



## Laws 1000X Contracts and Judicial Decision-making Section B Syllabus

Fall 2018/Winter 2019

### **Class hours:**

*Fall Term* Mondays (10-11:20) Room 207, Fridays (10:30-11:50), with Friday class changing to Wednesdays (3-4:20) Room 105 starting October 24 (Note Scheduled Make-up classes as well)

*Winter Term* Mondays (10-11:20) Room 104, Thursdays (1:30-2:50) Room 207

**Instructor:** Constance MacIntosh

**Office:** Weldon 329

**Office Phone:** (902) 494-3554

**Office Hours:** By appointment

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### **Course Description**

This class will help you achieve two primary objectives: understanding how the common law process developed through judicial decisions, and knowing how the doctrines and precepts of the law governing contracts are created and upheld. To achieve the first objective, the “case method” of teaching is used to enable you to acquire a lawyer-like understanding of various legal concepts. We will undertake a critical evaluation of judicial lawmaking by examining legislative intervention in the field of contract law. To fulfill the second objective, we will examine the substantive rules of contract law. We will examine specific questions such as: How is a contract formed? What is an offer? How can it be accepted? Are all promises legally enforceable? Should parties to a contract be allowed to avoid certain obligations? What factors may affect the validity of a contract? What happens when one person takes advantage of another in order to conclude an agreement? What about “fine print” in a contract? How exactly can one terminate a contract? And what remedies are available for breaches? These and other questions are at the heart of the law of contracts – a complex body of rules and principles developed over centuries of adjudication, interpretation, and codification.

### **Course Objectives**

By the end of this course, students should:

- Possess a critical understanding of the judicial decision-making process;
- Have an awareness that contract law operates in a larger social, economic and political context.
- Be familiar with the general principles of the law of contracts, especially principles related to the formation, performance and validity of contracts;
- Have the ability to apply contracts principles to problems;
- Have a background understanding of the law of contracts that prepares them for advanced commercial law courses.

## Learning Management System Site Information - Brightspace

The Supplement required for this course is available on-line through Dalhousie's on-line course management software. To access the materials click on the Brightspace link found on any of the Dal websites, or if you prefer you can navigate directly to [dal.brightspace.com](http://dal.brightspace.com). Once logged in using your Dalhousie NetID and password click on the link for "LAWS 1000X Contracts and Judicial Decision-making – Fall 2018/Winter 2019" in the My Courses and Communities tab to access the materials specific to this course. If you have any questions regarding on-line course materials please contact Geordie Lounsbury in the Information Media Center.

### Required Texts

S. Ben-Ishai, D. Percy, Contracts: Cases and Commentaries 10th (2018)

R.F. Devlin, et al. Supplement: Contract Law and Judicial Decision Making (2018)

The Supplement required for this course is available on-line through Dalhousie's on-line course management software, Brightspace.

### Other Useful Materials:

#### *Canada*

J. McCamus, The Law of Contracts 2<sup>nd</sup> ed. (2012)

A. Swan & A. Adamski, Canadian Contract Law 3<sup>rd</sup> ed. (2012)

A. Swan, B. Reiter, N. Bala, Contracts: Cases, Notes & Materials 9th ed. (2015)

S. Waddams, et al. Cases and Materials on Contracts 5<sup>th</sup> ed. (2014)

S. Waddams, The Law of Contracts 7th ed. (2017)

G. Fridman, The Law of Contract in Canada 6th ed. (2011)

B. MacDougall, Introduction to Contracts 3d ed. (2016)

G. Hall, Canadian Contractual Interpretation Law 3rd ed. (2016)

#### *Others*

S. Smith, Atiyah's Introduction to the Law of Contract 6th ed. (2005)

J. Beatson, Anson's Law of Contract, 30th ed. (2016)

M.P. Furmston, Cheshire, Fifoot and Furmston's Law of Contract 16th ed. 16<sup>th</sup> ed. (2012)

H. Collins, The Law of Contract, 4th ed. (2003)

All of the above will be on Reserve in the Law Library.

Various handouts may be distributed throughout the year.

### Class Schedule / Readings / Assignments

The class schedule, required readings and assignment dates will be distributed in separate documents, one for the Fall Term, the other for the Winter Term. The schedules and reading lists are subject to amendment at the professor's discretion. Best efforts will be made to provide at least one week notice for make-up classes.

### Evaluation

The final grade you will receive for this course will be based on the following. The mid-year exam is in December. This is a **“closed-book”** examination. You will be provided with a copy of the course reading list in the exam room. The mid-year examination result will only count, as 30% of the final exam component of your grade, if this improves your final examination grade.

A final exam, on the full year’s material (including lectures), will be scheduled for the Spring exam period. This is a **“closed book”** exam. You will be provided with a copy of the course reading list in the exam room. If your performance is better on the final exam than on the mid-year exam, then the final exam will count for 100% of your grade. If, however, your performance on the mid-year exam is better than your performance on the final, the mid-year exam will count for 30% of your grade, and the final exam will count for 70%.

**All examinations will be administered using Exam4 software.** Instructions for downloading the software to your laptop computers will be provided by the Associate Dean’s office in due course. Students who, for accommodation reasons, are required to handwrite their exams must make a special application to the Studies Committee.

## **Law School Policies:**

### *1. Student Requests for Accommodation*

Requests for special accommodation for reasons such as illness, injury or family emergency will require an application to the Law School Studies Committee. Such requests (for example, for assignment extensions) must be made to Associate Dean, Academic Michael Deturbide or the Director of Student Services and Engagement Dana-Lyn Mackenzie as soon as possible, before a scheduled exam or a deadline for an assignment, and will generally require documentation. Retroactive accommodation will not be provided. Please note that individual professors cannot entertain accommodation requests.

Students may request accommodation for either classroom participation or the writing of tests and exams due to barriers related to disability, religious obligation, or any characteristic under the Nova Scotia *Human Rights Act*. Students who require such accommodation must make their request to the Advising and Access Services Center (AASC) at the outset of the regular academic year. Please visit [www.dal.ca/access](http://www.dal.ca/access) for more information and to obtain the Request for Accommodation – Form A. Students may also contact the Advising and Access Services Centre directly at (902) 494-2836.

### *2. Plagiarism*

All students must read the University policies on plagiarism and academic honesty <http://academicintegrity.dal.ca/> and the Law School policy on plagiarism <http://www.dal.ca/faculty/law/current-students/jd-students/academic-regulations.html>. Any paper or assignment submitted by a student at the Schulich School of Law may be checked for originality to confirm that the student has not plagiarized from other sources. Plagiarism is considered a serious academic offence which may lead to loss of credit, suspension or expulsion from the law school, or even revocation of a degree. It is essential that there be correct attribution of authorities from which

facts and opinions have been derived. Prior to submitting any paper or other assignment, students should read and familiarize themselves with the policies referred to above and should consult with the instructor if they have any questions. Ignorance of the policies on plagiarism will not excuse any violation of those policies.

**Additional Information:**

- General Academic Support – Advising Halifax: [https://www.dal.ca/campus\\_life/academic-support/advising.html](https://www.dal.ca/campus_life/academic-support/advising.html)
- Fair Dealing Guidelines <https://libraries.dal.ca/services/copyright-office/guidelines/fair-dealing-guidelines.html>