

Course Outline

**Laws 2003 D (Classroom) & V (Broadcast CUTV)
Private Law Relationships**

Term: Summer 2010

Prerequisites: Laws 1000

Class: Broadcast (Rogers, Channel 243)
Tuesdays 4.30pm – 7.30pm
Sundays 4.30 – 7.30 pm

Also viewable via: [CUTV Webcast](#); [Video-On-Demand \(VOD\) online streaming](#) (fee applies) and at the [CUTV Student Centre](#). See the CUTV website for more information.

WebCT You will need WebCT access for this course as readings, slides, and assignments are available only through this modality.

Instructor: Professor T. Brettel Dawson

Contact: Office: Loeb D497
Email: Please use WebCT email for this course
Office Hours: by appointment

TA: TBA

COURSE DESCRIPTION

This course examines some of the ways in which private law regulates relationships among legal persons. This course has three components: persons, property (1st half) and obligations (2nd half). 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 private law works, the impacts of private law and why particular rules exist.

See detailed overview and topic schedule which follows.

REQUIRED TEXT

Useful to pick up a second hand copy of Neil Sargent and Logan Atkinson, eds., ***Just Between the Law and Us***. Toronto: Captus Press, 2005. We will use about 50 readings from that text. Most readings however, are posted on WebCT.

Recommended and Supplementary Readings

I will also suggest links and further reading from time to time.

EVALUATION

(All evaluation is managed via WebCT electronic submission)

DO NOT LEAVE THINGS UNTIL THE LAST MINUTE! REVIEW TASKS EARLY AND CREATE A SCHEDULE FOR COMPLETION WITHOUT A LAST MINUTE PANIC OR TECHNICAL CRISIS!

1. **Take Home Mid-Term Examination** **40%**
(available June 24th; due last day of the examination period for Early Summer I; likely June 28th)
2. **Take Home Final Examination** **40%**
(available August 19th; due the last day of the examination period for Late Summer II: likely August 24)
3. **Reaction Research Paper** **20%**
(available May 18; due August 3rd)

All components of evaluation must be completed to receive a passing grade in the course.

KEEP a copy of all assignments as a backup until your final grade is confirmed.

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. You should familiarize yourself with the department's policies on proper referencing and citation, such as the Department of Law's 'Legal Style Sheet for Term Papers.' 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.

Notes on Evaluation:

The Take home examinations will include essay topics together with short answers and some multiple choice questions. A "Take Home Examination" is one that you write 'at home' with full access to material from the course. You must complete the examination as you individual work without collaboration with or assistance from anyone else (see regulations on Academic Integrity). You are not required to do additional research but these kinds of examinations are not about 'regurgitation' but about reflection and analysis of course themes and material. You can work on the examination from the time it is assigned until it is due (and you should plan several sessions of work on the examination).

'Reaction Research Paper': I will provide you with a contemporary example of a situation/debate to which course topics and readings are of direct relevance. You will need to analyse the situation given, identifying issues and working through relevant law and theory (you can use course material and additional research and you will be expected to find additional sources) before reaching a well reasoned and research supported conclusion about how to understand and respond to the situation (eg. what is the right outcome or next step and why). You will be given 8-10 pages to write your paper. You will be expected to use correct citation.

WebCT

You will need to sign up for a WebCT account (for information see links on www.carleton.ca) to access evaluation material and readings; announcements and updates on the course schedule.

SYLLABUS AND DETAILED OVERVIEW

Summer I (Early Summer):

In the first semester, we examine the concept of the 'legal person' and how it interacts with legal concepts of property law (primarily private property). We will look at the historical processes by which legal status was extended to the corporation and women. We will look at the legal status of the (dead) body and how private law can extend control of property after death. We will examine the concept of 'capacity' as it relates to those with 'restricted' legal powers – focussing on medical treatment of children or women with developmental disabilities. Our study will cumulate in a re-examination of private law regulation of the environment: should the legal personhood be extended to the environment and eco-systems? Should we include in concepts of private property concepts of 'stewardship' of land? Ideas of possessive individualism (based in social contractarian philosophies) will be critically examined.

Learning Objectives (Summer I)

By the end of the first semester, you should be able to:

1. Define the concept of 'the legal person'; relate it to philosophical concepts of 'possessive individualism' and Identify instances where this status has been extended to non-human entities and withheld from human beings.
2. Outline the primary justifications for private property and state critiques of private property including the debate over 'The Tragedy of the Commons'.
3. Differentiate 'Common law' and 'Equity' and define the concept of trusts and constructive trusts in property (with a focus on spousal property relations).
4. State why the body or body parts traditionally could not be owned as property and identify current changes in the intersections between 'the body' and property and 'the body' and legal personhood.
5. Provide an account of the contemporary movement to extend legal personhood to the environment and critically analysis the potential and perils of this movement.

Class	Topic Schedule -- Summer I (Early Summer)
1	Introduction Case Study of Black African Slavery
2	Of Property
3	Of Persons
4	Corporations as Legal Persons
5	Women/Females as Legal Persons
6	Persons and Property: Spousal Property and the Constructive Trust
7	Persons and Property: The Body
8	Capacity: Children and Developmentally Disabled Women: Consent and Medical Treatment
9	Persons and Property: The Pregnant Body
10	The Environment I
11	The Environment II
12	The Environment III and Review

Summer II (Late Summer):

In the second semester, we will examine the field of 'private law obligations'. We will examine aspects of the tort law, contract law, unjust enrichment or restitution, and fiduciary obligations. We will also probe the 'interstices' by touching on some areas which defy neat categorization to identify the interplay of concepts such as reliance, expectation, trust, conscience, and policy. We will identify the basis (rationale and principles) for obligations and consider how private law structures, facilitates and protects interactions between 'persons and property'. In general terms, we will start from the idea of 'individual intactness' (and duties not to violate another's person or property) protected by tort law, and move to exchange and the concept of making self-interested bargains in contract law before looking at how the law corrects injustices arising from a person retaining a benefit or profit which they ought not to have received. We will round out the course by examining how law also fosters 'social intactness' and interdependent social and professional relationships through the concept of fiduciary obligations.

Learning Objectives (Summer II)

Given that the area known as 'private law obligations' is vast and dynamic, we cannot cover it all and we cannot go into great depth in those areas which are included. With this in mind, the following are general 'learning objectives' shaping the course in the second semester.

By the end of the second semester you should be able to:

6. Outline the kinds of private law obligations (range) and their underlying concepts (rationales) and different focal points. You should be able to outline (and critique) a general taxonomy of private law obligations.
7. Identify the 'interests' that private law seeks to protect through recognizing obligation and providing remedies.
8. Describe and analyse many of the 'core cases' and principles in each area of private law obligation indicating a clear grasp the essence of each 'ground'.
9. Connect private law to social and economic contexts in which it develops and operates. In particular, you should be able to identify instances where race and gender have played a role how legal obligations have developed.
10. Link themes (individual, market, public-private, persons and property) to private law obligations.

Class	Topic Schedule -- Summer II (Late Summer)
1	Introduction to Private Law of Obligations Taxonomy in Private law Slavery Revisited Duelling Opera Houses
2	Torts I: Negligence Standard of Care; Case Study on Reasonableness Duty of Care
3	Torts II: Case Study Drinking and Driving -- Social Host Liability Purposes (Functions) of Tort Law Case Study: Damages, Race and Gender
4	Torts III Case Study: Police Investigations and Tort Liabilities
5	Contracts I Elements of Contract; Norms
6	Contracts II Commercial Practice and Contract Law
7	Contracts III Conscience and Context in Contract Law
8	Reliance -- An "Interstice" Estoppel
9	Unjust Enrichment
10	Fiduciary Obligation
11	Profits from Wrongs
12	Review

Important Note:

The Department of Law has recently approved the division of this course into two half-year courses commencing in Fall 2010. As part of this transition, the instructor began a major rethinking of the material this year. This made the course simultaneously very engaging and current *and* very onerous in the level of readings and topics covered. So, this course will demand a lot of you (and I hope reward your study). I have done several things to ease the load:

- Readings are available on WebCT in required readings folders to make them easier for you to access.
- I have structured the evaluation to lessen the load (through take home examinations where you have full access to slides and readings and do not have to memorize things).
- I also advise you to scan through the readings ahead of each lecture but defer detailed reading until after you have viewed a lecture so you can focus on the key points in readings. Be strategic in your reading – identify key material from class lectures and class slides.

I also advise you to KEEP UP with the classes and don't leave viewing the lectures to the last minute – there is just too much there for you to learn and assimilate

NOTES ON ACCOMMODATION:

For Students With Disabilities: Students with disabilities needing academic accommodations in this course must contact a co-ordinator at the Paul Menton Centre for Students with Disabilities to complete the necessary *letters of accommodation*. After registering with the PMC, make an appointment to meet and discuss your needs with me in order to make the necessary arrangements as early in the term as possible, but no later than two weeks before the first assignment is due or the first test requiring accommodation. Please note the deadline for submitting completed forms to the PMC for formally scheduled exam accommodations is November 16, 2009 (for fall and fall/winter term courses) and March 12, 2010, for winter term courses.

For Religious Obligations: Students requesting academic accommodation on the basis of religious obligations 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 academic 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.
