PodCast

This topic is also covered in Prof. Burnham's CALI lesson The Parol Evidence Rule

Run Time: 16:54 minutes

Author: Scott Burnham, Curley Professor of Commercial Law, Gonzaga University School of Law

Legal Issues in Cohabitation of Unmarried Couples

How can unmarried adults protect their interests when living together outside of marriage? In this Lawdible, Professor Len Biernat answers this question and other legal issues involved in the cohabitation of unmarried couples. Along the way, he covers issues of family law and contract law that go along with this situation.

Run Time: 8:34 Minutes

Author: Len Biernat, Professor of Law, Hamline University School of Law

eLangdell Press Texts:

Contract Doctrine, Theory & Practice - Volume 1

Author: J.H. Verkerke, Professor of Law, University of Virginia School of Law

Length: 88,900 Words, 155 Pages in PDF

This is the first in a series of Contracts casebooks. It was originally titled "Collaborative Teaching Materials for Contracts."

The first semester of law school is mostly about learning to speak a new legal language (but emphatically not "legalese"), to formulate and evaluate legal arguments, to become

comfortable with the distinctive style of legal analysis. We could teach these skills using almost any legal topic. But we begin the first-year curriculum with subjects that pervade the entire field of law. Contract principles have a long history and they form a significant part of the way that lawyers think about many legal problems. As you will discover when you study insurance law, employment law, family law, and dozens of other practice areas, your knowledge of contract doctrine and theory will be invaluable.

Contract Doctrine, Theory & Practice - Volume 2

Author: J.H. Verkerke, Professor of Law, University of Virginia School of Law

Length: 59,300 Words, 155 Pages in PDF

This is the second a series of Contracts casebooks. It was originally titled "Collaborative Teaching Materials for Contracts."

The first semester of law school is mostly about learning to speak a new legal language (but emphatically not “legalese”), to formulate and evaluate legal arguments, to become comfortable with the distinctive style of legal analysis. We could teach these skills using almost any legal topic. But we begin the first-year curriculum with subjects that pervade the entire field of law. Contract principles have a long history and they form a significant part of the way that lawyers think about many legal problems. As you will discover when you study insurance law, employment law, family law, and dozens of other practice areas, your knowledge of contract doctrine and theory will be invaluable.

Contract Doctrine, Theory & Practice - Volume 3

Author: J.H. Verkerke, Professor of Law, University of Virginia School of Law

Length: 75,400 Words, 196 Pages in PDF

This is the third in a series of Contracts casebooks. It was originally titled "Collaborative Teaching Materials for Contracts."

The first semester of law school is mostly about learning to speak a new legal language (but emphatically not “legalese”), to formulate and evaluate legal arguments, to become comfortable with the distinctive style of legal analysis. We could teach these skills using almost any legal topic. But we begin the first-year curriculum with subjects that pervade the entire field of law. Contract principles have a long history and they form a significant part of the way that lawyers think about many legal problems. As you will discover when you study insurance law, employment law, family law, and dozens of other practice areas, your knowledge of contract doctrine and theory will be invaluable.