

**Carleton University
Department of Law**

Laws 2202C & D: OBLIGATIONS

COURSE OUTLINE

Term:	Winter 2012	
Instructor:	Jennifer Barrigar	
Prerequisites:	Laws 1000	
LECTURE:	C: Monday: 8.35am-11.25am; Location: Please check Carleton Central for room location D: Tuesday: 8:35am–11:25am Location: Please check Carleton Central for room location	
WebCT	WEBCT is <u>essential</u> for this course..	
TAs	TBA	
Contacts:	Professor	Office: Loeb B442 Office Hours: Tuesdays 11.30am-1.30pm or by app't.
	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.	

"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://www2.carleton.ca/pmc/students/accommodations> . If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by 7 March 2012 for April exams. For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: www.carleton.ca/equity

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 9/10	Introduction	Chapter 1
2	Jan 16/17	Torts 1: The Glorious Principle	Chapter 2
3	Jan 23/24	Torts 2: Contours of Negligence Obligation	Chapter 3
4	Jan 30/31	Torts 3: Case Studies	Chapter 4
5	Feb 6/7	Contracts 1: Exchange and the Market	Chapter 5
6	Feb 13/14	Contracts 2: Formation and Terms	Chapter 6
RW	--	Reading Week: No Class	--
7	Feb 27/28	Contracts 3: Consideration	Chapter 7
8	Mar 5/6	Unjust Enrichment 1: Defective Transactions	Chapter 8
9	Mar 12/13	Unjust Enrichment 2: Broken Relationships	Chapter 9
10	Mar 19/20	Reliance Note: Class pre-recorded; played in class	Chapter 10
11	Mar 26/27	Fiduciary Obligations	Chapter 11
12	April 2/3	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 5.00 pm on due date)

(All assignments are submitted online through WebCT Assignments Tab)

- Assignment 1 (Torts): Due February 10, 2012. Value 25%
- Assignment 2 (Contracts and Unjust Enrichment). Due: March 09, 2012. Value 50%
- Assignment 3: (Conscience in Private Law): Due last day of exam 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 for all the 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 5:00pm 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 5:00pm 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 designated 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.