

EQUITY & TRUSTS

Faye.Woodman@dal.ca

494-1006

Office Hours:

After class or by appointment

Laws 2203-03
(3 hours credit)

Tuesday 3-4:30 pm
Thursday 3-4:30 pm
Room 204

Materials:

Compulsory casebook:

Mark R. Gillen and Faye Woodman, eds. *The Law of Trusts: A Contextual Approach*, 2nd ed. (Toronto: Emond Montgomery, 2008)

Compulsory Legislation

Trustee Act, R.S.N.S. 1989, c. 479. Obtain English version at

<http://www.canlii.org/en/ns/laws/stat/rsns-1989-c-429/>

Optional texts:

Eileen E. Gillese and Martha Milczynski, *The Law of Trusts*, 2d ed. (Toronto: Irwin Law, 2005);

A. H. Oosterhoff et al. *Oosterhoff on Trusts: Text, Commentary and Materials*, 7th ed. (Toronto: Thomson Carswell, 2009).

D.W.M. Waters, *Waters' Law of Trusts in Canada*, 3d ed. (Toronto: Thomson/Carswell, 2005)

Mode of Evaluation

15% class participation including brief assignments for class & marks for attendance.

85% 2 1/2 hours final examination; closed book; statutes will be supplied. 10% of 85% will be on any **one** of optional chapters indicated in syllabus **chosen** by a student....

Plagiarism

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.

All students in the 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)

FALL 2009

Date	Topic	Readings	
Thurs. Sept 10th	Introduction	Ch. 1,	pp. 3-18
Tues. Sept 15th	History of Equity & Trusts-Fusion	Ch. 2,	pp. 41-71
Thurs. Sept 17 th	Fiduciary Obligations	Ch. 15,	pp. 839-92;
Tues. Sept 22 nd	Political Trust Doctrine	Ch. 16,	pp. 907-23;
Thurs. Sept. 24th	Creating Express Trusts <ul style="list-style-type: none"> • Generally • The Three Certainties <ul style="list-style-type: none"> ... Intention ... Subject 	Ch. 4,	<i>Trustee Act</i> , R.S.N.S 1989, c.479, s.1 pp. 75-79 pp. 79-85 pp. 94-101; pp. 101-05;
Tues. Sept 29th	... Object		pp.105-22;
Thurs. Oct 1 st	<ul style="list-style-type: none"> • Constitution of Express Trusts • Formalities of Express Trusts 		pp.123-154; pp. 155-161;
Tues. Oct 6 th	<ul style="list-style-type: none"> • Constraints on Express Trusts <ul style="list-style-type: none">Public PolicyFraud on CreditorsPerpetuities/Accumulations 		pp. 161-162; pp. 162-165; lecture; pp. 182-187;
Thurs. Oct. 8th	<ul style="list-style-type: none"> • Restraints on Alienation & Spendthrift Trusts • Early Termination of Express Trusts: <i>Saunders v. Vautier</i> 		pp. 187-195; pp. 196-197;
Tues. Oct 13th	Variation of Express Trusts Cy – pres- Review problems/catch up		pp. 198-209; p. 209
Thurs. Oct 15th	Non-charitable Purpose Trusts	Ch. 5,	pp. 211-29, <i>Perpetuities Act</i> , RSO 1990, c. P.9, s.16 ;

Tues. Oct 20th	Charitable Purpose Trusts <ul style="list-style-type: none"> • Generally • Relief of Poverty • Advancement of Education • Advancement of Religion 		pp. 229-35; pp. 235-40; pp. 240-45; pp. 245-51;
Thurs. Oct 22nd	<ul style="list-style-type: none"> • Other Purposes Beneficial to the Community • Associated Doctrines <ul style="list-style-type: none"> ... Exclusivity ... Political Purposes ... Discriminatory Conditions • Cy-pres Doctrine 		pp. 252-71; pp. 271-76; pp. 276-83; pp. 283-89; pp. 289-300;
Tues. Oct 27th	Administration of Trusts <ul style="list-style-type: none"> • Generally • Appointment, Retirement & Removal of Trustees • Duties & Powers • Duty of Care 	Ch. 6,	pp. 301-02; <i>Trustees Act</i> , ss. 16,17,31,41 pp. 313-34; <i>Trustee Act</i> , s.30 pp. 335-42;
Tues. Oct 29 th	<ul style="list-style-type: none"> • Duty Not to Delegate • Exculpation Clauses 		<i>Trustee Act</i> , ss. 23; pp. 342-351, <i>Trustees Act</i> , ss. 64;
Tues. Nov 3rd	<ul style="list-style-type: none"> • Duty of Impartiality • Trustee Investments • Remuneration 		pp. 360-85; pp. 405-09, <i>Trustee Act</i> , ss. 3,3A,3B,3C,3D,3E,3F, 4,5,7,8A,9,10,11,14 pp. 423-433; <i>Trustee Act</i> , s.62
Thurs. Nov 5th	Resulting Trusts <ul style="list-style-type: none"> • Transfer of Property or Cash in name of Other • Presumption of Advancement • Failure of Express Trust 	Ch. 8,	pp. 483-92; pp. 492-506; pp. 517-521;
Tues. Nov 10th	Constructive Trusts <ul style="list-style-type: none"> • Theory of • Wrongful Conduct 	Ch. 9,	pp.525-34; pp.535-58;
Thurs. Nov 12th	<ul style="list-style-type: none"> • Unjust Enrichment 		pp. 558-67, pp. 572-74;
Tues. Nov 17th	<ul style="list-style-type: none"> • Equitable Fraud 		pp. 575-586;

Thurs. Nov 19th	Review Problems/catch up		
Tues. Nov 24th	Remedies <ul style="list-style-type: none"> • Personal Remedies ... Equitable Compensation 	Ch. 10	pp. 595-623;
Thurs. Nov 26th	... Accounting for Profits		pp. 623-48, 659-74;
Tues. Dec 1 st	<ul style="list-style-type: none"> • Proprietary Remedies ... Tracing 		pp. 674-95;
Thurs. Dec 3rd	Review		-----
OPTIONS	A Comparison of Trusts to other Legal Relationships	Ch. 7	
	Equity and “Family Relationships”: Cohabitation and Constructive Trusts	Ch. 13	
	An Introduction to Trusts and the Environment	Ch. 11	
	Trusts in Corporate and Commercial Law	Ch. 12	
	Trusts and Taxation	Ch. 2	
	The Trust in Succession Planning	Ch. 14	
	Trusts and Aboriginal Peoples	Ch. 16	

Policy on H1NI:

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.