

CONTRACTS & JUDICIAL RULE-MAKING
LAWS 1000X 01 (2009-2010)

Section: A

Instructor: Professor Aldo Chircop, JSD

Days & Times:
Tuesdays, Thursdays: 09.00-10.30, Room L406

WINTER TERM

REMINDERS

Course Materials

Same books as in the Fall term, namely:

Stephanie Ben-Ishai & David R. Percy, *Contracts: Cases and Commentaries*, 8th ed. (Toronto: Thomson/Carswell, 2009). (Casebook).

Richard F. Devlin et al., *Contract Law and Judicial Decision Making: 2009—2010* (Dalhousie Law School, 2009). (Supplement).

Additional class handouts will be distributed.

Evaluation

Advocacy exercise (Winter)	20%
(Oral 10%)	
(Factum 10%)	
Class participation (Fall & Winter)	20%
Final examination (April)	60%

As in the Fall term, students will be required to lead the discussion of an assigned case. The students tasked with this assignment are identified after a selected case.

Moot

A mooting problem will be distributed on Tuesday 26 January and the factum will be due on Tuesday 9 February. Mooting will take place in the afternoon over the days of 11 & 12 February. As this event is coordinated among all sections, details will be announced/confirmed in class in due course.

All students in this course must read

- the University policies on plagiarism and academic honesty referenced in the Policies and Student Resources sections of the plagiarism.dal.ca website, and
- the Law School policy on plagiarism, as set out in the law school regulations (available in hard copy from the Associate Dean's office and online at http://law.dal.ca/Current_Students/Course_Selection_Materials/Regulations_Handbook/index.php)

Any paper or assignment submitted by a student at Dalhousie Law School may be checked for originality to confirm that the student has not plagiarized from other sources. Plagiarism is considered a serious academic offence which may lead to loss of credit, suspension or expulsion from the law school, or even revocation of a degree. It is essential that there be correct attribution of authorities from which facts and opinions have been derived. Prior to submitting any paper or other assignment, students should read and familiarize themselves with the policies referred to above.

Ignorance of the policies on plagiarism will not excuse any violation of those policies.

Accommodation

Students with Special Needs/Requests for Accommodation

Professor Pothier is the faculty advisor to students with disabilities. Students wishing to discuss in-class accommodation or in-class study assistance needs should see Professor Pothier.

Students seeking special accommodation with regard to any aspect of course evaluation (including exam deferrals and extensions to deadlines) must make an application to the Studies Committee. Academic regulations require such requests to be made as soon possible and, in any event, no later than the date on which the exam is to be written or the paper or other assignment is to be

submitted. Students should contact Associate Dean Michael Deturbide or Assistant Dean Elizabeth Hughes for more information about requests for accommodation and about the Studies Committee process.

Pandemic H1N1 Influenza Advisory in relation to Academic Continuity

In the event of an escalation of the pandemic H1N1 influenza virus, the University may need to authorize Academic Units to change elements of class schedules and/or evaluation plans as outlined in course syllabi. Any change is intended to support the primary goal of reducing the risk of spreading a pandemic influenza among students, faculty and staff.

Although it is difficult to predict the severity of the pandemic, the University is committed to minimizing the impact on student's academic progress. Therefore, every effort will be made to provide students with options for continued learning and for continued fair evaluations.

Changes may include but are not limited to:

- Adjustments to course assignments;
- Changes to the dates of exams;
- Arrangements for alternative evaluations for students affected by H1N1 influenza virus;
- Adjustments to work terms;
- Modification of marks awarded for participation;
- Adjustments to attendance policies.

Any alternative plan made in individual courses may be superseded by University-wide or Government measures to reduce the spread of the pandemic H1N1 influenza virus.

WINTER TERM PROGRAM

5 January: Exam Review and Winter Term Introduction

Review of the mid-term exam. Short introduction to the Winter term seminar program.

Readings: No readings assigned.

7 January: Waiver and Promissory Estoppel I

Central London Property Trust Ltd. v. High Trees House Ltd., Casebook, 203-205

John Burrows Ltd. v. Subsurface Surveys Ltd., Casebook, 205-207
D. & C. Builders Ltd. v. Rees, Casebook, 208-210

12 January: Waiver and Promissory Estoppel II

Saskatchewan River Bungalows Ltd. V. Maritime Life Assurance Co.,
Casebook, 211-215
International Knitwear Architects v. Kabob Investments Ltd., Casebook,
215-216
W.J. Alan & Co. v. El Nasr Export & Import Co., Casebook, 216-230
*Societe italo-belge pur le commerce et l'industrie S.A. v. Palm and
Vegetable Oils (Malaysia) SDN BHD; The Post Chaser*, Casebook, 220-
223

14 January: Waiver and Promissory Estoppel III

Coombe v. Coombe, Casebook, 224-226 **[Stephen Gougeon]**
Petridis v. Shabinsky, Casebook, 227-229 **[Brandon Holden]**
Robichaud v. Caisse Populaire de Pokemouche Ltee, Casebook, 229-230
Gilbert Steel Ltd. v. University Construction Ltd., Casebook, 178-181
(focus on estoppel ratio on p. 181)

18 January: Privity of Contract I

Introduction & History of the Doctrine of Privity and Third Party
Beneficiaries", Casebook, 275-276
Provender v. Wood, Casebook, 276
Tweddle v. Atkinson, Casebook, 276-277
Dunlop Pneumatic Tyre Co. Ltd. v. Selfridge & Co. Ltd., Casebook, 277-
280

21 January: Privity of Contract II

Ways in Which a Third Party May Acquire the Benefit, Casebook, 281-282
Beswick v. Beswick (C.A. & H.L.), Casebook, 283-286
Trust, Casebook, 286-287
McCannell v. Mabee McLaren Motors Ltd., Casebook, 291-293 **[Carolyn
Inglis]**
New Zealand Shipping Co. Ltd. v. A.M. Satterthwaite & Co. Ltd.,
Casebook, 293-297

26 January: Privity of Contract III

London Drugs Ltd. v. Kuehne & Nagel International Ltd., Casebook, 298-
307

Edgeworth Construction Ltd. v. N.D. LEA & Associates Ltd., Casebook, 308-310 [**Sara Mahaney**]

Fraser River Pile & Dredge Ltd. v. Can-Dive Services Ltd., Casebook, 310-315

“Privity and Contract Theory”, Casebook, 315-316

H. Collins, “The Range of Liability”, Supplement, 131-135

28 January: Hypo

2 February: Representations and Terms -- Classifications and Consequences I

Introduction & Misrepresentation and Rescission, Casebook, 353-355

Smith v. Land and House Property Corp., Casebook, 359-360

Bank of British Columbia v. Wren Developments Ltd., Casebook, 360-362

Redgrave v. Hurd, Casebook, 355-359

Kupchak v. Dayson Holdings Ltd., Casebook, 363-370

4 February: Representations and Terms II

Representations and Terms, Casebook, 371

Heilbut, Symons & Co. v. Buckleton, Casebook, 371-375

Dick Bentley Productions Ltd. v. Harold Smith (Motors) Ltd., Casebook, 376-381

Leaf v. International Galleries, Casebook, 378-381

Statutory Reform & Ontario Law Reform Commission, Report on Amendment of the Law of Contract, Casebook, 382-385

Fair Trading Act, R.S.A. 2000, C.F.-2, Casebook, 386-390

9 February: Representations and Terms III

Classification of Terms, Casebook, 435-436

Hong Kong Fir Shipping Co. Ltd. v. Kawasaki Kisen Kaisha Ltd., Casebook, 436-441

Krawchuk v. Ulrychova, Supplement, 141-143

Wickman Machine Tool Sales Ltd. v. L. Schuler A.G., Casebook, 443-449

11 February: Representations and Terms IV

Concurrent Liability in Contract and Tort, Casebook, 390-392

ESSO Petroleum Co. v. Mardon, Supplement, 148-149

Sodd Corp. v. N. Tassis, Casebook, 392-394

BG Checo International Ltd. v. British Columbia Hydro & Power Authority, Casebook, 395-403

16 February: Hypo

18 February: Standard Form Agreements and Exclusion Clauses I

“Introduction”, Casebook, 493-494

Machtinger v. Hoj Industries Ltd., Casebook, 494-497

“Some General Principles of Contractual Interpretation”, Casebook, 497-499

Scott v. Wawanesa Mutual Insurance Co., Casebook, 468-471

Judicial Control of Standard Form Contracts and Exclusion Clauses (Introduction), Casebook, 471-474

1 March: Standard Form Agreements II

Parker v. South Eastern Ry. Co.; *Gabell v. South Eastern Ry. Co.*, Supplement, 151-153

Thornton v. Shoe Lane Parking Ltd., Casebook, 478-482

Interfoto Picture Library Ltd. v. Stiletto Visual Programmes Ltd., Casebook, 483-487

4 March: Standard Form Agreements III

McCutcheon v. David MacBrayne Ltd., Casebook, 488-491

Tilden Rent-A-Car Co. v. Clendenning, Casebook, 492-496

Delaney v. Cascade River Holidays Ltd., Supplement, 155-158 [**Seamus Murphy**]

9 March: Standard Form Agreements IV (Class may have to be re-scheduled)

Strict Construction, Casebook, 503-505

Karsales (Harrow) Ltd. v. Wallis, Casebook, 506-507 [**Nicole Slaunwhite**]

Photo Production Ltd. v. Securicor Transport Ltd., Casebook, 508-514

Hunter Engineering Co. Inc. v. Syncrude Canada Ltd., Casebook, 514-528

11 March: Standard Form Agreements V (Class may have to be re-scheduled)

Davidson v. Three Spruces Realty Ltd., Supplement, 159-162

Fraser Jewellers (1982) Ltd. v. Dominion Electric Protection Co., 528-532

[**Michelle Squires**]

Solway v. Davis Moving & Storage Inc., Casebook, 533-537 [**Tyler Watt**]

16 March: Hypo

18 March: The Protection of Weaker Parties I

Duress

Protection of the Weaker Parties (Introduction & Duress), Casebook, 665-666

Greater Fredericton Airport Authority Inc. v. NAV Canada, Casebook, 666-678

Gordon v. Roebuck, Supplement, 187-189 [**Sarah Zimmerman**]

Undue Influence

Undue Influence, Casebook, 678-680

Geffen v. Goodman Estate, Casebook, 680-687

Royal Bank of Scotland PLC v. Etridge (No. 2), Casebook, 688-696

23 March: The Protection of Weaker Parties II

Unconscionability

Traditional Doctrine, Casebook, 697

Morrison v. Coast Finance Ltd., Casebook, 697-701

Marshall v. Can. Permanent Trust Co., Casebook, 701-703

Wider View, Casebook, 704

Lloyds Bank v. Bundy, Casebook, 704-709

Harry v. Kreutziger, Casebook, 709-714

Unconscionability Legislation, Casebook, 716-717

25 March: Illegality & Public Policy

Introduction, Casebook, 727-729

Other Public Policies, Casebook, 749-752

Restraint of Trade

KRG Insurance Brokers (Western) Inc. v. Shafron, Casebook, 730-738

Cohabitation Agreements

Jones v. Daley, Supplement, 259-260

Whorton v. Dillingham, Supplement, 261-262

Assisted Human Reproduction

Re Baby M., Supplement, 263-264

In the Matter of Baby M, Supplement, 265-266

30 March: Hypo

1 April: Review Class

Review of winter curriculum and briefing on exam.