

Course Outline

COURSE: LAWS 3206A – Banking Law

TERM: Fall - 2017

PREREQUISITES: LAWS 2202 or BUSI 2601

CLASS: Day & Time: Fridays @ 2:35 PM to 5:25 PM

Room: Please check with Carleton Central for current room location

INSTRUCTOR: Samuel Schwisberg

CONTACT: Office: DT919-2

Office Hrs: Fridays 1:15 to 2:15

Telephone: 613-236-8000 X 229

Email: sam@tslegaloffice.com

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: 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://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://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*). **Requests made within two weeks will be reviewed on a case-by-case basis.** After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website (www.carleton.ca/pmc) for the deadline to request accommodations for the formally-scheduled exam (*if applicable*).

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

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/>

Student Services: The Centre for Student Academic Support (CSAS) is a centralized collection of learning support services designed to help students achieve their goals and improve their learning both inside and outside the classroom. CSAS offers academic assistance with course content, academic writing and skills development. Visit CSAS on the 4th floor of MacOdrum Library or online at carleton.ca/csas

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/>

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, 4th edition, (Toronto: Captus Press, 2008) ("The **Casebook**").

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

Globe and Mail article, August 2017 (to be posted on CU Learn)

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

SUPPLEMENTARY TEXTS

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

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

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, 120 minutes, (closed book) on October 13, 2017	35%
2. Participation largely based on class room scenarios and discussion	15%
3. Final Examination, formally scheduled period, 3 hours (closed book)	50%
4. One Optional 5-page short topic paper to earn up to 5 bonus marks.	Bonus 5%

(due December 8, 2017. The paper will not be accepted after that date)

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 29 2017.

SCHEDULE

Lecture

September 08

Topic and/or Reading

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

15

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)

22

The 2008 Global Financial Crisis and Banking Law in Canada

Readings: August Globe and Mail article, Taylor and Levinson

articles to be posted on CU Learn.

	29	<u>The Regulation of Banks and Banking in Canada</u> Readings: Text, chapters 2, and 3
October	06	1) <u>Banks as Business Corporations</u> 2) <u>Banking Business</u> Readings: Text, chapter 4 Casebook, pages 82 to 88 (Cappucitti and Verdun cases) <u>Banking Business</u> Readings: Text, chapter 5 Casebook, pages 119 to 123 (Central Computer v TD Bank) Casebook, pages 128 to 129 (Garnett v. McKewan)
	13	<u>MID TERM EXAMINATION IN CLASS (2.0 HOURS)</u>
	20	<u>Bank Accounts and Operation</u> Readings: Text, chapters 7, 8 Casebook, pages 299 to 310, 319-320, 328 to 359, 364 to 389 (Marzetti, Carew, Thermo King, Chambers, Villiers, Shapera, Remfor, Capital Associates, TD v Pella Hunt, A.E. Lepage v. Rattray, RCL Operators, Stanley Works, National Slag, C.P Hotels, Le Cercle, Kelly Funeral Homes, Don Bodkin cases)
	27	FALL BREAK – NO LECTURE
November	03	<u>Bank Accounts and Operation CONTINUED</u>
	10	<u>Electronic Banking and Related Issues</u> Readings: Text, chapters 9 and 10 and CU Learn Postings

17	<u>Confidentiality Obligations & Money Laundering</u> 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) Readings continued: Money laundering and recent case law (posting on CU Learn)
24	<u>Credit Cards, Safekeeping and Dispute Resolution</u> Text, chapters 11, 12 and 13
December 01	1) <u>Mortgages: Rights and Remedies</u> and 2) <u>Discussion of Course</u> Readings: CU LEARN Posting on Mortgages
08	REVIEW