

Course Outline

COURSE:	LAWS 3206A
TERM:	FALL 2013
PREREQUISITES:	Per Calendar
CLASS:	Day & Time: Thursdays 6:05 PM to 8:55 PM Room: Please check with Carleton Central for current room location
INSTRUCTOR: (CONTRACT)	Sam Schwisberg
CONTACT:	Office: 170 Metcalfe Street, Ottawa, Ontario Office Hrs: By appointment and after class Telephone: 613 740 1965 Email: samuel.schwisberg@redcross.ca

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:

Pregnancy obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://www2.carleton.ca/equity/>

Religious obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://www2.carleton.ca/equity/>

Academic Accommodations for Students with Disabilities: 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 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*) at <http://www2.carleton.ca/pmc/new-and-current-students/dates-and-deadlines/>

You can visit the Equity Services website to view the policies and to obtain more detailed information on academic accommodation at <http://www2.carleton.ca/equity/>

COURSE DESCRIPTION

The laws of Canada relating to banking will be explored within the context of the international and domestic financial systems. Students will be exposed to the constitutional and regulatory framework, and will then consider the U.S. subprime mortgage/credit crisis. We will discuss whether the Canadian regulatory framework insulated Canada from a similar event. We will consider how the regulation and economics of banking interact with international trade, sovereign debt (looking at current EU and American government debt issues) and the economic health of a country. This will be followed by a more detailed examination of the key relationships among banks, account holders and borrowers. The rights and obligations of customers will be examined. Elements of creditor/debtor law will also be considered. The legal implications of e-commerce and e-banking will be discussed.

Lecture format: The lectures will generally entail explanation of or elaboration upon the course materials by the Instructor. Each lecture will cover previously assigned readings, and assist students to focus upon the key issues to consider in the readings assigned for the following week. The Instructor will encourage interchange with students and active discussion among students of the concepts covered during the lecture. Attendance at lectures will facilitate examination preparation and study because examinations will be based primarily on course content covered in class.

Objective: The student will gain a good understanding of the key legal issues in banking law particularly as they relate to customers as well as some grounding of the interplay between bank regulation and economics.

REQUIRED TEXTS

M.H. Ogilvie, Banking Law: Cases and Materials, 4th edition, (Toronto: Captus Press, 2008) ("The **Casebook**").

M.H Ogilvie, Bank and Customer Law in Canada, (Toronto, Irwin Law Inc., 2007) ("The **Text**").

Occasional Handout

Allan M. Taylor, "The Financial Rebalancing Act", Foreign Affairs, pages 91 to 99, July/August 2011 (handout)

Marc Levinson. "Faulty Basel", Foreign Affairs, pages 76 to 88, May/June, 2010 (handout)

SUPPLEMENTARY TEXTS

The following texts are not examinable except the extent to which they are covered in class. Class notes will suffice for examination purposes. These readings are for those interested in learning beyond the parameters of the course.

Martin Wolfe, Fixing Global Finance, (The John Hopkins University Press, 2010)

Andrew Ross Sorkin, Too Big to Fail, (Penguin books), 2010

EVALUATION

(All components must be completed in order to get a passing grade)

Mid -Term Take Home Examination	40%	DUE October 31, 2013 9 pm.
Final Examination (3.0 hours):	50%	Formal Examination Period
Participation	10%	Assigned at last class

The participation mark will be based on the quality of the student's questions and observations in class. For those uncomfortable speaking in public, after class discussions with the instructor may be arranged from time to time, alone or with a small number of other students, to obtain a higher participation mark. If the latter option is exercised, the student should explicitly make such arrangements with the instructor as early in the year as possible.

SCHEDULE**Lecture****Topic and/or Reading**

September 5

Introduction

Review of key business concepts relevant to banking:
Sources of liability; forms of business organizations;
Contract law and banking; guarantees and mortgages; floating
charges, secured and unsecured creditors; the litigation process

Readings: No assigned reading

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The Constitutional context and international framework

Readings: Text, chapter 1
Casebook, pages 2-3 (Constitution Act)
Casebook, pages 28-36 (Bank of Montreal v Hall)
Casebook, pages 37-64 (Western Bank v Alberta)

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The Regulation of Banks and Banking in Canada

Readings: Text, chapters 2, and 3

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**The 2008 Global Financial Crisis and Banking: Did Regulation
spare Canada?**

Readings: Taylor and Levinson articles; other hand outs

October 3

1) Complete Financial Crisis 2) Banks as Business Corporations

Readings: Text, chapter 4
Casebook, pages 82 to 88
(Cappucitti and Verdun cases)

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Banking Business

Readings: Text, chapter 5
Casebook, pages 119 to 123 (Central Computer v TD Bank)
Casebook, pages 128 to 129 (Garnett v. McKewan)
Casebook, pages 133 to 140 (RBC v Wildman, BNS v. Gould
and RBC v Hein)

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Bank & Customer Relations

Readings: Text, chapter 6
 Casebook, skim pages 151 to 155
 (Financial Services Agreement)
 Casebook, pages 156 to 178
 (Burnett and Armstrong cases)
 Casebook, pages 181 to 186 (Holoboff)

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Bank and Customer Relationships

Readings: Casebook, Pages 187 to 228, 237 to 258, 269 to 278, and 284 to 293 (Woods, Lloyds, Standard, Vita Health, Royal Bank of Scotland, BMO v Duguid, CIBC v Ohlson, Hedley Byrne, Sugar cases)

TAKE HOME EXAMINATION WILL BE HANDED OUT AT THE END OF CLASS AND DUE OCTOBER 31 9 PM. ANSWERS ARE TO BE SUBMITTED BY EMAIL TO ME AT samuel.schwisberg@redcross.ca.

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FALL BREAK – NO SCHEDULED CLASS

November

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Bank Accounts and Operation

Readings: Text, chapters 7, 8

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Bank Accounts and Operation continued

Readings: Casebook, pages 299 to 310, 319-320, 328 to 359, 364 to 389 (Marzetti, Carew, ThermoKing, Chambers, Villiers, Shapera, Remfor, Capital Associates, TD v PellaHunt, A.E. Lepage v. Rattray, RCL Operators, Stanley Works, National Slag, C.P Hotels, Le Cercle, Kelly Funeral Homes, Don Bodkin cases)

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Privacy Obligations & Money Laundering

Readings: Text, chapter 8, pages 303 to 314
 Casebook, pages 396 to 432 (Tournier, CIBC v Sayani, R v. Lillico, skim PIPEDA (pgs 406-420, Guertin v. RBC)

Also read Citi Cards Canada v. Charles Pleasance on line at 2011 ONCA (CanLII) It may help to also read the Superior Court decision.

Also read Toronto Dominion Bank v. Sawchuk, 2011 ABQB 757 (Can LII)

Handouts on money laundering

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Electronic Commerce and Banking

Readings: Text, chapters 9 and 10

December 5

Credit Cards, Safekeeping and Dispute Resolution

Readings: Text, chapters 11, 12 and 13

REVIEW