CONTRACTS: LAW IN ACTION

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CONTRACTS: LAW IN ACTION



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PREFACE

The Wisconsin Contracts Group produced these materials. While those listed as authors played major roles in writing them, others taught from them and argued over what worked in the classroom. Arlen Christenson, Kenneth Davis, Robert Gordon, Jo Pasqualucci, Joseph Thome, Pat Williams, Jennifer Moore, and Cliff Thompson all put their stamp on what finally emerged. Jay Feinman, William Woodward and Jean Braucher used excerpts from an earlier version of Contracts: Law in Action, and gave us detailed and valuable comments.

Most course materials rest on earlier casebooks. The influence of Lon Fuller's articles and casebook will be obvious to contracts scholars. Contracts: Law in Action began as a supplement to Kessler and Sharp and then re-emerged as a supplement to Macneil's¹ first edition. Most of us used Richard Danzig's course materials, part of which became his supplementary book, The Capability Problem in Contract Law, which we use as a supplement to Contracts: Law in Action. Contracts has provoked some very good legal writing, and we have tried to excerpt or cite much of it. Of course, we have read these articles from the law in action perspective of the University of Wisconsin Law School. As a result, we may have interpreted these articles in ways which might surprise their authors.

We wish to acknowledge support from the National Institute for Dispute Resolution and the William and Flora Hewlett Foundation. We are grateful to the Institute for Legal Studies here at the University of Wisconsin Law School for publishing these materials during their transition to book form. We must thank Deans Orrin Helstad, Cliff Thompson, and Dan Bernstine for support for this project. The University of Wisconsin Law Library staff contributed to our efforts. Cynthia May, in particular, served as detective and skilled advocate as she found briefs and records and persuaded other law libraries to lend them to us. Michael Morgalla continually called our attention to relevant material in obscure sources. Theresa Dougherty and Linda Hicks produced skilled typing and desktop publishing. We too often pressed Ruth Saaf and David Ward to photocopy and publish the materials for our classes under tight, if not impossible, deadlines. They always got materials to our students on time.

We owe a large debt to Wisconsin law students who have taught us so much, as they coped with our efforts to offer an unusual contracts course. Wisconsin law students often come to us with relevant experience, and we took advantage of this. Many of them obtained information for us from contacts made in their

¹MacNeil, Cases and Materials on Contracts — Exchange Transactions and Relationships (1971).

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earlier careers. Some wrote detailed memos about business practices related to problems raised in class. We learned to be careful about jokes at the expense of the parties and lawyers in the cases we considered. Far too often a son, daughter or close friend of a party or a lawyer was sitting in our class. We learned to put these students to work as researchers.

We originally wrote most of the text on a word-processing program that would have required our repeating many formatting commands to generate one set of footnote numbers for our own text, and a different set for opinions and articles. We have chosen to number all the footnotes sequentially in each chapter. This means that the footnote numbers in articles are not as they appear in the originals. Readers should have no difficulty distinguishing our footnotes from those of courts and other authors. Where we thought there might be some confusion, we introduced our footnotes as "Eds. note." We have also eliminated some citations and footnotes from judicial opinions, often without noting the omission.

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