

Course Outline

COURSE:	LAWS 2502D
TERM:	Winter 2011-2012
PREREQUISITES:	1.0 credit from LAWS 1000 [1.0], PAPM 1000 [1.0], PSCI 1000, PSCI 1001 [1.0], PSCI 1002.
CLASS:	Day & Time: Tuesday – 6:05 pm to 8:55 pm Room: Please check with Carleton Central for current room location
INSTRUCTOR:	Anna Piekarski
CONTACT:	Office: B442 LA Office Hrs: By Appointment Only Email: anna_piekarski@carleton.ca

"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 . If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by **March 7, 2012 for Winter Exams**. For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: 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 - 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, 5th ed. Captus Press, 2011 - ISBN 978-1-55322-231-6

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 March 6, 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

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

April 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. January 10 – Introduction to the Course and Logistics**
- 2. January 17 – 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. January 24 – What is public law and why do we need it?**
 - a. Chapter 2 – Administrative Law Structure and Action
- 4. January 31 – *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. February 7 – 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. February 14 – 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. February 21 – Winter Break**
- 8. February 28 – The *Charter* and Equality**
 - a. Chapter 10 – Equality
 - b. Age Discrimination: Student Housing Case Study
- 9. March 6 – Assignments due in class**
- 10. March 6 – Keeping Government and the Judiciary Accountable**
 - a. Chapter 3 – Non-Judicial and Judicial Control
 - b. Creating the *Accountability Act*

11. March 13 – 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>

12. March 20 – 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

13. March 27 – 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*

14. April 3 – Exam Review