

CONTRACT

LAWS 3003A/B

2017-2018

**INSTRUCTOR:** Professor M.H. Ogilvie  
Of the Bars of Ontario and Nova Scotia  
Department of Law  
Loeb D596  
613-520-2600 Ext. 3672

**OFFICE HOURS:** Wednesday 2:30-5:00  
or by appointment

**REQUIRED TEXT:** Stephanie Ben-Ishai and David R. Percy, Contracts: Cases and Commentaries 9th ed. (Toronto: Carswell, 2014).

**EVALUATION:**

Mid Term Examination	50%
Final Examination	50%

Each examination will be two hours in length. Each examination will be closed book.

The Midterm Examination will be held in class in Week Seven

The Final Examination will be held during the regular university final examination period as scheduled by the University.

**ALL STUDENT WORK IS SUBJECT TO THE CONTRACTUAL PROVISIONS CONTAINED IN THE CURRENT CARLETON UNIVERSITY UNDERGRADUATE CALENDAR AND TO THIS COURSE OUTLINE.**

**SCHEDULE:****WEEK ONE**      **Introduction****WEEK TWO**      **When Contractual Obligations Arise**

Canadian Dyers Association Ltd. v. Burton (BP 18)  
Pharmaceutical Society v. Boots (BP 20)  
Carlill v. Carbolic Smoke Ball Co. (BP 25)  
Goldthorpe v. Logan (BP 30)  
Blair v. Western Mutual Benefit Assn. (BP 45)  
Livingstone v. Evans (BP 52)

**WEEK THREE**      **When Contractual Obligations Arise, cont'd.**

Butler Machine Tool Co. v. Ex-Cell-O Corp. (BP 54)  
Tywood Industries Ltd. v. St. Anne-NacKawic Pulp and Paper Co. Ltd. (BP56)  
Felthouse v. Bindley (BP 70)  
St. John Tug Boat Co. v. Irving Refinery Ltd. (BP 73)

**WEEK FOUR**      **When Contractual Obligations Arise, cont'd.**

Brinkibon Ltd. v. Stahag Stahl (BP 87)  
Rudder v. Microsoft Corp. (BP 91)  
Household v. Grant (BP 79)  
Holwell Securities v. Hughes (BP 84)  
Byrne v. Van Tienhoven (BP 99)  
Dickinson v. Dodds (BP 95)  
Errington v. Errington (BP 100)

**WEEK FIVE**      **The Distinguishing Mark of Contractual Obligation**

Balfour v. Balfour (BP 250)  
Rose and Frank Co. v. J.R. Crompton & Bros. Ltd. (BP 253)  
Toronto Dominion Bank v. Leigh Instruments Ltd. (Trustee of) (BP 255)  
Lampleigh v. Brathwait (BP 172)  
Thomas v. Thomas (BP 173)  
B.(D.C.) v. Arkin (BP 175)  
Pao On v. Lau Yiu Long (BP 180)  
Gilbert Steel Ltd. v. University Construction Ltd. (BP 184)  
Williams v. Roffey (BP 188)

**WEEK SIX**      **The Distinguishing Mark of Contractual Obligation, cont'd.**

Foakes v. Beer (BP 198)  
Re Selectmove Ltd. (BP 201)  
High Trees (BP 209)  
D. & C. Builders Ltd. v. Rees (BP 214)  
Combe v. Combe (BP 231)  
M. (N.) v. A.(A.T.) (BP 246)  
Royal Bank v. Kiska (BP 259)

**WEEK SEVEN Midterm Examination****WEEK EIGHT The Ambit of Contractual Obligation**

Tweddle v. Atkinson (BP 288)  
Dunlop v. Selfridge (BP 289)  
Beswick v. Beswick (BP 295)  
London Drugs Ltd. v. Kuehne & Nagel International Ltd. (BP 310)  
Edgeworth Construction Ltd. v. N.D. Lea and Associates Ltd. (BP 320)  
Fraser River Pile & Dredge Ltd. v. Can-Dive Services Ltd. (BP 322)

**WEEK NINE The Content of Contractual Obligation**

Redgrave v. Hurd (BP 361)  
Smith v. Land and House Property Corp. (BP 365)  
Heilbut, Symons & Co. v. Buckleton (BP 377)  
Leaf v. International Galleries (BP 384)  
Dick Bentley v. Harold Smith (BP 382)  
BG Checo International Ltd. v. B.C. Hydro and Power Authority (BP 401)

**WEEK TEN The Content of Contractual Obligation, cont'd.**

Hawrish v. Bank of Montreal (BP 418)  
Evans v. Merzario (BP 423)  
Hong Kong Fir v. Kawasaki (BP 442)  
Tilden v. Clendenning (BP 498)  
McCutcheon v. David MacBrayne Ltd. (BP 494)  
Thornton v. Shoe Lane Parking (BP 484)  
Interfoto Picture Library Ltd. v. Stiletto Visual Programmes Ltd. (BP 489)

**WEEK ELEVEN The Content of Contractual Obligation, cont'd.**

Karsales v. Wallis (BP 512)  
Fraser Jewellers (1982) Ltd. v. Dominion Electric Protection Co. (BP 531)  
Plas-Tex Canada Ltd. v. Dow Chemical of Canada Ltd. (BP 536)  
Tercon Contractors Ltd. v. British Columbia (BP 539)

**WEEK TWELVE Loosening the Bonds of Contractual Obligation**

Greater Fredericton Airport Authority Inc. v. NAV Canada (BP 688)  
Geffen v. Goodman Estate (BP 702)  
Royal Bank of Scotland plc v. Etridge (No. 2) (BP 710)  
Lloyds Bank v. Bundy (BP 726)  
Harry v. Kreutziger (BP 732)  
Paradine v. Jane (BP 640)  
Taylor v. Caldwell (BP 641)  
Davis v. Fareham U.D.C. (BP 648)  
Edwinton Commercial Corporation v. Tsavlis Russ (Worldwide Salvage and Towage Ltd.); The Sea Angel (BP 663)

What is it Worth?

**READING LIST**

The following list contains a selection of the major monographs and textbooks about the Law of Contract which are available in the MacOdrum Library. Although not required reading, students may find these books of use in preparing research papers and in researching topics of particular interest.

**I. History and Theory of the Law of Contract:**

- John Adams, Roger Brownsword, Key Issues in Contract, (Butterworths, 1995).
- John N. Adams and Roger Brownsword, Understanding Contract Law, 5<sup>th</sup>ed., (Sweet & Maxwell, 2007)
- Peter A. Alces, A Theory of Contract Law (O.U.P., 2011).
- P.S. Atiyah, An Introduction to the Law of Contract, 6<sup>th</sup> ed., (O.U.P., 2006).
- P.S. Atiyah, The Rise and Fall of Freedom of Contract, (O.U.P., 1979).
- P.S. Atiyah, Essays on Contract, (O.U.P., 1986).
- Peter Benson (ed.), The Theory of Contract Law. New Essays, (Cambridge U.P., 2001).
- Roger Brownsword, Geraint Howells and Thomas Wilhelmsson, (eds.), Welfarism in Contract Law, (Dartmouth, 1994).
- Roger Brownsword, Contract Law. Themes for the Twenty-First Century, 2<sup>nd</sup> ed., (O.U.P., 2006).
- F. H. Buckley (ed.), The Fall and Rise of Freedom of Contract, (Duke U.P., 1999).
- Andrew Burrows and Edwin Peel (eds.), Contract Terms, (O.U.P., 2007).
- Hugh Collins, The Law of Contract, 4<sup>th</sup> ed., (Cambridge U.P., 2008).
- Hugh Collins, Regulating Contracts, 2<sup>nd</sup> ed. (O.U.P., 2002).
- Richard Craswell and Alan Schwartz, Foundations of Contract Law, (O.U.P., 1994).
- Larry A. Di Matteo and Martin Hogg (eds.), Comparative Contract Law. British and American Perspectives, (O.U.P, 2016).
- Charles Fried, Contract As Promise, 2<sup>nd</sup> ed. (O.U.P., 2015).
- Grant Gilmore, The Death of Contract, (Ohio State U.P., 1974).
- James Gordley, The Philosophical Origins of Modern Contract Doctrine, (O.U.P., 1991).
- James Gordley, Foundations of Private Law, Property, Tort, Contract, Unjust Enrichment, (O.U.P., 2007).
- Andrew Grubb (ed.) The Law of Contract, (Lexis Nexis, 2007)
- Dori Kimel, From Promise to Contract. Towards a Liberal Theory of Contract, (Oxford: Hart, 2003).
- A.T. Kronman and R.A. Posner, The Economics of Contract Law, (Little, Brown & Co., 1979).
- Richard Lawson, Exclusion Clauses and Unfair Contract Terms, 11<sup>th</sup> ed. (Sweet & Maxwell, 2014).
- Kim Lewison, The Interpretation of Contracts 6<sup>th</sup> ed., (Sweet & Maxwell, 2015).
- Ian R. Macneil, The New Social Contract, (Yale U.P., 1980).
- Paul B. Miller and Andrew S. Gold, Contract, Status, and Fiduciary Law, (O.U.P., 2017).
- Jason W. Nyers, Richard Bronaugh and Stephen G.A. Pitel (eds.) Exploring Contract Law,(Hart, 2009).

- O.L.R.C., Report on Amendment of the Law of Contract, 1987.
- Harry N. Scheiber (ed.), The State and Freedom of Contract, (Stanford U.P., 1998).
- A.W.B. Simpson, A History of the Common Law of Contract, (O.U.P., 1975).
- Stephen A. Smith, Contract Theory (O.U.P., 2004).
- Warren Swain, The Law of Contract, 1670-1870 (Cambridge U.P., 2015).
- Barry J. Reiter and John Swan, Studies in Contract Law, (Butterworths, 1980).
- Kevin M. Teeven, A History of the Anglo-American Common Law of Contract, (Greenwood Press, 1990).
- Michael J. Trebilcock, The Limits of Freedom of Contract, (Harvard U.P., 1993).
- Stephen Waddams, Dimensions of Private Law. Categories and Concepts in Anglo-American Legal Reasoning, (Cambridge U.P., 2003).
- Stephen Waddams, Principle and Policy in Contract Law, Competing or Complementary Concepts?, (Cambridge U.P., 2011).

## II. Textbooks:

### (a) English:

- Cheshire, Fifoot and Furmston's Law of Contract, 17<sup>th</sup> ed., (O.U.P., 2017).
- Chitty on Contracts, 32<sup>nd</sup> ed., (Sweet and Maxwell, 2016).
- Edwin Peel, Treitel on the The Law of Contract, 14<sup>th</sup> ed., (Sweet and Maxwell, 2015).

### (b) Canadian:

- G.H.L. Fridman, The Law of Contract, 6<sup>th</sup> ed., (Carswell, 2011).
- Geoff R. Hall, Canadian Contractual Interpretation Law, 3<sup>rd</sup> ed. (Lexis Nexis, 2016).
- Bruce MacDougall, Introduction to Contracts, 2<sup>nd</sup> ed. (Lexis Nexis, 2012).
- John D. McCamus, The Law of Contracts, 2<sup>nd</sup> ed. (Irwin Law, 2012).
- John Swan and Jakub Adamski, Canadian Contract Law, 3<sup>rd</sup> ed. (Lexis Nexis, 2012).
- S.M. Waddams, The Law of Contracts, 7<sup>th</sup> ed., (Canada Law Book, 2017).