

Course Outline

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<b>COURSE:</b>	<b>LAWS 3206A – Banking Law</b>
<b>TERM:</b>	<b>FALL 2018</b>
<b>PREREQUISITES:</b>	<b>LAWS 2202 or BUSI 2601 and 0.5 credit at the 2000 level</b>
<b>CLASS:</b>	<b>Day &amp; Time: Wednesdays 6:05pm – 8:55pm</b> <b>Room: Please check with Carleton Central for current room location</b>
<b>INSTRUCTOR: (CONTRACT)</b>	<b>Samuel Schwisberg</b>
<b>CONTACT:</b>	<b>Office: B442 Loeb Building (Contract Instructor's office)</b> <b>Office Hrs: By Appointment only</b> <b>Telephone: 613-236-8000 x. 229</b> <b>Email: sam@tslegaloffice.com</b>

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**Academic Accommodations:**

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

**Pregnancy obligation:** Please contact 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: [carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf](http://carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf)

**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: [carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf](http://carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf)

**Academic Accommodations for Students with Disabilities:** If you have a documented disability requiring academic accommodations in this course, please contact The Paul Menton Centre (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 as soon as possible to ensure accommodation arrangements are made. Please consult the PMC Website for their deadline to request accommodations for the formally-scheduled exam (if applicable) [www.carleton.ca/pmc](http://www.carleton.ca/pmc)

**Plagiarism:**

Plagiarism is presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own. Plagiarism includes reproducing or paraphrasing portions of someone else's published or unpublished material, regardless of the source, and presenting these as one's own without proper citation or reference to the original source. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, art works, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, and material on the Internet. Plagiarism is a serious offence.

More information on the University's **Academic Integrity Policy** can be found at:  
<http://carleton.ca/studentaffairs/academic-integrity/>

### **Survivors of Sexual Violence**

As a community, Carleton University is committed to maintaining a positive learning, working and living environment where sexual violence will not be tolerated, and survivors are supported through academic accommodations as per Carleton's Sexual Violence Policy. For more information about the services available at the university and to obtain information about sexual violence and/or support, visit: [carleton.ca/sexual-violence-support](http://carleton.ca/sexual-violence-support)

### **Accommodation for Student Activities**

Carleton University recognizes the substantial benefits, both to the individual student and for the university, that result from a student participating in activities beyond the classroom experience. Reasonable accommodation must be provided to students who compete or perform at the national or international level. Please contact your instructor 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. <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>

For more information on academic accommodation, please contact the departmental administrator or visit: [students.carleton.ca/course-outline](http://students.carleton.ca/course-outline)

### **Department Policy**

The Department of Law and Legal Studies operates in association with certain policies and procedures. Please review these documents to ensure that your practices meet our Department's expectations.

<http://carleton.ca/law/current-students/>

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## **CALENDAR COURSE DESCRIPTION**

The law relating to banks and banking; the nature of the legal relationship created; legal rights and duties of the parties involved. Consumer and corporate aspects of banking (including computerization and electronic funds transfers); regulations of banking.

### **REQUIRED TEXTS**

M.H. Ogilvie, Banking Law: Cases and Materials, 5th edition, (Toronto: Captus Press, 2015) ("The **Casebook**").

M.H. Ogilvie, Bank and Customer Law in Canada, 2<sup>nd</sup> edition (Toronto, Irwin Law Inc., 2013) ("The **Text**").

Allan M. Taylor, "The Financial Rebalancing Act", Foreign Affairs, pages 91 to 99, July/August 2011 (to be posted on CU Learn)

Marc Levinson. "Faulty Basel", Foreign Affairs, pages 76 to 88, May/June 2010 (to be posted on CU Learn)

Other materials posted on CU Learn from time to time. **THE STUDENT SHOULD CHECK CU LEARN ON A REGULAR BASIS.**

### **EVALUATION**

Standing in a course is determined by the course instructor subject to the approval of the Department and of the Faculty Dean. This means that grades submitted by the instructor may be subject to revision. No grades are final until they have been approved by the Department and the Dean.

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| 1. Midterm examination, 150 minutes, (closed book) on October 10, 2018         | 35% |
| 2. Participation largely based on class room scenarios and discussion          | 15% |
| 3. Final Examination, <b>formally scheduled period</b> , 3 hours (closed book) | 50% |

**Discussion topics will be posted periodically on CU Learn to provide opportunities to earn participation marks. Students uncomfortable with in class discussion may submit short topic papers to earn discussion marks but must arrange this with the instructor on or before September 26 2018.**

### **SCHEDULE**

#### **Lecture**

#### **Topic and/or Reading**

September 05

Introduction

Review of key business concepts relevant to banking Sources of liability; forms of business organizations; Contract law and banking; guarantees and mortgages; 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 2008 Global Financial Crisis and Banking Law in Canada

**Readings:** Material to be posted on CU Learn including Taylor and Levinson articles.

	26	<u>The Regulation of Banks and Banking in Canada</u> <b>Readings:</b> Text, chapters 2, and 3
October	03	1) <u>Banks as Business Corporations</u> 2) <u>Banking Business</u>  <b>Readings:</b> Text, chapter 4 Casebook, pages 75 to 81 (Cappucitti and Verdun cases)  <u>Banking Business</u>  <b>Readings:</b> Text, chapter 5 Casebook, pages 115 to 120 (Central Computer v TD Bank)
	10	<b><u>MID TERM EXAMINATION IN CLASS (2.5 HOURS)</u></b>
	17	<u>Bank Accounts and Operation</u>  <b>Readings:</b> Text, chapters 7, 8  Casebook, pages 297 to 310, 317-318, 327 to 337, 343 to 351, (Marzetti, Carew, Thermo King, Chambers, Villiers, Shapera, Remfor, Capital Associates, TD v Pella Hunt, A.E. Lepage v. Rattray, RCL Operators, Stanley Works
	24	<b>FALL BREAK – NO LECTURE</b>
November	07	<u>Bank Accounts and Operation CONTINUED</u>  Casebook, pages 368 to 372, 412 to 440 National Slag, C.P Hotels, Le Cercle. Kelly Funeral Homes, Don Bodkin and SNS cases)
	14	<u>Electronic Banking and Related Issues</u>  <b>Readings:</b> Text, chapters 9 and 10 and CU Learn Postings

21	<p><u>Confidentiality Obligations &amp; Money Laundering</u></p> <p><b>Readings:</b> Text, chapter 8, pages 303 to 314 Casebook, pages 446 to 473 (Tournier, CIBC v Sayani, R v. Lillico, skim PIPEDA (pgs. 456-473), and read 474-485 Guertin v. RBC)</p> <p><b>Readings</b> continued: Money laundering and recent case law (posting on CU Learn)</p>
28	<p><u>Credit Cards, Safekeeping and Dispute Resolution</u></p> <p>Text, chapters 11, 12 and 13</p>
December 05	<p>1) <u>Mortgages: Rights and Remedies</u> and 2) <u>Review and Discussion of Course</u></p> <p><b>Readings:</b> CU LEARN Posting on Mortgages</p>