

# ***Everything You Wanted to Know About Contracts (But Were Afraid to Ask)***

**Professor Monestier**

Welcome to Law School! You're probably pretty nervous/excited/stressed out right now, with a million questions running through your mind. I've prepared this Q&A sheet to help answer some of your questions, (hopefully) alleviate some of the anxiety you might have about law school in general and Contract Law in particular, and give you my thoughts on some of the things that you might want to consider doing to help you succeed in law school.

At the outset, I do want to emphasize that this is just my personal opinion based on having been on both sides of the podium. However, everyone develops their own way of doing things – and ultimately you will have to figure out what works best for you. With that said, here are some of the questions that law students tend to have coming into their 1L year:

## ***1. I've heard that Contracts is hard. Is that true?***

I'm not going to lie to you – Contracts is a challenging subject. There's probably a reason that Contracts figures prominently in all those movies designed to scare you away from law school. With that said, my job is to make Contracts as accessible as possible for you. I've put a great deal of thought into how to present the material in Contracts, and I try my best to make sure that everyone understands each and every concept we cover. If you are ever struggling, come and see me right away so that we can get you on track. In the end (although you won't believe me now), I think you'll come to see Contracts as an interesting (and fun!) subject.

## ***2. I've heard that you're a hard professor. Is that true?***

Again, I'm not going to lie to you – I've heard that too ☺. I don't see that as a bad thing. I do have high (but not unreasonable) expectations of all of my students. I push my students to not only learn the law, but to think critically about the law. Oftentimes, students do not realize how much they've learned in the course until they go on to their second or third year of law school, or until they are studying for the bar exam. In fact, I received the following emails from former students of mine who were preparing for, or had just taken, the bar exam:

*"I am not sure if you remember me but my name is [], I had you for sales and contracts at RWU, and I graduated last may. This e-mail is long overdue but I just wanted to say that I passed the BAR exam in October and a big reason for that was because I got 27 out of 33 multiple choice contracts/sales questions correct, and an 19/20 on a contracts/sales essay question. It was by far my best subject while studying, and on the test itself. I know that you deserve most of the credit because your teaching style really helped me absorb the information, and more importantly, retain the information. ... I want to sincerely thank you and I don't think you get enough credit. I hope you are doing well and that you keep doing what you're doing because if you helped me, I know that you helped many more students and will continue to do so. Thanks again professor."*

*"I wanted to tell you that in answering all these practice bar exam question, my percentage answered correctly in each subject area has not been nearly as high as I had hoped. However, the exception is in Contracts and Article II questions, which I have answered over 90% correctly (so far)."*

*"The contracts/sales questions went very well. I honestly cannot remember the essay question topic but I know once I saw it, I recognized it and put together a solid answer. From the beginning, and I am not saying this to blow smoke or anything, I felt the most prepared from school for the contracts part. Even when I first started MBE questions, I was getting a considerable majority of the contract questions correct. So I have to say, you did a great job helping us prepare for the bar and I thank you for it!"*

Ultimately, I have four goals for the course:

- a) At a minimum, my basic aim for this course is simple: to have you understand black letter contract law (e.g. an acceptance is effective when mailed; a counteroffer terminates an offer).
- b) To have you understand the theoretical, academic, and policy issues surrounding certain aspects of contract doctrine (i.e. context).
- c) To prepare you for the bar exam.
- d) To begin to train you to "think like a lawyer."

So when you feel like I'm being hard or you're not sure what I'm doing or why I'm doing it, I'd like you to think back to the fact that everything I do is related to one or more of these goals.

**3. *I'm hearing a lot of different things from a lot of different people. Who do I listen to?***

The first few weeks of law school are overwhelming. You will likely already have heard from 2L and 3L students (not to mention well-intentioned family and friends) about how to succeed in law school. You may also have heard things about "this course" or "that course" or "this professor" or "that professor." I recommend that you take all this with a grain of salt and try to figure things out for yourself. Don't assume other people know any better than you do, and don't do things just because other people tell you to do them. Spend the first few weeks of law school "getting the lay of the land" and figuring out what *you* think.

**4. *I've heard that I need to buy supplements for your course (and other courses). Should I? I don't want to be at a disadvantage.***

Some of you might be thinking, "Wait, I don't even know what a supplement is!" A supplement is a book, aside from the textbook, that essentially gives you the black letter law in a fairly straightforward manner. There are a lot of different supplements out there for every subject imaginable.

You may be inclined to think that a supplement is the magic key to doing well in law school. After all, if someone is giving you the black letter law on a silver platter, *why not* buy it? You may be thinking that professors caution you against using supplements because they want you to work harder and figure out the law yourself (when you really don't have to!). This is all very good logic (and hence the reason you were accepted to law school).

Unfortunately, supplements do not contain the magic key to the kingdom and oftentimes end up confusing you more than if you didn't look at one to begin with. I have told my students over the years that I do not recommend purchasing a supplement (if you bought supplements for every course, it would get quite expensive!). With that said, supplements can be useful. So if you feel like you are struggling with a particular issue, you should feel free to consult the supplements on reserve in the RWU Library.

### **5. *What about Case Notes? Is your recommendation any different?***

Case Notes is a summary of all the cases in the Knapp textbook. Some students like Case Notes because: a) they feel like case briefs are done for them; and b) they feel like they can cut down on their reading time by focusing on the case briefs and not the case. Both are very bad reasons to use Case Notes. Let me tell you why: ultimately, you are going to have to learn how to read and process a case without Case Notes (after all, that's what lawyers do!). The more you delay developing that skill set, the more you are at a disadvantage. The very process of reading and struggling with the meaning of a case is far more valuable than being able to recite the correct ratio of the case when called up on in class. In other words, I'm much more interested in you processing and digesting the case (even if you're wrong) than I am with you getting the "right answer."

Another thing to note: some of the ratios/holdings from the Case Notes are actually wrong. I realized this my first year teaching Contracts when I asked a student what the main point of the case was and he read out a complicated legal holding that really had nothing to do with what we were talking about. Since I didn't know this "holding" came from Case Notes – i.e., I assumed he came up with it – I asked him more about it (why do you think that the idea of "mistake" was important to the holding? etc.). Needless to say, I think he found it to be a fairly unpleasant experience since he had unquestioningly assumed that Case Notes gave him the right answer.

At the end of the day, if you would like to consult Case Notes to ensure that you truly did understand the facts of the case and you are in the ballpark of the correct legal issues, I think that's fine. But please know that I too have a copy of Case Notes – so whatever you do, please don't come to class and recite a Case Notes version of the holding!

### **6. *I'm not sure how I should be taking notes in this class?***

This is a tricky question. Ultimately, you're going to have to figure out a way that works best for you, which might require some trial-and-error. My one recommendation, though, is that you take very comprehensive notes in class. Even if you don't quite understand everything,

write it down. It's always better to have things written down (even if you don't quite "get it" yet) than it is to have nothing written down.

**7. *I want to read ahead. How can I do that?***

You are welcome to read ahead. We will always be going in the order presented in the syllabus. So if you know that you want to read ahead (e.g. because you have a particularly busy week ahead), just choose the next 2-3 cases in the syllabus and you should be fine.

**8. *I have heard all about outlines, but don't know where to begin. What should I do?***

Much like supplements, there is a lot of buzz about outlines in the first few weeks (if not months) of school. An "outline" is basically just a synopsis of everything you'll need to know for the exam, put into one document. So it usually involves combining, in an organized way, your class notes, notes from the textbook, the Restatement and UCC into one document – i.e., the outline.

You will get different advice from different people on how to do an outline and when to do an outline. Like with everything I've said above, ultimately you need to decide what works best for you. My personal recommendation, however, is as follows. I do not think it is a good idea to wait until October or November to begin an outline. At that point, you will be overwhelmed with all the work you have and there won't be enough hours in the day. Accordingly, I think that it is helpful to think of the outline as something that you do as part and parcel of your everyday "homework." I recommend that after each class, you build upon your outline based on everything we did in that class. Then, perhaps on weekends or after a particular chapter is complete, you review what you've done to make sure it is accurate, organized, and understandable. That way, when you get to November, you have a working outline that you can study from. The time that you would have spent creating an outline in November can be spent actually studying and learning the material.

Other tips:

- Use the Contracts syllabus as a guide to how you should organize your outline. Use headings and subheadings as appropriate.
- Incorporate everything into one document – don't have an outline for your cases, an outline for the UCC, etc. This will get too confusing and will not help you learn the entire body of law you are trying to learn.
- Put full case briefs into your outlines, so you don't have to re-read the cases at the end of the semester again.
- Don't skimp on detail. Err on the side of too much information rather than too little information. At the end of the day, you can cut down your outline (by doing a mini-outline); but you can never "build up" an outline where content is missing.
- Don't rely on other students' outlines (whether your classmates or 2Ls and 3Ls). The *process* of creating the outline is what helps you learn, not just memorizing someone else's outline (that potentially has errors in it).

- Remember – there’s no such thing as a “good” outline (in the absolute sense). A “good” outline is simply one that contains: a) complete information; b) accurate information; and c) information in a way that helps you remember it.

**9. *I’ve never had a 100% final exam before. How do I study for that?***

The 100% final seems to be a beast unique to law school, and it takes some getting used to. If you are preparing your outline as you go along, the best way to prepare is to begin studying early (say, early November) and really learn the material. This means being able to explain the concepts quickly and fluidly in writing. We will talk more about this as the semester progresses.

**10. *I’m scared of getting called on in class. Can you not call on me?***

Unfortunately, no (as much as I wish I could – I might get called down to the Dean’s office if I don’t call on you!). One of the biggest concerns that I think 1Ls have is the idea that they’re going to be called on in class, have completely the wrong answer or blank, and be totally embarrassed forevermore. And, I understand that anxiety. But, please know that my purpose in calling on people in class is not to embarrass them, or provoke anxiety or anything like that. The purpose is really twofold: 1. To push students analytically, so that they can hone the skills that it takes to become good lawyers; and 2. To gauge where the class is in terms of comprehension.

Even though my goals are laudable, this may not alleviate the anxiety you are feeling about being called on. It’s kind of like taking medicine – you know it’s good for you, but you don’t like taking it. So, all I can say about being called on is: do your work, be prepared, and genuinely try your best. If I see that you’ve done all that, and you’re still struggling – it’s perfectly okay.

Also, if you’re worrying that if you get the answer wrong, everybody else will think bad things about you – don’t. No one will remember; no one will care. Everyone’s too wrapped up in their own stuff to care about your performance. Trust me!

**11. *I’m feeling overwhelmed. Where do I go for help?***

There will likely come a point (or points) in the semester where you are feeling completely overwhelmed. This is perfectly normal. There are many resources available to assist you, including Academic Support and your professors. If you are struggling to understand Contracts, please come see me – sooner rather than later! You can come to my office hours, come see me after class, or we can set up an appointment at a mutually convenient time.

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Your first semester of your first year of law school will be a challenge. However, I assure you that *it will get better!!* By second semester, students have the hang of things and feel much more comfortable in all aspects of law school. For now, my advice is this: do the best you can, make decisions that you think work best for you, and get help early (if you need it).