
COURSE:	LAWS 3206B – Banking Law
TERM:	Winter 2021
PREREQUISITES:	LAWS 2202 or BUSI 2601 and 0.5 credit in LAWS at the 2000 level
CLASS:	Day & Time: Please check Carleton Central for current Class Schedule. Room: All Courses in the Winter 2021 term are offered online. LECTURES WILL BE PRE-RECORDED (ASYNCRONOUSLY DELIVERED) BUT THERE WILL BE OPTIONAL DISCUSSION WITH THE PROFESSOR AND TIME FOR QUESTIONS VIA ZOOM AT THE START TIME FOR THE CLASS PER THE CLASS SCHEDULE FOUND AT CARLETON CENTRAL – see details in course schedule below
INSTRUCTOR:	Sam Schwisberg
CONTACT:	Office Hrs: By appointment via cell phone with the option of using Facetime or Zoom as agreed by the student and professor Telephone: 613-262-2951 (cell) Email: sam@tslegaloffice.com

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); regulation of banking.

COURSE DESCRIPTION

Banking has evolved rapidly over the last several years as customers rely less and less on cheques and the use of paper money and gravitate to a digital economy. The Winter 2021 section of the course updates the course content by reducing readings related to paper transactions such as chequing and the significance of branches, to leave time to deal with issues such as mobile banking, “open banking”, the impact of fintech, and on-line banking.

LEARNING OBJECTIVES

1. Understand the legal definition of banking
2. Learn the international and domestic regulatory framework for banking
3. Understand the importance of banks to the economy
4. Learn the legal principles that govern banks and their relationships with customers
5. Understand how technology is impacting all of the above

REQUIRED TEXTS

M.H Ogilvie, Bank and Customer Law in Canada, 2nd edition (Toronto, Irwin Law Inc., 2013) (“Ogilvie”)

Patricia Meredith and James L. Darroch, Stumbling Giants: Transforming Canada’s Banks for the Information Age, (Toronto, Buffalo, London, University of Toronto Press, 2017) (“Meredith”)

Both may be purchased through the Carleton University Bookstore website:
<https://www.bkstr.com/carletonstore/home>)

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.

This term, in order to provide as much flexibility as possible given the current pandemic, the course evaluation will be based on the completion of 4 modules which will require the submission of relatively brief written assignment for each module. There will be no midterm or scheduled final examination.

The 12 pre-recorded lectures are spread among 4 modules with a mark allocation as follows:

Module 1 - Lectures 1 and 2	15%	(Assignment due February 1, 2021)
Module 2 - Lectures 3,4 and 5	30%	(Assignment due February 22, 2021)
Module 3 - Lectures 6,7,8 and 9	40%	(Assignment due April 5, 2021)
Module 4 - Lectures 10, 11 and 12	15%	(Take Home Exam due at a date to be scheduled during final examination period)

A rubric will be posted at the start of the course.

LATE PENALTIES AND REQUESTS FOR EXTENSIONS

The granting of extensions is determined by the instructor who will confirm whether an extension is granted and the length of the extension. For requests for extensions lasting less than 7 days, please complete the form at the following link and submit it to the instructor prior to the assignment due date: <https://carleton.ca/registrar/wp-content/uploads/self-declaration.pdf>.

Extensions for longer than 7 days will normally not be granted. In those extraordinary cases where extensions lasting longer than 7 days are granted, the student will be required to provide additional information to justify the longer extension (up to a maximum of 14 days).

MODIFIED APPROACH TO COURSE DURING THE COVID-19 PANDEMIC

Lectures will be pre-recorded. It is highly recommended that a student view a video before reading the related material since the lecture will explain some concepts in advance and support the student by indicating what elements in the reading material are most important.

A recorded lecture should be viewed first, followed by reading the related written material and before attending the optional group session allocated to that material and video. At this time, it is my intention to post these videos and related supplementary information on CU Learn.

The optional Zoom enabled group sessions present students with an opportunity to ask questions, raise points of discussion and explore any challenges in assimilating the material that may have been encountered. It will also give me a chance to get to know you.

So, approach each session in the following order:

1. View the pre-recorded lecture, which may be divided into more than one video segments
2. Read the related material
3. Attend the optional group session at the specified time if you wish
4. Complete the Module Assignment after all sessions within the module are completed by the due date.

SCHEDULE

January 15, 2021 11:35 AM Optional Zoom Enabled Group Session #1

INTRODUCTION TO KEY LEGAL CONCEPTS

Before this optional Zoom enabled discussion group, you should have completed the related, prerecorded lecture posted on CU Learn entitled "Lecture 1- Introduction" and have read the following material either posted on CU Learn or in one of the two course textbooks:

Introduction:

Review of key legal 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

Viewing: Lecture 1 Video on CU Learn

Readings: Slides and Notes posted on CU Learn under Lecture 1

January 22, 2021 11:35 AM Optional Zoom Enabled Group Session #2

CONSTITUTIONAL AND INTERNATIONAL FRAMEWORK

Before this optional Zoom enabled group session, you should have completed the related, prerecorded lecture posted on CU Learn entitled “Lecture 2 - Constitutional Context and International Framework” and the following material either posted on CU Learn or in one of the two course textbooks:

Viewing: Lecture 2 Video on CU Learn

Readings: Slides and Notes posted on CU Learn under Lecture 2
 Ogilvie, chapters 1, sections A, B and D, chapter 2 and 2 pages in chapter 5, pages 179-180 (dealing in insurance) and chapter 6, section J (pages 235-236)
 Canadian Western Bank v. Alberta, 2007 SCC 22 (CanLII), [2007] 2 SCR 3

MODULE 1 ASSIGNMENT COVERING LECTURES/SESSIONS 1 AND 2

Due: 11:59 PM on Monday, February 1, 2021

Mark Allocation: 15% of Final Grade

Length: 1000 – 1300 words

Topic: Describe in your own words how and why the Canadian constitution is relevant to the law of banking.

January 29, 2021 11:35 AM Optional Zoom Enabled Group Session #3

THE REGULATION OF BANKS IN CANADA

Before this optional Zoom enabled group session, you should have completed the related prerecorded lecture posted on CU Learn entitled “Lecture 3 –The Regulation of Banks in Canada” and the following material either posted on CU Learn or in one of the two course textbooks:

Viewing: Lecture 3 Video on CU Learn

Readings: Slides and Notes posted on CU Learn
 Ogilvie, Chapter 3 excluding section I (pages 82-84)

February 5, 2021 11:35 AM Optional Zoom Enabled Group Session #4

BANKS AND THE 2008 FINANCIAL CRISIS

Before this optional Zoom enabled group session, you should have completed the related prerecorded lecture posted on CU Learn entitled “Lecture 4 –Banks and the 2008 Financial Crisis” and the following material posted on CU Learn

Viewing: Lecture 4 Video on CU Learn

Readings: Slides, articles and Notes posted on CU Learn under Lecture 4

February 12, 2021 11:35 AM Optional Zoom Enabled Group Session #5

INNOVATION IN THE MORTGAGE MARKET

Before this optional Zoom enabled group session, you should have completed the related prerecorded lecture posted on CU Learn entitled “Lecture 5 – Innovation in the Mortgage Market” and the following material:

Viewing: Lecture 5 Video on CU Learn

Readings: Slides and Notes posted on CU Learn and Meredith, chapter 3

MODULE 2 ASSIGNMENT COVERING LECTURES/SESSIONS 3, 4 and 5

Due: 11:59 PM on Monday, February 22, 2021

Mark Allocation: 30% of Final Grade

Length: 1500 – 2000 words

Topic: The 2008 subprime mortgage crisis in the USA eventually impacted many banks and economies around the world but left Canadian banks largely unaffected. Explain the causes of this crisis and why Canadian banks did not suffer the same fate.

February 15 – 19, 2021 Winter Break, No Classes

February 26, 2021 11:35 AM Optional Zoom Enabled Group Session #6

HAVE CANADIAN BANKS LOST THEIR WAY

Before this optional Zoom enabled group session, you should have completed the related prerecorded lecture posted on CU Learn entitled “Lecture 6 – Have Canadian Banks Lost Their Way?” and the following material:

Viewing: Lecture 6 Video on CU Learn

Readings: Slides and Notes posted on CU Learn and Meredith, chapter 1

March 05, 2021 11:35 AM Optional Zoom Enabled Group Session #7

FROM BRANCHES TO SMARTPHONES

Before this optional Zoom enabled group session, you should have completed the related prerecorded lecture posted on CU Learn entitled “Lecture 7 – From Branches to Smartphones” and the following material:

Viewing: Lecture 7 Video on CU Learn

Readings: Slides and Notes posted on CU Learn, Ogilvie, chapter 5, sections A and B-1 to B-5 inclusive and Meredith, chapter 2

March 12, 2021 11:35 AM Optional Zoom Enabled Group Session #8**PRIVACY AND ANTI-MONEY LAUNDERING**

Before this optional Zoom enabled group session, you should have completed the related prerecorded lecture posted on CU Learn entitled "Lecture 8 – Privacy and Anti-Money Laundering" and the following material:

Viewing: Lecture 8 Video on CU Learn

Readings: Slides and Notes posted on CU Learn, Ogilvie, chapter 3, section I (pages 82-84) and chapter 8, section F (pages 324-337)

March 19, 2021 11:35 AM Optional Zoom Enabled Group Session #9**OPEN BANKING – DOES CANADA TRAIL THE THIRD WORLD?**

Before this optional Zoom enabled group session, you should have completed the related prerecorded lecture posted on CU Learn entitled "Lecture 9 – Open Banking: Does Canada Trail the Third World?" and the following material:

Viewing: Lecture 9 Video on CU Learn

Readings: Slides and Notes posted on CU Learn, Meredith, chapter 6.

MODULE 3 ASSIGNMENT COVERING LECTURES/SESSIONS 6, 7, 8 and 9

Due: 11:59 PM on Monday, April 5, 2021

Mark Allocation: 40% of Final Grade

Length: 1750 – 2250 words

Topic: Do you agree with the authors of Stumbling Giants that Canada's banks are stumbling? Why or why not? Does the "brave new world" they advocate for Canadian banks create privacy and money laundering exposures? If so, what are they? Are the risks worth the potential benefits?

March 26, 2021 11:35 AM Optional Zoom Enabled Group Session #10**OPERATION OF BANK ACCOUNTS**

Before this optional Zoom enabled group session, you should have completed the related prerecorded lecture posted on CU Learn entitled "Lecture 10 – Operation of Bank Accounts" and the following material:

Viewing: Lecture 10 Video on CU Learn

Readings: Slides and Notes posted on CU Learn, Ogilvie, chapter 7, sections A,B,C and M (pages 238-244) and chapter 8, sections A,B, C, D and E (pages 267-323).

NOTE: FRIDAY APRIL 2, 2021 IS GOOD FRIDAY SO THIS SESSION IS CANCELLED AND REPLACED BY A SESSION ON WEDNESDAY APRIL 14, 2021.

April 9, 2021 11:35 AM Optional Zoom Enabled Group Session #11

ELECTRONIC FUNDS TRANSFER SYSTEMS

Before this optional Zoom enabled group session, you should have completed the related prerecorded lecture posted on CU Learn entitled "Lecture 11 – Electronic Funds Transfer Systems" and the following material:

Viewing: Lecture 11 Video on CU Learn

Readings: Slides and Notes posted on CU Learn, Ogilvie, chapter 9

April 14, 2021 11:35 AM Optional Zoom Enabled Group Session #12

MORTGAGES

Before this optional Zoom enabled group session, you should have completed the related prerecorded lecture posted on CU Learn entitled "Lecture 12 – Mortgages" and the following material:

Viewing: Lecture 12 Video on CU Learn

Readings: Slides and Notes posted on CU Learn

TAKE HOME EXAM - COVERING LECTURES/SESSIONS 10,11 AND 12

Due: To Be Scheduled During Formal Final Examination Period

Mark Allocation: 15% of Final Grade

Length: 1200 – 1400 words

Topic: 1) Provide an overview of the primary legal rules that govern the operation of bank accounts and the electronic funds transfer system

OR 2) answer the following problem

Problem:

The Bank of Evil holds a first mortgage on 123 Nasty Street in Ottawa. This is a residential property owned by Nevada Smith. The amount owing on the mortgage as of January 2021 is \$560,000 and the monthly payment due on the first of every month is \$2,000. Nevada cannot pay and the Bank serves a Notice of Power of sale on Nevada on January 12, 2021. The Bank then lists the property for sale on February 2, 2021 with an asking price of \$570,000. Nevada has an appraisal which estimated the fair market value at \$630,000 as of March 2019.

Nevada comes to you for legal advice on February 3, 2021. What is your advice to Nevada?

April 14, 2021

April 16 – 27, 2021

Winter Term Ends

Formally Scheduled Final Exams

ACADEMIC ACCOMMODATIONS

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows: <https://carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf>

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 Department of Equity and Inclusive Communities (EIC):

<https://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 Department of Equity and Inclusive Communities (EIC): <https://carleton.ca/equity/>

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 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) <https://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:

<https://carleton.ca/registrar/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: <https://carleton.ca/studentssupport/svpolicy/>

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: <https://students.carleton.ca/services/accommodation/>

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