

## CONTRACTS OUTLINE

- I. Contract: A promise or set of promises for the breach of which the law gives a remedy, or the performance of which the law recognizes as a duty.
  - A. Types of Contracts
    - 1. Implied in fact: established through conduct of party, show intent through conduct.
    - 2. Expressed: Created through words, can be oral or written
    - 3. Implied in law (QUASI K), Restitution
      - a. One person gives benefit to the other, makes other obligated to them
      - b. No K, is a legal fiction, law says there is an obligation
  - B. Requires mutual assent: both parties expressing intent and desire to make it beneficial to both parties.
  
- II. Bargain Relationship: 2 objectives of bargain relationship are agreement and performance.
  - A. Agreement process: Manifestation of mutual assent
    - 1. "Objective Test"
      - a. Intent is irrelevant, a party's intent is deemed to be what a reasonable person in the position of the other party would think the first party's objective manifestation of intent meant.
    - 2. Subjective: Restate 26
      - a. Isn't offer if OFE knows, or should know, OFR doesn't intend a bargain.
        - (1) Can prove subjectively OFE knew was a joke
        - (2) Preliminary negotiations
  - B. Offer and Acceptance
    - 1. Offer: Creates the power of acceptance in the offeree.
      - a. Offer may:
        - (1) State an exclusive method of acceptance
        - (2) Authorize alternative methods of acceptance (Ever-Tite)
        - (3) State one method w/o stating it is exclusive
        - (4) State nothing
    - 2. OFR is the master of the offer
    - 3. OFR gives the power of acceptance to OFE but can limit power