

**Carleton University  
Department of Law**

**Laws 2202A & V OBLIGATIONS**

**COURSE OUTLINE**

**Term:** Winter 2012

**Instructor:** Professor T. Brettel Dawson

**Prerequisites:** Laws 1000

**LECTURE:** **A: Wednesday**, 8.35am-11.25am;  
Location: Check Carleton Central for current information.

**V:** Broadcast (Rogers, Channel 243)  
Wednesdays: 1.00pm—4.00pm

Note: Lectures are 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** **WEBCT** is essential for this course. Class slides mail to Professor, lectures slides, and assignments are available only through this modality.

**TAs** We have two excellent and experienced TAs in this class: Eric Vallillee and Ilya Medovikov.

**Contacts:** Professor **Office:** Loeb D497  
**Email:** Please email Professor Dawson only through WebCT Laws 2202 WebCT.  
**Office Hours:** Wednesdays between 11.30am – 12.30pm and by appointment.

Note: Email is always the best way to be in touch with the Professor initially.

TAs: **Email:** through WebCT.

Note: After marks are posted: Please wait 48 hours before emailing your TA. Please think through your query and be specific in your email about points for review. .

**TA Groups:** You will be assigned to a “virtual tutorial group” early in the semester. This will show up as a Discussion Group on the course WebCT site. There are no actual tutorials but this ‘group’ acts as your WebCT Home Group. Your work will be marked by the same TA over the semester. Your TA is your first point of contact for questions about the course and assignments.

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"Students with disabilities requiring academic accommodations in this course must contact a coordinator 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 accommodations. For further information, please see: [http://www.carleton.ca/pmc/students/accom\\_policy.html](http://www.carleton.ca/pmc/students/accom_policy.html) . If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by **posted dates**. Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: [www.carleton.ca/equity](http://www.carleton.ca/equity).

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## **COURSE DESCRIPTION**

This course examines the concepts employed by the law for creating and enforcing legal obligations between persons within society, including contract, tort, unjust enrichment and fiduciary obligation. Consideration is given to the role of persons and the role of the state in ordering private legal obligations.

These subjects can (and do) form the basis for entire courses, suggesting that our treatment of them this course is selective and driven by a particular and limited focus. As we discuss the law of torts, we focus on negligence causing personal injury rather than the many other dimensions of tort liability. Our focus is on how tort law protects bodily integrity and navigates policy questions between individual autonomy and social responsibility. Is tort law a sentinel of safety? Within the consideration of contract law, material is focused on doctrines of formation, terms, and consideration and how they have changed in response to changes in how markets function, the changing regulatory involvement of the state, and shifts in the role of the judiciary. The broadest contours of unjust enrichment (restitution) are addressed comparing the approach of the courts to defective transactions in the market on the one hand to resolving property disputes in the family in the absence of a formal legislative framework (such as that provided by marriage). A similar broad brush approach is taken to the law of fiduciary obligation, locating it within the thesis that the private law of obligations is concerned not only with markets but also with ensuring that we can rely on one another.

## **Learning Objectives**

By the end of this course you should be able to:

- differentiate between the different kinds (or branches) of obligations in private law;
- identify the essential principles of obligation in each branch as derived from leading cases;
- explain how private law principles reflect social and economic objectives;
- link policy considerations and normative vision of judges to legal outcomes;
- contrast the approaches of the common law and equity particularly in relation to defective transactions and broken relationships; and
- reconcile residual principles in private law (such as reliance, confidentiality and conscience) to the dominant principles of inviolability, and exchange in the market.

I will expect you to be able to give an accurate account of cases, be able compare and contrast cases at the level of sometimes competing principles, accurately outline arguments made in scholarly literature and use theory to generate and explore alternate perspectives on possible legal outcomes.

## REQUIRED READING

T. Brettel Dawson, *Obligations in Private Law* (Concord: North York, 2011). This text will be available (only) in the University Bookstore.

Notes:

- The required text may be slightly late arriving in the Bookstore as it is 'hot off the presses' as a brand new text.
- Do NOT purchase Sargent and Atkinson, *Just Between the Law and Us* in any iteration (this text was recently divided into two volumes). Laws 2202A/V uses quite different material.

## SCHEDULE AND READINGS

Subject to adjustment as the term unfolds. As needed, I will post an update on WebCT.

Class	Date	Topic	Readings
1	Jan 4	Introduction	Chapter 1
2	Jan 11	Torts 1: The Glorious Principle	Chapter 2
3	Jan 18	Torts 2: Contours of Negligence Obligation	Chapter 3
4	Jan 25	Torts 3: Case Studies	Chapter 4
5	Feb 1	Contracts 1: Exchange and the Market	Chapter 5
6	Feb 8	Contracts 2: Formation and Terms	Chapter 6
7	Feb 15	Contracts 3: Consideration	Chapter 7
RW	--	Reading Week: No Class	--
8	Feb 29	Unjust Enrichment 1: Defective Transactions	Chapter 8
9	Mar 7	Unjust Enrichment 2: Broken Relationships	Chapter 9
10	Mar 14	Reliance Note: Class pre-recorded; played in class	Chapter 10
11	Mar 21	Fiduciary Obligations	Chapter 11
12	Mar 28	Inequality of Bargaining Power	Chapter 12
TH	April 24	Take Home Final Due (tbc)	

## EVALUATION

There are three assignments in the class. Students must complete each component of evaluation to receive a passing grade in the class.

**Value and Due Dates** (by 4.00 pm on due date)

(All assignments are submitted online through WebCT Assignments Tab)

- Assignment 1 (Torts): Due February 3, 2012. Value 25%
- Assignment 2 (Contracts and Unjust Enrichment). Due: March 02, 2012. Value 50%
- Assignment 3: (Conscience in Private Law): Due last day of examination period. Value 25%
  - Note: TAKE HOME EXAMINATION (Torts): Assigned last day of classes; due: last day of the examination period. Grade returned with FGR by May 02).

- Details:
  - You will have about 10 days to complete the assignments (longer for the final, Take Home).
  - Assignment 1 and 2 will contain short answer questions (testing your understanding of course concepts); and case study analysis (essay style question(s) focused on key cases and readings in the area covered by the assignment. You will be required to identify and discuss at least two scholarly sources related to the case study analysis (additional to course materials) to demonstrate your ability to identify and synthesize perspectives on issues in the case study. Correct citation will be required for research sources.
  - Assignment 3 may vary this format by using a problem scenario in addition to or in place of the case study analysis. You will not be required to do additional research.
  - You will need to begin to work on the assignments well ahead of the due date to ensure you review material fully and conduct a meaningful research process. Do not start the day before and expect to be able to do well. They are not 'tests'! They require reasoned analysis of material and carefully constructed answers.

### Online Modality

Assignments are handled electronically rather than in hard copy. Assignments will be posted on WebCT. Your answers **MUST** be submitted via WebCT (also using the Assignments tab). You attach a file to your submission containing your answers. You can submit **ONLY ONCE** (that is, you can't take back and edit later). You **MUST** remember to hit submit after you upload or your paper will not be received in the system.

### On Time Expectation and (Draconian) Late Penalties

I am draconian and impose heavy penalties for work which is submitted late and without an extension.

I have every commitment to your success in the course and I know that 'life' can intervene. I also realise that 'student last minute deadline driven' mode is a common path. However, late assignments create a significant administrative burden across the surprisingly large team of people who work with me on the course. There is also a significantly higher risk of assignments going astray. Accordingly, I expect and require you to get your assignments in ON TIME. To be sensible about this, there is a very modest grace period for unforeseen, very short term situations so you don't have to sweat a few minutes.

Late Assignments 1 and 2 will be penalized as follows:

- You will lose 5% marks on the assignment if you hand the paper in on the due date after the deadline of 4.00pm but before midnight.
- You will lose a further 5% if you hand it in any time 'next day' (up to 11.59pm);
- You will lose a further 10% for every following day late (anytime up to turn of midnight) including weekend days.
  - In other words, if a paper is due at 4.00pm on Friday and you get it in on Sunday evening, you will have lost 20% - **so don't be late!!!**.
- If you hand in your assignment more than seven days late, your work will be accepted towards course completion but will receive zero marks.

Assignment 3 (Take Home): There are NO extensions. You must seek a formal deferral from the Office of the Registrar. You will receive **zero** if you hand-in the Take Home Examination after the due time and date without a deferral.

### **Extensions (Assignments 1 and 2 only)**

You can request an extension for serious illness or family and personal emergencies with supporting documentation.

You cannot receive extensions for computer problems. I URGE you to back up your work as you go along: email a draft to yourself whenever you finish a chunk of work on it or copy it to a USB thumb-drive or an external hard drive.

A cold or the flu is not enough for an extension. Work/family schedule conflicts are not a reason for an extension.

### **Additional Information for Assignment 3: Take Home Examination**

- You have until the end of the examination period (to be announced) to complete and submit your examination.
- You are not required to do additional research for the Take Home Examination.
- If you are unable to complete the final examination, you **must** request a formal deferral from the Registrar's Office. There are NO extensions for Take Home Examinations apart from very short term, same day grace period (1-2 hours max) which I must approve by email on or before the final day for submission.
- Take Home Examinations submitted after the due date will **not** be accepted for marking.
- Unlike a scheduled examination with a set number of hours and a requirement to 'show up' at a designed location, you write a "Take Home Examination" at your own pace and space. You have full access to course material. You are not required to do additional research. These kinds of examinations are not about 'regurgitation' but about reflection and analysis of course themes and material.

### **Evaluation: The "Rules" (and a bit of advice)**

- All components of evaluation must be completed to receive a passing grade in the course.
- All work must be completed individually and must be fully original. Draft (or final) work may not be shared with others in the class.
- You must follow the University's policies on academic integrity available at <http://www2.carleton.ca/studentaffairs/academic-integrity/>. It is an instructional offence to commit plagiarism which is defined as "presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own." Direct quotations must be indicated using quotation marks and footnoted. Anything over 50 words should be indented and single-spaced. Paraphrased material and ideas should be footnoted to source. **I rigorously pursue suspicion of plagiarism and, without exception, refer to the Office of the Dean.**
- Students should note that a "student shall not submit substantially the same piece of work for academic credit more than once without prior written permission of the course instructor in which the submission occurs. Minor modifications and amendments such as phraseology in an essay or paper do not constitute a significant and acceptable reworking of an assignment. If 'off topic' or unexpected work is submitted, I reserve the right to consult with other instructors to confirm that you are not 're-using and re-cycling' assignments, which is

strictly prohibited.

- Note: Electronic submission makes it relatively easier for us to compare your work with other submissions. I advise you in the strongest possible terms not to share your electronic files with other students as they may copy your work and you will be equally subject to academic investigation.
- I reserve the right to compare all files with other submissions in this course and other offerings of the course. Further if 'off topic' work is submitted, I reserve the right to consult with your other instructors to confirm that you are not 're-using and re-cycling' which is strictly prohibited.

## **Appendix:**

### **Taking Notes from Slides and Lectures**

#### **Compiled Discussion Group Thread Laws 2202 Winter 2011**

After a very positive discussion with some students about how they are taking notes in class, I opened up a discussion group for people to share their approaches to taking notes. The following are postings to that discussion group.

#### **Subject: Thanks for all the ideas!**

I've been reading through the suggestions and I am impressed and amazed with all of your approaches. It seems that there are many ways to be an effective note-taker and the thing is to find what works best for you. Lots of solid, creative, technical and non-technical ideas have been posted that you might like to try out to help you find your 'ideal method'. Happy explorations!  
Professor Brettel Dawson

#### **Subject: Using your Laptop**

I find that no other method of note taking truly beats a laptop.

The reason for this is mainly due to the speed at which one may be able to record information and as well, erase any mistakes.

It is however a grey area in my mind. One may find that having access to the internet while in class may be very distracting. The introduction of websites such as Facebook and YouTube within our society has taken quite a toll on the way we now interact with computers. All too many times while sitting in class do I see others watching the highlights of last night's Senators game or flicking through pictures from Saturday night's party. I personally am no angel. I have caught myself doing the exact same things. I quickly realized how important it truly is to simply just pay attention, whether you will be taking notes or not.

Now, I find that turning my internet off helps. I simply just don't use it while in class. As well, I like to turn my phone completely off until class is finished.

As for taking notes, it is very important to develop a familiar and regular system. I personally have created a template for note taking. On my computer I have a template file which I modify for each class. This file includes a title, date and section where I very briefly include four to five of my thoughts on that week's readings. This way, I am able to keep myself organized and on the ball when in class. Having a pre-built template for note taking also helps one never miss a beat as I found that trying to structure my notes in class wasted quite a bit of time where I could have been listening to my professor.

The second half of this word document includes a section where I am able to record what my professor has been talking about. Of course, this is the most important part of taking notes in class. It is always good to really pay attention and identify the message your professor is trying



to convey. It is not always necessary to write their words down exactly as they are spoken. I find that is in fact easier and more helpful in memorizing what they may have said by putting it in my own words. However you record notes, I cannot stress how key it is to develop a comfortable writing style. Ultimately it is you that will be using these notes to study from.

Lastly, I always enjoy reflecting on my notes. I like to add my own comments to my notes when lecture is all said and done with. This helps with assignments as it is similar to developing a thesis on what is discussed in lecture.

Hope this helped somebody, as this surely does help me!

**Subject:** *Re: Using your Laptop*

I also tried using a lap top in 2nd year- but I was brainlessly typing notes and didn't have to think about what the prof was saying while typing.

Now, in my 4th and final year, I stick by hand writing. I'll listen to what the Prof is saying and then summarize it in to words that I understand while they mention something off topic or a side note. When I walk away from lectures I have really fully taken in the material.

In order to keep my notes organized - and so I never have to worry about losing my notes- I spend about an hour a week typing up all my notes for all my classes. Gives me a second time to re-read all that I learned that week and ensures I have a hard copy and electronic copy. The extra few minutes is really worth the outcome.

**Subject:** Pen and Paper

I like to just use the traditional pen and paper methods for taking notes.

By the time I enter the class I will have done the readings for the week, and will have taken some "pointers" down pertaining to the notable or important sections of the text. I write for the entire lecture, as it keeps me focused on what is being said. Most of my lecture notes are jibberish. Some portions are not, containing important corrections to the notes about the readings or other misunderstandings that need correction.

After class I try and create the final set of notes for that lecture, combining the rough sets from before and during the lecture. I also continue to highlight and read through these notes to make sure that there is no "gray-area" of understanding.

I tried using a laptop during first year, and found that 90% of the time I was on facebook. I also found during the 10% of the time I was actually taking notes or looking at the slides, other people looking at facebook or playing solitaire was rather distracting. Eventually it just made sense to "ditch the laptop" and do what keeps me focused on the lectures.

On a final note, I have a few friends that do notes for the Paul Menton Centre would swear by laptops and electronic note taking. One of them uses an iPad. I find this is more of a subjective area: try a couple of different things and find the way that keeps your notes organized for you.



**Subject:** Taking notes using Power Point

I find the most effective way of taking notes in this case is by using powerpoint.

Before class download the slides for that day.

During class use the notes tab below the slide to write in additional notes. At the end of class simply save the file to save your changes.

When you want to print off your notes open the file, then click the Microsoft button (which is above the home button) and scroll over the publish tab and select " create handouts in Microsoft word", then simply select which way you would like to print it.

**Subject:** Re:Taking notes using Power Point

You can also use the "Publish" button to take all of the text off of the slides and put it into a word document ---which really helps to cut down on page count and printing costs. I find it helpful to have both printed copies and electronic copies of notes; it saves a lot of time because you can use the 'find' button and search for something specific in your notes rather than flipping through them by hand!!

**Subject:** Re:Taking notes using Power Point

I personally find it best to have printed off the slides ahead of time. Then during the class I find it quickest to type up my notes in a Microsoft Word document. I have my slides with me to follow along and then add little notes here and there on the slides where directly needed. I just find the professor tends to speak too quickly in order to hand-write the notes and to be flicking through the online powerpoint and adding notes to each slide. Everyone does things differently though.