

## Course Outline

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**COURSE:** LAWS 2003 D & V - Private Law Relationships  
**TERM:** FFall/Winter 2008-09  
**PREREQUISITES:** LAWS 1000  
**CLASS:** Day & Time: Friday - 8:35-11:25 am  
Room: C264 LA (Loeb)  
**Broadcast:** Day & Time: Saturday 16:30-19:00  
**INSTRUCTOR:** Professor Neil Sargent  
**CONTACT:** Office: D594 LA (Loeb)  
Telephone: 613-520-2600 x. 8853  
Email: [nsargent@ccs.carleton.ca](mailto:nsargent@ccs.carleton.ca)

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"Students with disabilities requiring academic accommodations in this course must register with the Paul Menton Centre for Students with Disabilities for a formal evaluation of disability-related needs. Registered PMC students are required to contact the centre, 613-520-6608, every term to ensure that I receive 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 accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by November 7, 2008, for December examinations, and March 6, 2009, for April examinations."With regard to accommodations for religious obligations and pregnancy, please see [http://www.carleton.ca/pmc/students/accom\\_policy.html](http://www.carleton.ca/pmc/students/accom_policy.html)

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**COURSE DESCRIPTION**

This course examines some of the ways in which law regulates relationships among legal persons. We will look at the manner in which rights are created and enforced through such mechanisms as property rules, contractual agreement and liability rules. 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. You should learn about how law works, the impact of law and why particular rules exist.

**REQUIRED TEXTS**

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

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

**EVALUATION**

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| <b>Mid Term Examination</b> (December) | 35% |
| <b>Research Essay Assignment</b>       | 30% |
| <b>Final Examination</b> (April)       | 35% |

**ALL COMPONENTS MUST BE COMPLETED IN ORDER TO GET A FINAL GRADE.**

**COURSE OUTLINE**

(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).

**Part I****1. Introduction to the course**

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, especially 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, i; 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. **No new readings**