

REVISED Course Outline May 13 2009

COURSE:	LAWS 2003 V - Private Law Relationships [1.0 Credit]
TERM:	Summer 2009 (May 08, 2009 - Aug 18, 2009) *First class May 11^t, last class August 17th
PREREQUISITES:	LAWS 1000
CLASS:	Day & Time: Mondays and Wednesdays 6:05-8:55 pm May 08, 2009 - Aug 18, 2009
	Room: Please check with Carleton Central for current room location
INSTRUCTOR:	Professor L. Garib, B.A., (Hons) M.A., LLB, LLM
CONTACT:	Office: None Office Hrs: By Appointment 5:00-6:00pm Telephone: 613-995-2066 during regular business hours Email: lgarib@connect.carleton.ca

"Students with documented disabilities requiring academic accommodations in this course must register with the Paul Menton Centre for Students with Disabilities (PMC) for a formal evaluation of disability-related needs. Documented disabilities include physical, mental, and learning disabilities, mental disorders, hearing or vision disabilities, epilepsy, drug and alcohol dependencies, environmental sensitivities, as well as other conditions. Registered PMC students are required to contact the PMC at 613-520-6608, early each term to ensure that your Instructor receives your Letter of Accommodation no later than two weeks before the first assignment is due or the first in-class test/midterm requiring accommodations. If you require accommodations for your formally scheduled exam(s) in this course, please submit your request for accommodations to the Paul Menton Centre as soon as possible." Also available at http://www.carleton.ca/pmc/faculty/acom_statement.html . For Religious and Pregnancy accommodations, please contact Equity Services, 613-520-2600 x. 5622 or their website: www.carleton.ca/equity

COURSE DESCRIPTION

This course critically examines some of the ways in which law regulates relationships among legal persons such as individuals and corporations. We will look at the manner in which rights are created and enforced through such mechanisms as property rules, contractual agreements and liability rules for negligence or damages otherwise caused by 'wrongful' actions. The manner in which legal categories and concepts embody particular visions of social life will be emphasized. The course will also emphasize the role played by the state in the ordering of private law relations. This course is about how law works, the impact of law on individuals and society, and why particular legal rules exist.

REQUIRED TEXT

- Neil Sargent and Logan Atkinson, eds., ***Just Between the Law and Us***. Toronto: Captus Press, 2005 (Available from the Carleton University Bookstore)

The required text is also available for purchase and download at:
<http://www.captus.com/Information/catalogue/book.asp?Book+Number=643>

ALSO EXCERPTS FROM:

- Logan Atkinson and Neil Sargent, *Private Law, Social Life*. Toronto: Lexis Nexis, Butterworths, 2d. Edition, 2007 (Available from the Carleton University Bookstore)

For those who wish to purchase their own copy, see Butterworths:

<http://www.lexisnexis.ca/bookstore/bookinfo.php?pid=1445>

EVALUATION

Class Participation 10% - *Attendance and participation in class discussions

Mid Term Examination 30% - MONDAY JUNE 29th – **IN CLASS EXAM**

Research Essay Assignment 30% - DUE WEDNESDAY August 5th

Final Examination 30% - DURING NORMAL EXAM PERIOD

ALL COMPONENTS MUST BE COMPLETED IN ORDER TO RECEIVE A FINAL GRADE**Final Research Paper:**

Students will be required to write a paper about a topic in private law discussed in class, in the texts or approved by the instructor. **The paper will be due at the beginning of class on, Wednesday, 5th August 2009; late penalties will apply of one grade point per day. Extensions of the final paper must be requested, in writing, as far in advance as possible, with an accompanying medical certificate.**

The paper should be between a **minimum of 3000-4000 words** (a **MINIMUM of 12-16 pages double spaced, Times New Roman, 12 font, one inch margins**), excluding title page, table of contents, footnotes and appendices. Specific instructions will be provided in class in advance and posted on Web CT.

Students who are not yet strong writers or researchers are strongly encouraged to **start their paper early**, and avail themselves of Carleton's Student services such as Writing Clinics and assistance from the Law Library on correct research and citation requirements.

Exams:

NOTE THAT ANY DEFERRAL OF THE MID-TERM OR FINAL EXAM ARE ARRANGED IN ADVANCE THROUGH THE DEPARTMENT OF LAW, NOT THE PROFESSOR, AND REQUIRES A MEDICAL CERTIFICATE.

Important Note: Plagiarism

Each student's paper and take home exam answers must be exclusively his or her own work product. All work must be done independently; no group work or consultation other than the review class will be permitted. Students are not permitted to discuss the exam questions and possible answers with each other, with the exception of discussion supervised by the Instructor.

Carleton's Academic Integrity Policy:

http://www.carleton.ca/studentaffairs/academic_integrity/index.html

For both the paper, students should note the Law Department's Style Sheet at

<http://www.carleton.ca/law/style.htm>

STUDENT SERVICES:

All students should take note of the Writing Tutorial Service at 229 PA and the Student Academic Success Centre (SASC) at 302 Tory.

DEPARTMENTAL POLICY AND PROCEDURE:

For further instructions and warnings on issues such as prerequisites, assignments and grading (including the Department's policy on plagiarism), students should consult the Law Department's *Policy and Procedure Statement* and the relevant pages in the University's *Undergraduate Calendar*.

COURSE OUTLINE

The course syllabus may change to accommodate student/instructor requirements. Changes will be made with as much advance notice as possible.

There will be no classes held on Monday May 18th (Victoria Day) and Wednesday July 1st (Canada Day)

- NOTE: Chapter references in the following course outline normally refer to "**Just Between the Law and Us**". The chapter references to **Private Law, Social Life** are specified separately. Those excerpts will be posted on Web CT by your Professor in advance.

Part I

1. Introduction to the course – Monday, May 11th

- Categories of private law relationships and the limited nature of legal duties

Readings: Just Between the Law and Us, Chap. 1; Private Law, Social Life, chapter 1

2. Legal Individualism and the Public/ Private Distinction

Readings: Chapter 2, special focus on the articles by: Henry Maine and Steven Lukes, Charles Taylor, *Mallette v. Shulman*; *Rodriguez v. British Columbia*; *Morgentaler v. The Queen* (chapter 5, reading f).

Private Law, Social Life, chapter 1

Part II

3. The significance of legal personality

- Persons as subjects of legal rights or objects of legal regulation

Readings: Chapter 4 'a' and 'b'; and chapter 5: 'a', 'b', 'c', 'd', 'e', 'f', and 'g'

Private Law, Social Life, chapter 2

4. The family, patriarchy and the legal status of women, continued

5. Disability and the legal status of children

Readings: Chapter 6, a, b, e, f, h, l; Chapter 9, readings a, b, c, d, e, j, l

6. Aboriginal Peoples and legal dependency

- The problematic history of assimilation policies in Canada

Readings: Chapter 6, esp. a, b, c, and d

7. Corporate legal personality and the environment as “person”

Readings: Chapter 3, b; Chapter 4, readings a, b, d, e, f, g, h, l, j

Part III

8. Legal Conceptions of Property

- Private property; Collective property; and Common property

Readings: Chapter 10, a, b, c

Private Law, Social Life, chapter 5

9. Justifications for property

- Occupancy theory, labour theory, economic theory and property and personality. Note: we will be

examining these various justifications for property in relation to physical property (*Edwards v. Sims*), intellectual property, and biotechnology (*Moore v. Regents of the University of California*).

Readings: Chapter 10, d, e, f, g, h;

10. Justifications for property continued

Readings: Chapter 14, a, d, g, h, l, j

11. Property rights and the family

- Examining shifts in family property systems from 1970-2008

Readings: Chapter 12, a to f

12. Property rights and Aboriginal Peoples

- The nature and development of common law aboriginal title claims

Readings: Chapter 13, a to e

13. Property rights and the public/ private distinction

Readings: Chapter 11, a, c, d, e, and f; also Chapter 10, reading i

Part IV

14. Private law obligations: Contract as a source of private law obligations

- Legal requirements of a contract

Readings: Chapter 15 a, b, c, f
Private Law, Social Life, chapter 3

15. Contract as a source of voluntary legal obligation, continued.

- Contracts and the legal structure of family ordering

Readings: Chapter 15, f, g, h, and I (In re Baby M; also Chapter 9, reading e

16. Contract as a source of voluntary legal obligation

- Justifications for judicial intervention into contractual rights and obligations

Readings: Chapter 16, a, b, c, e, and f

17. Remedies for non-performance of contractual obligations

- Compensatory remedies, compliance remedies and restitutionary remedies

Readings: Chapter 17, a, b, c, also Chapter 15, reading e

Part V

18. Tort as a source of legal obligations. Intentional and unintentional torts

- The requirements of liability in negligence

Readings: Chapter 18, a, b, c; also Chapter 1, reading b (*Donoghue v. Stevenson*)
Private Law, Social Life, chapter 4

19. Requirements of liability in negligence, continued –

- Duty of care and the requirement of foreseeability

Readings: Chapter 19, readings a, b, c, d, e, f, and g

20. Requirements of liability in negligence, continued

- Direct and indirect causation, tobacco litigation and mass torts claims, defences against liability

Readings: Chapter 19, 1, j, k, l; also Chapter 18, reading d

21. Compensation in tort law

- Financial and non-financial damages; no-fault compensation mechanisms as an alternative to tort law damages

Readings: Chapter 20, a, b, c, e, f, and g

22. Fiduciary and trust relationships as a source of obligations in Equity –

- The nature of fiduciary obligations

Readings: Chapter 21, a, b, c, d, e, and g
Private Law, Social Life, chapter 7

23. Vicarious liability and the basis of tort claims against governments and public and private Institutions

Readings: Chapter 22, a, b, c, d, and e; also Chapter 19, readings k and l

24. REVIEW – BRING YOUR QUESTIONS TO CLASS – Monday August 17th