

Course Outline

COURSE: LAWS 2003B

PREREQUISITES: LAWS 1000

TERM: Fall/Winter 2007-2008

CLASS: **Day & Time:** Monday 8:35-11:25
Room: Tory Building Room 240

INSTRUCTOR: Betina F. Kuzmarov

CONTACT: **Office:** D481 Loeb
Office Hrs: Monday 1-3 and Thursday 11-12 or by Appointment
Telephone: (613) 520-2600 ext. 8810
Email: Please use WebCT e-mail for this course

For Students With Disabilities: Students with disabilities needing academic accommodations in this course are required to contact a coordinator at the Paul Menton Centre to complete the necessary letters of accommodation. The student must then make an appointment to discuss their needs with the instructor at least two weeks prior to the first class or ITV test. This is to ensure sufficient time is available to make the necessary accommodation arrangement. Please note the deadline for submitting completed forms to the PMC for formally scheduled exam accommodations is November 9, 2007 for December examinations and March 14, 2008, for April examinations.

For Religious Obligations: Students requesting academic accommodation on the basis of religious obligation should make a formal, written request to their instructors for alternate dates and/or means of satisfying academic requirements. Such requests should be made during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist, but no later than two weeks before the compulsory event. Accommodation is to be worked out directly and on an individual basis between the student and the instructor(s) involved. Instructors will make accommodations in a way that avoids academic disadvantage to the student. Students or instructors who have questions or want to confirm accommodation eligibility of a religious event or practice may refer to the Equity Services website for a list of holy days and Carleton's Academic Accommodation policies, or may contact an Equity Services Advisor in the Equity Services Department for assistance.

For Pregnancy: Pregnant students requiring academic accommodations are encouraged to contact an Equity Advisor in Equity Services to complete a letter of accommodation. The student must then make an appointment to discuss her needs with the instructor at least two weeks prior to the first academic event in which it is anticipated the accommodation will be required.

COURSE DESCRIPTION:

Private law structures individual's daily lives. From buying a bus ticket to family law; from the corner store to large business transactions, private law arises. This course examines these private law relationships in the Canadian context by looking at what private law is; who it applies to; and when, where and how private law is used. This course will cover some of the history and development of private law under the common law. In this course we will focus on the specific private law obligations of property, contract, tort and fiduciary duties. We will link these private law relationships to the role of the State in law and will ask questions about the social implications of the way private law obligations are structured and the way the various private law obligations interconnect. Specific topics to be discussed include: the public/private divide, the idea of individualism, legal personality, the exclusiveness of private law, the idea of ownership, duties to our neighbour and the idea of voluntary obligation.

REQUIRED TEXTS:

There are two required texts for this course. They have been ordered for you to purchase at:

Haven Books:

43 Seneca Street
Ottawa, Ontario K1S 4X2
T: 613-730-9888
info@havenbooks.ca

The required texts are:

Atkinson, L. and Sargent, N. *Private Law, Social Life: An Introduction* (2nd Edition Toronto: Lexis Nexis, 2007) [Private Law, Social Life].

Sargent, N. and Atkinson, L. (eds.), *Just Between the Law and Us: Introductory Readings in Private Law* (North York: Captus Press, 2005) [the casebook].

This is a new edition of Private Law, Social Life which has some changes and updates from the earlier edition so used editions aren't available but I do recommend trying to find a used edition of the casebook if you can. Please be careful and check the edition when buying your texts.

EVALUATION:

The evaluation for the course will be broken down as follows:

Fall Term Assignment	20%
December Exam	30%
Winter Term Assignment	20%
April Exam	30%

Assignments:

The Fall Term Assignment will be handed out in class on October 15, 2007 (and posted on Web CT after that day) and will be due on November 12, 2007. This will be a case comment of 4-6 pages (double spaced). The Winter Term assignment will be handed out in class on January 14, 2008 (and will be posted on WebCT after that day) and will be due on February 25, 2008. This will be an essay question which must be answered in essay format of between 5 and 7 pages (double spaced). More details will follow about the content of the assignment when the assignment sheet is handed out.

Please note that for the assignments, spelling, grammar and proper style must be followed or marks may be deducted. I will explain my expectations for the assignments in class and will include a marking rubric with the assignment sheet. Any late assignments will be penalized at a rate of 3% a day (that means Saturday and Sunday too). All assignments are to be handed in at the Law Department's DROP BOX at C473 Loeb in accordance with DROP BOX policy and will be returned during class or at my office hours. Assignments cannot be submitted electronically or to any other place other than the DROP BOX. Also please keep a copy of all assignments as a backup until your final grade is confirmed.

To create a consistent and fair policy I grant extensions only in the circumstances approved by the Registrar's office, and only for the period up to the due date. If you think you may require an extension please see me BEFORE the assignment is due and I will be able to consider your request. Also, I cannot accept assignments AFTER the assignment has been returned to students (approved extensions aside). If you have not submitted your assignment by the time it is returned in class you will not receive a grade, and this is important because ALL assignments must be completed to receive a passing grade in this course.

All written work must be yours alone, and any ideas you include in your work which are not original to you should be properly referenced. I take this very seriously. I will explain further in class about what plagiarism is and what academic integrity means at Carleton, but as a good first step you should familiarize yourself with the department's policies on proper referencing and citation. For example, the Department of Law has a 'Legal Style Sheet for Term Papers' which can be accessed at http://www2.carleton.ca/law/current/Legal_Style_Sheet.pdf. As well, it is recommended that you familiarize yourself with the university's policies on academic integrity, and see the library's webpage on plagiarism.

Exams:

The exams – both the December exam and the April exam – will be three hours and will have two parts. The first part will consist of sixty multiple choice questions and the second part will consist of a choice of one of three longer answer questions which are to be answered in full sentences and paragraph form and may take the form of an essay question or scenario type problem. Please note that I do not set the exam dates, nor can I change them. Please do not make any travel plans until after the exam schedule is released as I cannot change exam dates or times.

Standing in a course is determined by the course instructor subject to the approval of the Faculty Dean. This means that any grades submitted by me may be subject to revision. No grades are final until they have been approved by the Dean.

COURSE HINTS:

My goal for this course is to provide you with the knowledge, skills (and enthusiasm) to allow you to achieve your best. Here are some tips for how to achieve this...

1. Preparation: Studies show that regular attendance helps students get higher grades. The second key is preparation – doing your readings before class will help you get the most out of the lecture. I also (see WebCT below) post some guided reading questions and my slides the night before each lecture to help you come prepared.
2. WebCT: Please sign up for a WebCT account. I use WebCT regularly. This course outline will be posted on WebCT as will all assignment sheets after they are handed out, so you can always find them there and should look there first if you have any questions. Also, as mentioned I post guided reading questions and lecture slides on WebCT the night before each class. Lastly, the e-mail on WebCT is the e-mail address to use to get in touch with me for this course.
3. Note taking: You'll notice right away the slides I post are a good OUTLINE to what I am saying, but not the whole story, so attending class and writing your own notes is necessary.
4. Questions: If you are unsure please ask. I am here to answer your questions. That's my job. Please don't hesitate to ask if something was unclear or if you have any questions about an assignment. Also, there are many great services available on campus that can also provide you with advice, for example there is the Writing Tutorial Service (229 PA), the Student Academic Success Centre (SASC 302 Tory) and the Learning Commons (4th Floor of the Library).
5. E-mail etiquette: E-mail is a funny thing, it feels like a conversation but it is really a formal way of communicating to your instructor. So please read your e-mail over before sending it and take the time to consider if this is what you would like me to see in writing as e-mail is a formal record of communication.
6. How to address me – I am pretty flexible on this and I don't mind Betina. If you don't like using first names, I am happy to answer to more formal titles in class and in e-mails.
7. Contesting a grade – If you think you have a reason to contest a grade on assignment please follow this procedure: 1. Wait a week and think carefully about the reasons why you want to contest the grade – you have to make a case as to why you feel (based on the comments and marking grid) your grade should be changed. Grades can be changed only for valid reasons. 2. Contact me with your concerns by e-mail (it helps to set them out in writing) and then we can arrange for you to drop off the marked assignment and set up an appointment to discuss your concerns. You should know that I am happy to change grades for valid reasons, but requesting to have your grade reviewed can also mean that your grade can go down, so please keep that in mind.

COURSE SYLLABUS:

FALL TERM

- 10 September WHAT IS PRIVATE LAW? INTRODUCTION
Introduction and Administrative Matters
- 17 September WHAT IS PRIVATE LAW? CONTINUED
What is Private Law?
Readings:
1. Private Law, Social Life Pages 1-12
2. Casebook Pages 1-6; 8-12
* Note: September 21 is the last day for course registration and course changes.
- 24 September WHAT IS PRIVATE LAW? CONTINUED
Legal Individualism
Readings:
1. Private Law, Social Life Pages 12-14; 15-16; 16-18; 21-23
2. Casebook Pages 14-36
- 1 October WHAT IS PRIVATE LAW? CONTINUED
The Public/Private Distinction
Readings:
1. Casebook Pages 42-50
- 8 October NO CLASS
- 15 October WHO MAY ENTER INTO PRIVATE LAW RELATIONSHIPS? INTRODUCTION
Legal Personhood
Readings:
1. Private Law, Social Life Pages 25-33; 34-35
2. Casebook Pages 54-56; 59-79; 85-87
*Note: The Fall Term Assignment is handed out today.
- 22 October WHO MAY ENTER INTO PRIVATE LAW RELATIONSHIPS? CONTINUED
Women
Readings:
1. Private Law, Social Life Pages 35-40
2. Casebook Pages 92-110
- 29 October WHO MAY ENTER INTO PRIVATE LAW RELATIONS? CONTINUED
Partial Personhood
Readings:
1. Private Law, Social Life Pages 40-43; 44-47
2. Casebook Pages 116-123; 130-133; 135-143; 200-205; 216-232
- 5 November WHO MAY ENTER INTO PRIVATE LAW RELATIONSHIPS? CONTINUED
The Family
Readings:
1. Casebook Pages 166-199
* Note: November 9 is the last day to submit to the Paul Menton Centre formal examination accommodation forms for the December examination.
- 12 November WHO MAY ENTER INTO PRIVATE LAW RELATIONSHIPS? CONTINUED
Aboriginal Peoples in Canada
Readings:
1. Casebook Pages 144-150; 152-160
*Note: The Fall Term Assignment is due today
- 19 November WHEN DO PRIVATE LAW RELATIONSHIPS ARISE? INTRODUCTION
Introduction to the types of Private Law Relationships Property

Readings:

1. Private Law, Social Life Pages 102; 103-108; 108-128
2. Casebook Pages 237-245; 249-256; 262-279; 284-293

26 November WHEN DO PRIVATE LAW RELATIONSHIPS ARISE? CONTINUED
Property Rights: Aboriginal Peoples in Canada
1. Casebook Pages 320-336; 337-341; 343-361

3 December REVIEW

WINTER TERM

7 January WHEN DO PRIVATE LAW RELATIONSHIPS ARISE? CONTINUED
Property Rights: the Family and the Changing Ideas of Property
Readings:
1. Casebook Pages 294-319; 337-355; 361-384

14 January WHEN DO PRIVATE LAW RELATIONSHIPS ARISE? CONTINUED
Contract
Readings:
1. Private Law, Social Life Pages 49-62; 70-73
*Note: The Winter Term Assignment will be handed out today.

21 January WHEN DO PRIVATE LAW RELATIONSHIPS ARISE? CONTINUED
Contract: When will judges intervene?
Readings:
1. Private Law, Social Life Pages 62-69
2. Casebook Pages 428-453

28 January WHEN DO PRIVATE LAW RELATIONSHIPS ARISE? CONTINUED
Tort
Readings:
1. Private Law, Social Life Pages 75-92
2. Casebook Pages 470-490

4 February WHEN DO PRIVATE LAW RELATIONSHIPS ARISE? CONTINUED
Duties to Our Neighbours: Negligence
Readings:
1. Private Law, Social Life Pages 92-99
2. Casebook Pages 495-512; 521-537; 454-555

11 February WHERE DO PRIVATE LAW RELATIONSHIPS END? INTRODUCTION
Introduction
Fiduciary Duties: Special Relationships of Trust and Confidence
Readings:
1. Private Law, Social Life Pages 129-145

18 February Winter Break –No Class

25 February WHERE DO PRIVATE LAW RELATIONSHIPS END? CONTINUED
Fiduciary Duties: Case Law
Readings:
1. Casebook Pages 579-620
*Note: The Winter Term Assignment is due today

3 March WHERE DO PRIVATE LAW RELATIONSHIPS END? CONTINUED
Back to the Public/ Private Distinction
Readings:

1. Casebook Pages 621-654

- 10 March HOW ARE PRIVATE LAW RELATIONSHIPS "ENFORCED"? INTRODUCTION
Remedies in Private Law
Readings:
 1. Private Law, Social Life Pages 155-176
* Note: March 14 is the last day to withdraw from Fall/Winter courses and is also the last day to submit to the PMC accommodation forms for the April examination.
- 17 March HOW ARE PRIVATE LAW RELATIONSHIPS "ENFORCED"? CONTINUED
Remedies in Contract Law
Readings:
 1. Casebook Pages 454-469
- 24 March HOW ARE PRIVATE LAW RELATIONSHIPS "ENFORCED"? CONTINUED
Remedies in Tort Law
Readings:
 1. Casebook Pages 556-577
- 30 March REVIEW CLASS