

CONTRACTS AND JUDICIAL RULE MAKING
SECTION B
2008 - 2009

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Office Hours: Fridays by appointment

Or drop-in, subject to availability

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 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.

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

Texts: (These and others 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)

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 2008

Monday 3:30 – 4:30 (Room 429)

Wednesday 11:00 - 12:30 (Room 429)

Winter 2009

Tuesdays 10:30 - 12:00 (Room 429)

Fridays 10:30 -12:00 (Room 429)

Evaluation

Fall Term:

- An in-class *feedback/ practice exercise* is planned for Wednesday, October 22. This is a mandatory exercise and your work will be evaluated 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 December 10th. This will be a "closed-book" examination. The mid-year examination result will only count (as 30% of the final exam component of your grade, i.e. 15% of your total final grade) if this improves your final examination grade.

Winter Term:

1. Advocacy Exercise

- The problem to be argued will be distributed on Tuesday, February 3, 2009. The factum (written analysis) is due on Tuesday, February 10, 2009 at the start of class. Facta are to be exchanged at the end of that class. The oral advocacy sessions (moot courts) will be held on the following dates: Wednesday, Thursday and Friday, February 11, 12 and 13.

2. Examination

- The final examination is currently scheduled for April 6, 2009. This will be a closed book examination on the full year's material.

Grading Scheme:

1.	Advocacy exercise	20%
	Factum	10%
	Oral Presentation	10%
2.	Class Participation	20%
3.	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 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_selectin_materials/regulations_handbook/)
- the Orientation Handbook (provided to all first year students and available online at http://law.dal.ca/Files/First_Year_Handbook_2007.pdf)

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 as ignorance will not exculpate academic dishonesty.

Accommodation:

Professor Pothier is the faculty advisor to students with disabilities. Students with disabilities wishing to discuss in-class accommodation or study assistance needs should see her. Students wishing to request accommodation regarding exam writing or other aspects of evaluation must make the request in writing to the Studies Committee and should see Associate Dean, Deturbide or Assistant Dean, Hughes for more information. Material for the Studies Committee should be given to Tiffany Coolen-Jewers, administrative assistant to the Associate Dean.