

EQUITY AND TRUSTS

Office: ??

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Office Hours: To be determined. I will update you about times and dates later. You can also speak to me after class or contact me by phone or email, and we will schedule an appointment at some mutually convenient time. Or you can ask me questions by email and I will reply by email.

Course Description:

This course deals with both the law of trusts and the law of fiduciary relationships. After a brief historical survey of the development of the law of equity, the rules regarding the creation, interpretation and termination of express trusts are examined, including “purpose” trusts, especially charitable trusts. The law governing trustees and their duties and powers is explored. The later part of the course deals with trusts arising through operation of law, i.e. resulting and constructive trusts. The circumstances where fiduciary duties can be imposed even in the absence of a trust are examined. Finally trust remedies are reviewed and the special technical rules of tracing and following property are discussed.

Required Reading Materials:

The materials for this class are as follows:

Casebook: M.R. Gillen & F. Woodman (Eds.), The Law of Trusts: A Contextual Approach, (2nd edition) Emond Montgomery Publications Ltd., Toronto, 2008. THIS SECOND EDITION OF THE BOOK HAS A BLACK COVER. Used copies of this BLACK second edition should be available from last year's winter term Equity and Trusts students, as well as in the bookstore. DO NOT BUY A USED FIRST EDITION (MAROON COVER) FROM ANOTHER STUDENT. (There are significant differences in content.)

Reference (Optional):

Waters, Law of Trusts in Canada (Carswell: 3rd ed, 2005)

Evaluation

Evaluation in this course is by 100% final examination. The examination will take place on Tuesday, April 7 from 9:30-1:00. This is an **open book** exam. You may bring the following materials into the examination room with you: the casebook (Woodman & Gillen: "The Law of Trusts: A Contextual Approach"); any material distributed in class; your class notes, outline and other study aids. You may **not** make use of hard-copy published text books other than the casebook during the examination.

Readings, Equity and Trusts, Winter, 2009

<u>Date</u>	<u>Topic</u>	<u>Pages</u>
Mon. Jan. 5:	No reading assignment	
Weds. Jan. 7:	Introduction	3-18
	History of Equity	41-71
Mon. Jan. 12	Creation of Express Trusts, Part 1	75-85 & 476-479 & 85-105
Weds. Jan. 14:	Creation of Express Trusts, Part 2	313-315 & 105-122
	Constitution of Trusts, Part 1	123-131
Mon.. Jan. 19:	Constitution of Trusts, Part 2	131-154
Weds. Jan. 21:	Formalities	155-161
	Constraints on Express Trusts, Part 1	161-167 & 174-183
Mon. Jan. 26:	Constraints on Express Trusts, Part 2	187-195
	Overriding the Trust Instrument	196-209
Weds. Jan. 28:	Non-Charitable Purpose Trusts	211-229
	Charitable Trusts, Part 1	229-235
Mon. Feb. 2:	Charitable Trusts, Part 2	235-260
Weds. Feb. 4:	Charitable Trusts, Part 3	260-289
Mon. Feb. 9:	Charitable Trusts, Part 4	289-300
	Administration of Trusts: Non-examinable	301-309
	Administration of Trusts, Examinable, Part 1	310-315

Weds. Feb. 11:	Administration of Trusts: Examinable, Part 2	319-331 (to the end of para 72 on 331) & note 1 on 334 (omit note 2) & 335-351
Mon. Feb. 16:	Administration of Trusts: Examinable, Part 3	351-356, 360-367 385-386, 397-409 & notes 1-5 on 422-423
Weds. Feb. 18:	Administration of Trusts: Examinable, Part 4	409-423
	Resulting Trusts, Part 1 (re voluntary transfer, begin with <i>Neazor</i> case on p. 487 & omit text before <i>Neazor</i> on pp. 486-487)	483-504
Feb. 23 & 25:	Study Break	
Mon. Mar. 2:	Resulting Trusts, Part 2	504-506 & 517-518 & 523-524
	Constructive Trusts, Part 1	525-537 & 546-548 & 556-558
Weds. Mar. 4:	Constructive Trusts, Part 2	548-556 & 558-574
Mon. Mar. 9:	Constructive Trusts, Part 3	575-586
	Fiduciary Obligations - General, Part 1	839-850
Weds. Mar. 11:	Fiduciary Obligations - General, Part 2	850-891
Mon. Mar. 16	Fiduciary Obligations - General, Part 3	891-906
	Fiduciary Obligations - Aboriginal Context, Part 1	907-912
Weds. Mar. 18:	Fiduciary Obligations - Aboriginal Context, Part 2	913-923 & 937-939 & 948-953
Mon. Mar. 23:	Remedies, Part 1	593-615 & 621-623

(re 621-623 read only
commentary following *Hodgkinson*)

Weds. Mar. 25:	Remedies, Part 2 and continuing with Air Canada	615-623 634-648
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Mon. Mar. 30:	Remedies, Part 3	659-682 & 694-695
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Weds. April 1	Review Class	
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Weds. April 7:	Examination: 9:30-1:00	
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