

**Course Outline**

<b>COURSE:</b>	<b>LAWS 2502E</b>
<b>TERM:</b>	<b>Fall 2012</b>
<b>PREREQUISITES:</b>	<b>1.0 credit from LAWS 1000 [1.0], PAMP 1000 [1.0], PSCI 1000, PSCI 1001 [1.0], PSCI 1002.</b>
<b>CLASS:</b>	<b>Day &amp; Time: Tuesday – 6:05 pm to 8:55 pm</b> <b>Room: Please check with Carleton Central for current room location.</b>
<b>INSTRUCTOR:</b>	<b>Anna Keller</b>
<b>CONTACT:</b>	<b>Office: B442 LA</b> <b>Office Hrs: By Appointment Only</b> <b>Email: <a href="mailto:Anna_Keller@carleton.ca">Anna_Keller@carleton.ca</a></b>

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The Paul Menton Centre for Students with Disabilities (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact PMC at **613-520-6608** or [pmc@carleton.ca](mailto:pmc@carleton.ca) for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your Letter of Accommodation at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (if applicable). After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website for the deadline to request accommodations for the formally-scheduled exam (if applicable). For 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**

The Constitution may be the “supreme law of the land” but this does not mean it is without controversy. The courts are continually interpreting and applying new meanings to the constitution as society evolves. The *Charter of Rights and Freedoms* is part of the Constitution and while being a relatively new addition, has changed the legal landscape in Canada.

This course will introduce students to the Constitution, specifically the *Charter*, and examine the relationship between the Citizen and the State, including how this relationship has changed since the introduction of the *Charter*. Case studies will provide recent examples of citizens challenging the state to enforce their rights.

Challenging government power and decisions is an important part of any democracy and this course will also introduce the concept of Judicial Review and outline how a person can challenge a decision made by a government official.

**CLASS FORMAT**

Classes will consist mainly of lectures, although given the contentious nature of the material, questions and class discussion are welcome and encouraged. Students are expected to attend class regularly and to answer questions. Students must read the materials assigned before the relevant class. Certain classes may include guest speakers

## **REQUIRED TEXTS**

D.W. Elliott - Introduction to Public Law: Readings on the State, the Administrative Process and Basic Values, 6th ed. Captus Press, 2007 - ISBN 978-1-55322-152-4

Additional readings as assigned by the Instructor or posted on WebCT.

## **SUPPLEMENTARY TEXTS**

D.W. Elliott - Judicial Control of Administrative Action, 5<sup>th</sup> ed. Captus Press, 2011 - ISBN 978-1-55322-231-6

Colleen M. Flood and Lorne Sossin, eds, *Administrative Law in Context*, (Toronto: Emond Montgomery Publications Limited, 2008) at Chapter Three - Dogs and Tails: Remedies in Administrative Law

## **EVALUATION (All components must be completed in order to receive a passing grade)**

### **10% - Attendance**

It is the student's responsibility to personally sign class attendance sheets, and to be present throughout the entire class – both before and after the mid-class break.

### **40% - Written Assignment – due at beginning of class on October 30, 2012.**

The *Charter of Rights and Freedoms* grants many rights to Canadians. However, state actors have and do infringe on these rights, forcing individuals to assert and fight for their *Charter* rights in court.

Find one news article published in either 2011 or 2012 (ie. An article that has been published in a newspaper, news magazine, or a reputable online news website) where a Canadian individual or group believes their *Charter* rights have been infringed. Identify the *Charter* right being asserted and discuss what legal challenges the person faces in having their right recognized by a Canadian court.

Note: the person or group who is the subject of the article must NOT have already received a decision on the issue by a court.

**The assignment should reflect original analysis and thought.** Important qualities that should be considered include: good organization and use of sources, comprehensive, up-to-date treatment of the subject matter, originality (i.e., no quoting or paraphrasing of secondary sources without explicit acknowledgment), accuracy (in grammar, spelling, and law), conciseness, reasoned analysis (discussion of pros and cons, comparisons, assessments, concrete examples, logical arguments, etc., rather than pure description or pure subjective opinion), and clarity, gender-appropriate language (e.g., avoiding use of male gender where both genders are relevant).

**At least one (1) and no more than two (2) secondary sources** must be consulted. Neither of these secondary sources may be the course materials or lectures, including the required and recommended texts by David W. Elliott. Secondary sources should be cited according to the Department of Law's Legal Style Sheet - [http://www1.carleton.ca/law/ccms/wp-content/ccms-files/legal\\_style\\_sheet.pdf](http://www1.carleton.ca/law/ccms/wp-content/ccms-files/legal_style_sheet.pdf)

Each assignment must be no longer than three (3) pages in length, double-spaced, typed in 12-point Times New Roman font, with one (1) inch margins. Assignments that do not meet these guidelines will not be marked. Marks will be deducted for spelling and grammar errors. A copy of the news article must be included with the submitted assignment.

**Late assignments:** Assignments not submitted on the assigned due date will be assigned a 5% per day penalty for no more than seven (7) calendar days. Assignments will no longer be accepted after seven (7) calendar days.

*Please Note: For the purposes of this assignment, the news article chosen can not be about: Stacy Bonds, Emil Cohen, G20 protests or arrests, Occupy “Wall Street” or another city, Polygamy in British Columbia, Student housing or Airport Security, as these will be discussed in Case Studies.*

## **50% - Final Examination**

December 2012

3 hours

Multiple-choice and short answer question(s)

**To be eligible for a passing grade, students must complete all components of the evaluation scheme.**

Final examination deferrals are possible only as indicated in the Calendar and where no more than three classes have been missed in the course as a whole.

## **SCHEDULE**

Please note: Guest speakers may attend certain lectures and as such the schedule may change to accommodate these speakers.

- 1. September 11 – Introduction to the Course and Logistics**
- 2. September 18 – The State and the Citizen**
  - a. Chapter 1 – Law, State, and Social Goals and Techniques
  - b. *Roncarelli v. Duplessis*, [1959] S.C.R. 121 - <http://scc.lexum.umontreal.ca/en/1959/1959scr0-121/1959scr0-121.html>
- 3. September 25 – What is public law and why do we need it?**
  - a. Chapter 2 – Administrative Law Structure and Action
- 4. October 2 – *Charter of Rights and Freedoms***
  - a. Chapter 7 – Basic Values and Their Protection
  - b. Chapter 8 – Scope and Interpretation of the *Charter*
  - c. Stacy Bonds Case Study – Introduction
  - d. The *Charter of Rights and Freedoms* - <http://laws.justice.gc.ca/en/charter/1.html>
- 5. October 9 – What can the *Charter* do for me?**
  - a. Chapter 7 – Basic Values and Their Protection
  - b. Chapter 8 – Scope and Interpretation of the *Charter*
  - c. Stacy Bonds Case Study
- 6. October 16 – The *Charter* and Fundamental Freedoms**
  - a. Chapter 9 – Fundamental Freedoms and Fundamental Justice
  - b. Freedom of Religion: Polygamy Case Study
  - c. Freedom of Speech: Emil Cohen Case Study
- 7. October 23 – The *Charter* and Equality**
  - a. Chapter 10 – Equality
  - b. Age Discrimination: Student Housing Case Study
- 8. October 30 - Assignments due in class**
- 9. October 30 – Keeping Government and the Judiciary Accountable**
  - a. Chapter 3 – Non-Judicial and Judicial Control
  - b. Creating the *Accountability Act*

**10. November 6 – Judicial Review: Procedural Review**

- a. Chapter 4 – Judicial Review and Procedural Control
- b. “Judicial Control of Administrative Action” – Chapters 3 & 4
- c. *Dunsmuir v. New Brunswick*, [2008] 1 S.C.R. 190, 2008 SCC 9  
<http://scc.lexum.umontreal.ca/en/2008/2008scc9/2008scc9.html>

**11. November 13 – Judicial Review: Substantive Review**

- a. Chapter 5 – Substantive Review
- b. Chapter 6 – Theory, Problems and Reform
- c. “Judicial Control of Administrative Action” – Chapters 6 & 7

**12. November 20 – The Bitterness of Victory: Damages and their Limitations**

- a. Colleen M. Flood and Lorne Sossin, eds, *Administrative Law in Context*, (Toronto: Emond Montgomery Publications Limited, 2008) at Chapter Three - Dogs and Tails: Remedies in Administrative Law. – *On Reserve in Library*

**13. November 27 – Exam Review**