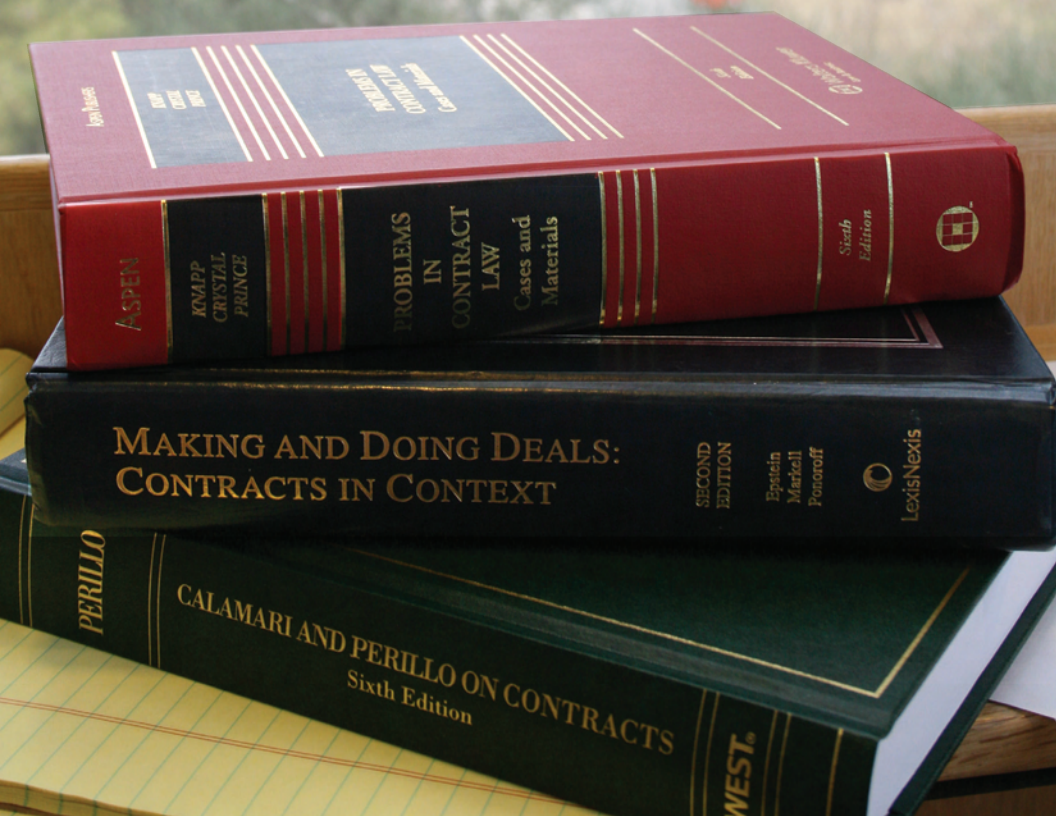


Spring Conference on
Contracts

February 26 and 27, 2010



University of Nevada, Las Vegas
William S. Boyd School of Law

UNLV *William S. Boyd* **Law**
Entering a new decade of excellence

WELCOME

I am delighted to welcome you to the William S. Boyd School of Law at the University of Nevada, Las Vegas for the 2010 Spring Conference on Contracts. The program promises a truly engaging conference. We are honored to host you and trust you will have a stimulating and fulfilling weekend.

John Valery White
Dean and Professor of Law



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- 8:00-8:45** **Registration and Continental Breakfast** (Moot Court Lobby)
- 8:45-9:00** **Welcome and Announcements** (Moot Court Auditorium)
Dean John Valery White
Keith A. Rowley
- 9:00-10:30** **The Contract Law System and Power – Past, Present, and Future**
(Moot Court Auditorium)
Chair: Jay M. Feinman
Nancy S. Kim, *Contracts as Sword, Shield, Crook, and Drawbridge*
Amy J. Schmitz, *Pizza-Box Contracting: An Empirical Exploration of Consent*
Danielle Kie Hart, *Smoke, Mirrors & Contract Law*
Hila Keren, *Considering Affective Consideration*
- 10:30-10:45** **Break** (Moot Court Lobby)
- 10:45-12:15** **Incomplete Information and Contract Law** (Moot Court Auditorium)
Chair: Keith A. Rowley
Robert Anderson, *Information, Incentives, and Disclosure in the Law of Contracts*
H. Allen Blair, *No-Reliance Clauses*
Yair Listokin, *Bayesian Interpretation*
Shawn J. Bayern, *Rational Ignorance, Rational Closed-Mindedness, and Modern Economic Formalism in Contract Law*
- Contract Law's Intersection with Business Law** (Room 102)
Chair: Nancy B. Rapoport
Daniel S. Kleinberger, *Battle Report from the Undiscovered Territory – The Law of “Contractual Organizations” Continues its Silent War on the Common Law of Contract*
Andrew A. Schwartz, *A “Standard Clause Analysis” of the Frustration Doctrine and the Material Adverse Change Clause*
Lydie N. Pierre-Louis, *Mini-Tender Offers: The Lack of Federal Jurisdiction and the Failure of Fundamental Contract Law Principles to Protect Investors*
- 12:15-1:45** **Lunch** (Tam Alumni Center)
Omri Ben-Shahar, *The Failure of Mandated Disclosure*
- 1:45-3:30** **Arbitration and Unconscionability in Rent-a-Center West v. Jackson and Elsewhere** (Moot Court Auditorium)
Chair: Jean R. Sternlight
Charles L. Knapp, *Blowing the Whistle on Mandatory Arbitration: Unconscionability as a Signaling Device*
Karen Halverson Cross, *Letting the Arbitrator Decide? Unconscionability and the Allocation of Authority Between Courts and Arbitrators*
Christopher R. Drahozal, *Rent-A-Center and Institutional Arbitration Rules*
Thomas J. Stipanowich, *Contracts and Conflict Management: Another Look*
- 3:30-3:45** **Break** (Moot Court Lobby)

3:45-5:15 **Forming Contracts and Similar Relationships** (Moot Court Auditorium)
Chair: James W. Fox, Jr.
Michael Pratt, *What is a Promise?*
Val D. Ricks, *The Continued Relevance of Consideration*
Janet Ainsworth, *Beyond Status and Contract: Relational Estoppel as a Source of Rights and Obligations in Intimate Relationships*
Andrea B. Carroll, *Reviving Proxy Marriage*

Vive la Différence!: Comparative Contract Theory (Room 102)
Chair: Daniel D. Barnhizer
Robin J. Effron, *Revisiting The Death of Contract: Gilmore's Thesis in Comparative Perspective*
Wayne R. Barnes, *French Subjective Theory of Contract: Separating Rhetoric from Reality*
Tadas Klimas, *Lessons American and Continental Contract Theory Can Teach One Another*
Franklin G. Snyder, *Cross-Cultural Adoption of Legal Rules: The Case of Hadley v. Baxendale*

5:15-6:15 **Break** (Moot Court Lobby/Stan Fulton Building)

6:30 **Dinner** (Cash bar available prior to dinner) (Stan Fulton Building)
Honoree: Charles L. Knapp

Saturday, February 27, 2010

8:30-9:00 **Continental Breakfast** (Moot Court Lobby)

9:00-10:30 **Insurance and Contracts** (Moot Court Auditorium)
Chair: David O. Horton
Hazel G. Beh, *Unilateral Contract Doctrine and Insurance Policies*
Erik S. Knutsen, *Fortuity in Insurance: Moral Hazard or Moral Crusade?*
Adam F. Scales, *The Insurable Interest Doctrine Meets Modern Finance*
Jeffrey W. Stempel, *Construing Insurance Policies: Four Views of the Cathedral*

Contracts "Teach In" Redux (Part One) (Room 102)
Chair: Carol L. Chomsky
David Nadvorney & Deborah Zalesne, *Making Academics Explicit: An Integrated Skills/Doctrine Contracts Syllabus*
Lucille M. Ponte, *Techniques for Teaching Beyond the Classroom*
D. A. Jeremy Telman, *Langdellian Limericks*

10:30-10:45 **Break** (Moot Court Lobby)

10:45-12:15 **Morality and Contract Law** (Moot Court Auditorium)
Chair: George W. Kunej
Chapin Cimino, *Virtue and Contract?*
Steven W. Feldman, *Autonomy and Accountability in the Law of Contracts: A Reply to Professor Shiffrin*
Caprice L. Roberts, *Opportunistic Breach of Contract, Restitutionary Disgorgement, Efficient Breach, and Promise Keeping*
Kevin J. Greene, *Blues and Rock Artists and the Heavy Hand of Contracts: Common Law Conundrums and Critical Race Theory*

Contract at the Systemic Level (Room 102)

Chair: Brian A. Blum

Lukasz Gorywoda & Agnieszka Janczuk, *The Role of Pre-contractual Liability in the European Market Integration Project*

Larry A. DiMatteo, *Beyond Rules: Nathan Isaacs' Use of Jewish Law as a Way of Understanding the Common Law and His Cycle Theory of Legal Development*

Meredith R. Miller, *Contract Law, Party Sophistication, and the New Formalism*

Charles R. Calleros, *Choice of Law in International Contracts: In Praise of Rome I*

12:15-1:45

Lunch (Tam Alumni Center)

Norman Otto Stockmeyer, *A "Virtual Roadtrip" Through Sherwood v. Walker*

1:45-3:15

Catch and Release: When Should Contract Law Let a Party Off the Hook and When Should It Reel Them In? (Moot Court Auditorium)

Chair: Gerald Caplan

Cheryl B. Preston, *Hosting Kids Online: Applying "Terms of Use" to Minors*

David A. Friedman, *Voiding Agreements on Public Policy Grounds*

Victor P. Goldberg, *Excuse Doctrine: The Eisenberg Uncertainty Principle*

Jennifer S. Martin, *Fighting Piracy with Private Security Measures: When Contract Law Should Tell Parties to Walk the Plank*

Statutory and Regulatory Failures: Can Contract Law Help? (Room 102)

Chair: Babette Boliek

Eniola Akindemowo, *Contracts: The Future of an Amorphous Default Rule in Payments Law*

James W. Bowers, *The Elementary Economics of Application-of-Payment Doctrine: Walker-Thomas Revisited*

David P. Weber, *The Intangibles of Stripping: Why Article 9 Should Not Leave You Baring Your Assets (Applying a Common Law Remedy to a Creature of Statute)*

Darcy MacPherson & Mary Shariff, *The Slings and Arrows of Outrageous Fortune: Can You "Lose" the Lottery But Still Win?*

3:15-3:30

Break (Moot Court Lobby)

3:30-5:00

Can I Get a Remedy? (Moot Court Auditorium)

Chair: Timothy S. Hall

Yehuda Adar & Moshe Gelbard, *A Relational Theory of Contract Remedies*

Sidney W. DeLong, *Rational Mitigation and the Benefits of Breach*

Miriam A. Cherry & Jarrod Wong, *Clawbacks: Prospective Contract Measures to Combat Excessive Compensation and Ponzi Schemes*

Darren A. Prum, *Liability and Remedial Limitations in Green Building Contracts*

Contracts "Teach In" Redux (Part Deux) (Room 102)

Chair: Peter Linzer

Tina L. Stark, *Teaching Students from the Deal Lawyer's Perspective*

Scott J. Burnham, *Teaching Contract Drafting*

Keith A. Rowley, *Teaching Contract Theory and Policy*

5:00-5:15

Break (Moot Court Lobby)

5:15-5:30

Conference Wrap-Up: Looking Back and Looking Ahead

(Moot Court Auditorium)

Conference Participants

Yehuda Adar is a Lecturer in Private Law at Haifa University Faculty of Law.

Janet Ainsworth is the John D. Eshelman Professor at Seattle University School of Law.

Eniola Akindemowo is a Professor at Thomas Jefferson School of Law.

Robert Anderson is an Associate Professor at Pepperdine University School of Law.

Hiro N. Aragaki is an Assistant Professor at Fordham University, Graduate School of Business Administration.

Wayne R. Barnes is a Professor at Texas Wesleyan University School of Law.

Daniel D. Barnhizer is an Associate Professor at Michigan State University College of Law.

Shawn J. Bayern is an Assistant Professor at Florida State University College of Law

Hazel G. Beh is Co-Director of the Health Law Policy Center and a Professor at the William S. Richardson School of Law, University of Hawai'i at Manoa.

Omri Ben-Shahar is the Frank & Bernice J. Greenberg Professor at The University of Chicago Law School.

H. Allen Blair is an Associate Professor at Hamline University School of Law.

Brian A. Blum is the Associate Dean of Faculty and a Professor at Lewis & Clark Law School.

Babette Boliek is an Assistant Professor at Pepperdine University School of Law.

Sharlene G. Lassiter Boltz is a Professor at Northern Kentucky University, Salmon P. Chase College of Law.

James W. Bowers is the Byron R. Kantrow Professor at the Louisiana State University Law Center.

Scott J. Burnham is a Visiting Professor at the Michael E. Moritz College of Law, The Ohio State University.

Robert A. Butkin is a Professor at the University of Tulsa College of Law.

Charles R. Calleros is a Professor at the Sandra Day O'Connor College of Law, Arizona State University.

Gerald M. Caplan is a Professor at the McGeorge School of Law, University of the Pacific.

Andrea B. Carroll is the C.E. Laborde, Jr. Professor at the Louisiana State University Law Center.

Miriam A. Cherry is an Associate Professor at the McGeorge School of Law, University of the Pacific.

Carol L. Chomsky is a Professor at the University of Minnesota Law School.

Chapin Cimino is an Associate Professor at the Earle Mack School of Law, Drexel University.

Barton Z. Cowan is a Visiting Professor at West Virginia University College of Law.

Karen Halverson Cross is a Professor at The John Marshall Law School.

Sidney W. DeLong is an Associate Professor at Seattle University School of Law.

Larry A. DiMatteo is the Huber Hurst Professor of Contract Law and Legal Studies at the Warrington College of Business Administration, University of Florida.

Christopher R. Drahozal is the Associate Dean for Research & Faculty Development and John M. Rounds Professor at the University of Kansas School of Law.

Robin J. Effron is an Assistant Professor at Brooklyn Law School.

Jay M. Feinman is a Distinguished Professor of Law at Rutgers-Camden.

Steven W. Feldman is an attorney with the U.S. Army Corps of Engineers in Huntsville, Alabama.

James W. Fox, Jr. is the Associate Dean of Faculty Development and a Professor at Stetson University College of Law.

David A. Friedman is an Assistant Professor at Willamette University College of Law.

Moshe Gelbard is a Senior Lecturer at the Netanya Academic College School of Law.

Victor P. Goldberg is the Jerome L. Greene Professor of Transactional Law at Columbia University.

Lukasz Gorywoda is a doctoral student in law at the European University Institute in Firenze, Italy.

Kevin J. Greene is a Professor at Thomas Jefferson School of Law.

Timothy S. Hall is a Professor at the Louis D. Brandeis School of Law, University of Louisville.

Sheryl E. Harrison is Associate Dean of Students and an Assistant Professor at Atlanta's John Marshall Law School.

Danielle Kie Hart is a Professor at Southwestern Law School.

David O. Horton is an Associate Professor at Loyola Law School.

Agnieszka Janczuk is a doctoral student in law at the European University Institute in Firenze, Italy.

Amy H. Kastely is a Professor at St. Mary's University School of Law.

Hila Keren is Assistant Professor of Law, Hebrew University School of Law, Jerusalem.

Nancy S. Kim is an Associate Professor at California Western School of Law and Visiting Associate Professor, Rady School of Management, University of California, San Diego.

Daniel S. Kleinberger is a Professor at William Mitchell College of Law.

Tadas Klimas, an attorney in Kaunas, Lithuania, is the former dean of the Vytautas Magnus University School of Law and has taught at Stetson University College of Law, and at law schools in Spain, Brazil, and Vietnam.

Charles L. Knapp is the Joseph W. Cotchett Distinguished Professor at the University of California, Hastings College of the Law.

Erik S. Knutsen is an Assistant Professor of Law at Queen's University, in Kingston, Ontario.

George W. Kuney is the W.P. Toms Professor and Director of the Clayton Center for Entrepreneurial Law at the University of Tennessee College of Law.

Christina L. Kunz is a Professor at William Mitchell College of Law.

Peter Linzer is a Professor of Law at the University of Houston Law Center.

Yair Listokin is an Assistant Professor at Yale Law School.

Darcy MacPherson is an Associate Professor of Law at the University of Manitoba.

Kevin S. Marshall is an Associate Professor at the University of La Verne College of Law.

Jennifer S. Martin is a Visiting Associate Professor at the University of Oregon School of Law.

Meredith R. Miller is an Associate Professor at the Jacob D. Fuchsberg Law Center, Touro College.

David Nadvorney is the Director of the Professional Skills Center at the City University of New York School of Law.

Nancy K. Ota is a Professor at Albany Law School.

Marcy Peek is an Assistant Professor at Whittier Law School.

Lydie N. Pierre-Louis is an Assistant Professor of Law at St. Thomas University School of Law.

Kamina A. Pinder is an Associate Professor of Law at Atlanta's John Marshall Law School.

Lucille M. Ponte is an Associate Professor of Law at Florida Coastal School of Law.

(continued on back)

Deborah W. Post is a Professor at the Jacob D. Fuchsberg Law Center, Touro College.

Michael Pratt is an Associate Professor of Law and Associate Professor of Philosophy at Queen's University.

Cheryl B. Preston is the Edwin M. Thomas Professor at the J. Reuben Clark Law School, BYU.

Darren A. Prum is a Visiting Lecturer in Business Law at UNLV's College of Business and a 2002 graduate of the William S. Boyd School of Law, UNLV.

Nancy B. Rapoport is the Gordon Silver Professor of Law at the William S. Boyd School of Law, UNLV.

Val D. Ricks is a Professor at the South Texas College of Law.

Caprice L. Roberts is a Visiting Professor of Law at The Catholic University of America and a Professor at West Virginia University College of Law.

Keith A. Rowley is a William S. Boyd Professor at the William S. Boyd School of Law, UNLV.

Adam F. Scales is an Associate Professor at Washington and Lee University School of Law.

Amy J. Schmitz is an Associate Professor at the University of Colorado School of Law.

Andrew A. Schwartz is an Associate Professor at the University of Colorado School of Law.

Mary Shariff is an Assistant Professor of Law at the University of Manitoba.

Franklin G. Snyder is a Professor at Texas Wesleyan University School of Law.

David E. Sorkin is an Associate Professor at The John Marshall Law School.

Tina L. Stark is a Professor in the Practice of Law and the Executive Director of the Center for Transactional Law and Practice at Emory University School of Law.

Jeffrey W. Stempel is the Doris S. & Theodore B. Lee Professor at the William S. Boyd School of Law, UNLV.

Jean R. Sternlight is the Michael & Sonja Saltman Professor and Director of the Saltman Center for Conflict Resolution at the William S. Boyd School of Law, UNLV.

Thomas J. Stipanowich is the William H. Webster Chair in Dispute Resolution and Academic Director of the Straus Institute for Dispute Resolution at Pepperdine University School of Law.

Norman Otto Stockmeyer is a Professor Emeritus at Thomas M. Cooley Law School.

D. A. Jeremy Telman is a Professor at Valparaiso University School of Law.

David P. Weber is an Assistant Professor at Creighton University School of Law.

Jarrod Wong is an Assistant Professor at the McGeorge School of Law, University of the Pacific.

Deborah Zalesne is a Professor at the City University of New York School of Law.

