

First Assignment for Constitutional Law II

In Stone, Seidman, Sunstein, and Tushnet, **First Amendment Law** (4th ed. 2012), please read the following material and be prepared to answer the questions listed below.

1. a) **Introduction to Freedom of Religion** pp 649-56, 665-9, and the “Memorial and Remonstrance” [“Memorial and Remonstrance” is on TWEN – please download or print this before class, as there will not be internet access during class]; b) **Free Exercise** pp 732-35, 739-48, 750

- a) 1) What was [were] the original purpose[s] of the Religion Clauses?
 - 2) What is the issue that led to Madison’s “Memorial and Remonstrance”? What are Madison’s most important arguments? Do you agree with them?
 - 3) Define religion. [Should courts?]
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- b) 1) What does “free exercise” mean?
 - 2) What is “rule” of *Smith*? What is the majority’s rationale and O’Connor’s response? Which do you agree with?
 - 3) Are *Sherbert and Yoder* still good law?
 - 4) Was *City of Hialeah* correctly decided? Why or why not?

First Two Assignment for Contracts

In the Course Packet, please prepare Assignment 1 for our first class, and Assignment 2 for our second. Be prepared to answer the questions below the readings.

Assignment 1 UCC or Common Law?; Determining Intent

Read the background to both the UCC & Restatement [pp 373 and 390] in the back of the Packet], UCC §§2-102, 2-105 (1), *BMC Industries, Inc. v. Barth Industries, Inc.*, [p10] and *Lucy v Zehmer* [p 14] and answer the following questions:

After *BMC*,

1) Some contracts fall under the UCC and others are governed by the Common Law. What determines under which set of rules a contract falls?

2) What is a “movable good”?

In *Lucy v Zehmer*

3) Why does the Court find that there is a contract even if the seller was joking?

4) What do you think is meant by the phrase “the Objective Theory of Contracts”?

Assignment 2 More Intent, Offer

Read § 1-201(3) & (11), RS §§1, 2, & 3 *Balfour v. Balfour* [p 20], *Hawkins v McGee* [p 24], RS §24 and the facts of *Sard* and *Cirafici* [p 39-40],

1) What’s the difference between a “contract” and an “agreement”?

After *Balfour v. Balfour*:

2) Who won the case on appeal?

3) Use the "Objective Theory" to explain the holding

4) What is an offer?

Hawkins v McGee

5) What is the offer in *Hawkins*?

*6) What are the policy reasons for and against the court’s ruling?

*7) Is the court’s holding consistent with the “Objective Theory”?

*8) After you read the facts of *Sard* and *Cirafici*: Is there an offer in either or both cases?