

CONTRACTS AND JUDICIAL RULE MAKING SECTION A 2010 – 2011

Contracts# 2 (Afternoon Class)

Professor McConnell

Professor Moira L. McConnell

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Office Hours:

Fall Term: Tues. & Wed. 1:30-4:30

Winter term: Tues. 2:30-5:30 & Thurs. 2:30-5:30
or drop-in, subject to availability; or by appointment

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 fulfil the first objective, substantive rules of contract law are examined.

The required casebook is H. Read & A. Foote, *Cases and Other Materials on the Common Law of Contracts in Canada, Vols. I & II* (2007 revision). You will only need Volume 1 for the first term.

Occasional supplementary materials will be handed out in class. Any cases, or materials to be added or omitted, will be announced in class.

Texts: (These and others later editions are on reserve in the Law Library)

G. Fridman, *The Law of Contract in Canada* 4th ed. (1999)

S.M. Waddams, *The Law of Contract* 4th ed. (1999)

J. Beatson, *Anson’s Law of Contracts* 28th ed. (2002)

G. Cheshire, G. Fifoot and M. Furmiston, *The Law of Contract* 14th ed. (2001)

G. Treitel, *The Law of Contract* 10th ed. (1999)

I. Collins, *The Law of Contract* 3rd ed. (1997)

P. Atiyah, *An Introduction to the Law of Contract* 5th ed. (1995)

B. MacDougall, *Introduction to Contracts* (2007)

See also **Case Books:**

C. Boyle, D. Percy, *Contracts: Cases and Commentaries*, 7th ed. (2004)

J. Swan, B. Reiter, N. Bala, *Contracts, Cases, Notes & Materials*, 5th ed. (1997)

S.M. Waddams et al., *Cases and Materials on Contracts* 3rd ed. (2005)

Scheduling:**Fall Term 2010**

Monday 1:00-2:30 (Room 309)

Thursday 3:00-4:30 (Room 304)

Winter Term 2011

Tuesday 1:00-2:30 (Room 309 TBC)

Thursday 1:00-2:30 (Room 309 TBC)

Evaluation:**Fall Term**

- A feedback/practice exercise is planned for **Thursday, October 21st**. This is a mandatory exercise and your work will be reviewed to provide you with feedback. Failure to do the exercise will be considered in assigning the class participation mark for the year.
- The mid-year exam is currently scheduled for **Monday, December 20th**. This will be a “closed-book” examination. The mid-year examination result is “failsafe” it will count as 30% of the final exam component of your grade (i.e., 15% of your total final grade) only if it will improve your final examination grade.

Winter Term

1. Advocacy Exercise

- The problem to be argued will be distributed on **Tuesday, February 1st, 2011**. The factum (written analysis) is **due on Tuesday February 8th, 2011 at the start of class**. Facta are to be exchanged at the end of that class. The oral advocacy sessions (moot courts) are planned for the following dates (subject to room booking/scheduling): **Thursday, Friday and Saturday, February 10th, 11th and 12th**.

2. Examination

- The final examination is currently scheduled for **Wednesday, April 6th, 2011**. This will be a closed book examination on the full year's material.
- **Examinations will be administered using Exam4 software. Instructions for downloading the software to your laptop computers will be provided by the Associate Dean's office in due course. The law school has a limited number of laptops that will be made available for exam purposes to students who do not have a laptop computer. Students who wish to handwrite their exams must notify the Associate Dean's office in accordance with instructions that will be sent to all students.**

Grading Scheme:

Advocacy exercise	20%	
Factum	10%	
Oral Presentation	10%	
Class Participation	20%	
Final Examination	<u>60%</u>	(*subject to improvement by mid-term exam result)
	100%	

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 <http://academicintegrity.dal.ca/>
- 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 Schulich School of Law 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.

Students with Special Needs/Requests for Accommodation:

Students seeking special accommodation with regard to course evaluation, such as exam deferral and extensions to deadlines, should consult with Associate Dean Michael Deturbide or Assistant Dean Elizabeth Hughes as soon as possible, and before an exam is scheduled to be written or an assignment is due. Requests for special accommodation for reasons such as illness or personal circumstances will require an application to the Law School Studies Committee. Students should contact Associate Dean Michael Deturbide or Assistant Dean Elizabeth Hughes if they require more information about the Studies Committee process. Students wishing to discuss arrangements for classroom assistance should see Professor Wildeman, the law faculty advisor to students with disabilities.

Students may request accommodation as a result of barriers related to disability, religious obligation, or any characteristic under the Nova Scotia Human Rights Act. Students who require academic accommodation for the writing of tests, quizzes and exams should make their request to the Office of Student Accessibility & Accommodation (OSAA) prior to or at the outset of each academic term (with the exception of X/Y courses). Please see www.studentaccessibility.dal.ca for more information and to obtain Form A – Request for Accommodation. Students may also contact the Office of Student Accessibility & Accommodation directly at 494-2836, and they may contact Associate Dean Michael Deturbide or Assistant Dean Elizabeth Hughes for more information.