

CONTRACTS AND JUDICIAL RULE-MAKING  
11471 LAWS 1000X 05 Contract/Jud Rule-Making (3.00 credit hours)  
(2009-2010)  
Section B (52 students)  
Dr. Chidi Oguamanam

Office: Room W424  
Phone 494-7125  
E-mail: [Chidi@Dal.Ca](mailto:Chidi@Dal.Ca)  
Office Hours: Mondays 2:00-4:30pm

Course Description

This class has two primary objectives: the first is to provide a basic knowledge of the doctrines and precepts of the law governing the making and performance of contracts; the second is to provide an understanding of the process of development of the common law through judicial decisions. As a means of attaining the latter objective, the case method of teaching is used and adapted to enable students to acquire a lawyer-like understanding of such concepts as *stare decisis*, the use of precedent, and the technique of distinguishing. A critical evaluation of judicial law-making is undertaken through an examination of the developing phenomenon of legislative intervention in the field of contract law. In order to fulfill the first objective, substantive rules of contract are examined.

The required casebook is H. Read & A. L. Foote, *Cases and Other Materials on the Common Law of Contracts in Canada* Vols. I & II (2007 revision). You will only need volume I for the fall term and volume II for the winter term.

It may be necessary in course of the terms to exclude some cases from the casebook and to occasionally introduce supplementary materials which could be handed out in class. Any cases, or materials to be added or omitted, will be announced orally in class. Note: Case readings or other materials for the next class will also be announced orally at the end of each class. It is the responsibility of all students (in attendance or absent) to confirm the announced readings for the next class or any changes in the casebook. Students are expected to have reviewed the materials to be covered in preparation for each class. Classes will largely follow a semi-lecture format. Students are encouraged to participate and ask questions. Note: Handout of pp. slides will not be provided.

Recommended Texts: (on Reserve in the Law Library)

G. Fridman, *The Law of Contracts in Canada* 4th ed. (1999)  
S. Waddams *The Law of Contract* 5th ed. (2004)

J. Beatson, *Anson's Law of Contracts* 28th ed. (2002)  
G. Cheshire, G. Fifoot & M. Furmiston, *The Law of Contract* 14th ed. (2001)  
G. H. Trietel, *The Law of Contract* 11th ed. (2003)  
H. Collins, *The Law of Contract* 4th ed. (2003)  
P. Atiyah, *An Introduction to the Law of Contract* 5th ed. (1995)  
Boyle & Percy, *Contracts: Cases and Commentaries* 7th ed (2004)  
J. Yogis, *Canadian Law Dictionary* 5th ed. (2003)

### Scheduling:

Fall 2009

Tuesday 10:30 - 12:00 (204)

Friday 9:00 - 10:30 (105)

Winter 2010

Tuesday 10:30 - 12:00 (105)

Thursday 10:30 - 12:00 (105)

### Evaluation

This is a large class. There is *no practice assignment, class attendance or participation, and advocacy exercise* component to your evaluation. Your evaluation is based strictly on written examination. The last day of class in each term will be devoted exclusively to discussions on exam writing and to addressing all student concerns regarding mid-term and final exams respectively.

#### 1. Fall Term

The *mid-year exam* is scheduled for Friday December 14, 2009. This will be a closed-book examination but you would be provided with a clean copy of the table of contents of the casebook to assist you in the exams. The mid-year examination is a fail safe exercise. The result will only count (as 30% of the final exam component of your grade) if this improves your final examination grade.

#### 2. Winter Term

*Final Examination:* The date of final examination is April 14, 2010. This will be a closed-book examination on the full year's materials. Again, you would be provided with a clean copy of the table of contents of the official casebook to assist you in the exams.

Changes in the exam schedule (if any) will be communicated to you.

### Administration/Special Needs and Accommodation:

Professor Pothier is the Faculty Advisor to students with disabilities. Such students who wish to discuss in-class accommodation or in-class study assistance 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 as possible, and in any event, not 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;
- Alternative evaluations for students affected by H1N1 virus.

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.

### **Academic Honesty:**

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](http://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](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.