

COURSE OUTLINE



TERM:	FALL 2018	COURSE NAME:	CONTRACTS II
INSTRUCTOR:		COURSE NO.:	LAW 301
E-MAIL:		SECTION NO.:	
PHONE:		COURSE CREDITS:	3
OFFICE:			
INSTRUCTIONAL HRS PER WEEK:	4	LABORATORY HRS PER WEEK:	0

COURSE PREREQUISITES: LAW 300

REQUIRED TEXT:

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

Required legislation (*Business Practices and Consumer Protection Act*, SBC 2004, c 2, *Sale of Goods Act*, RSBC 1996, c 410, etc.) will be posted on the course Moodle site

RECOMMENDED TEXTS:

SM Waddams, *The Law of Contracts*, 7th ed (Toronto: Canada Law Book, 2017)

John D McCamus, *The Law of Contracts*, 2nd ed (Toronto: Irwin Law, 2012)

Angela Swan, *Canadian Contract Law*, 3rd ed (Markham: LexisNexis Canada, 2012)

GHL Fridman, *The Law of Contract*, 6th ed (Toronto: Carswell, 2011)

Michael P Furmston, *Cheshire, Fifoot & Furmston's Law of Contract*, 16th ed (Oxford University Press: Oxford, 2012)

Bruce MacDougall, *Introduction to Contracts*, 2nd ed (Markham: LexisNexis Canada, 2012)

Robert Duxbury, *Nutshells: Contract Law*, 9th ed (London: Sweet & Maxwell, 2012)

SM Waddams, *The Law of Damages*, 5th ed (Toronto: Canada Law Book, 2012)

GHL Fridman, *Sale of Goods in Canada*, 6th ed (Toronto: Carswell, 2013)

COURSE FORMAT AND EXPECTATIONS:

In addition to work done in the classroom, it is expected that students will do required reading and some assignments at home and will use online resources and materials provided through Moodle. Three of the four instructional hours will be in the classroom and the fourth hour will be a combination of at home and online work using Moodle. Instructions for accessing Moodle will be given in class.

COURSE OUTCOMES:

General Outcomes:

To continue an examination of contract law through the study of case law and statutes, considering a number of issues such as privity of contract, contingent agreements, misrepresentation, interpretation, mistake, frustration and remedies.

Specific Student Learning Outcomes:

For students to demonstrate the ability to:

- a) effectively describe and explain the common law and statutory rules, principles and exceptions,
- b) research the common law and statutory rules, principles and exceptions, and
- c) apply the common law and statutory rules, principles and exceptions to factual situations such as may confront clients of law firms,

in the following areas:

- ◆ privity of contract,
- ◆ contingent agreements,
- ◆ misrepresentation,
- ◆ standard form contracts and exclusion clauses,
- ◆ mistake,
- ◆ frustration, and
- ◆ remedies.

ABILITIES		LEVELS
COMMUNICATION	C1 Effectively describe and explain the relevant common law and statutory rules, principles and exceptions	1→5
	C2 Prepare written and oral analyses of problems and cases	1→5
ANALYSIS AND DECISION MAKING	A1 Research the common law and statutory rules, principles and exceptions	1→5
	A2 Apply the common law and statutory rules, principles and exceptions to factual situations such as may confront clients of law firms	1→5
SOCIAL INTERACTION	S1 Work in study groups to analyze and synthesize the relevant common law and statutory rules, principles and exceptions	1→5
CITIZENSHIP AND GLOBAL PERSPECTIVES	G1 Discuss current events relating to contract liability on a local, national and international level	1→3

*See Faculty of Business – Our Commitment to Assessment and Constructive Feedback for description of the six “Levels” of Comprehension.

EVALUATION PROFILE:

Assessment			CAPabilities Assessed			
Method	%	Ind/Grp	C	A	S	G
Midterm Exam	35%	I	C1, C2	A2		
Final Exam	35%	I	C1, C2	A2		
Case Brief	P/F	I and G	C1, C2	A1	S1	G1
Research	30%	I	C1, C2	A1, A2	S1	G1
TOTAL	100%					

WEEKLY COURSE CONTENT		
WEEK	CONTENT	READINGS
	—Classification of Terms <i>Hong Kong Fir Shipping</i>	442
	<i>Wickman Machine Tool Sales</i>	449
	—Discharge by Performance or Breach <i>Fairbanks Soap</i>	456
	<i>Sumpter</i>	460
	<i>Howe</i>	461
	<i>Stevenson</i>	463
7	MID-TERM EXAM	
8-9	STANDARD FORM CONTRACTS AND EXCLUSION CLAUSES	Chapter 8
	—Introduction	
	—Implied Terms <i>Machtinger</i>	469
	—General Principles of Contractual Interpretation <i>Scott</i>	474
	—Control of Standard Form Contracts and Exclusion Clauses <i>Thornton</i>	484
	<i>Interfoto Picture Library</i>	489
	<i>McCutcheon</i>	494
	<i>Tilden Rent-A-Car</i>	498
	<i>Karroll</i>	502
	<i>Karsales</i>	512
	<i>Photo Production</i>	514
	<i>Hunter Engineering</i>	518
	<i>Fraser Jewellers</i>	531
	<i>Pas-Tex Canada</i>	536
	<i>Tercon Contractors</i>	539
10-11	MISTAKE	Chapter 9
	—Introduction	
	—Both Parties Mistakenly Believe They Are in Agreement <i>Staiman Steel</i>	552
	—Mistakes as to Terms <i>Smith</i>	554
	<i>Ron Engineering & Construction</i>	561
	—Agreements Made Under Mistaken Assumptions <i>Bell</i>	567
	<i>McRae</i>	572
	<i>Solle</i>	578
	<i>Great Peace Shipping</i>	582
	<i>Miller Paving</i>	587
	<i>Lee</i>	590
	—Mistaken Identity <i>Shogun Finance</i>	600
	—Documents Mistakenly Signed: <i>Non Est Factum</i> <i>Saunders</i>	608
	<i>Marvco Color Research</i>	610
	—Rectification	

WEEKLY COURSE CONTENT		
WEEK	CONTENT	READINGS
	<i>Bercovici (Sask QB)</i>	618
	<i>Bercovici (Sask CA).....</i>	620
	<i>Sylvan Lake Golf & Tennis Club</i>	622
	<i>McLean</i>	631
12	FRUSTRATION	Chapter 10
	—Introduction	
	—Development and Application of the Doctrine	
	<i>Paradine</i>	640
	<i>Taylor</i>	641
	<i>Can Govt Merchant Marine.....</i>	643
	<i>Claude Neon General Advertising</i>	646
	<i>Davis Contractors</i>	648
	<i>Capital Quality Homes.....</i>	652
	<i>Victoria Wood Development</i>	655
	<i>KBK No 138 Ventures</i>	656
	<i>Kesmat Invt</i>	660
	—A Restatement	
	<i>Edwinton Commercial.....</i>	663
	—Self-Induced Frustration	
	<i>Maritime National Fish.....</i>	668
	—Force Majeure Clauses	
	<i>Atlantic Paper Stock</i>	678
	—Effect of Frustration	
13	REMEDIES	Chapter 13
	[—Damages: Introduction, The Interests Protected and The Boundaries of Recovery (Selected Topics) – Review Materials from Contracts I]	
	—Damages: The Boundaries of Recovery (cont)	
	<i>Semelhago</i>	902
	<i>Southcott Estates</i>	907
	<i>Evans</i>	912
	<i>Shatilla</i>	917
	<i>HF Clarke</i>	921
	<i>JG Collins Insurance Agencies.....</i>	928
	<i>Stockloser.....</i>	930
	<i>Super Save Disposal.....</i>	934
	—Equitable Remedies	
	<i>John E Dodge Holdings.....</i>	939
	<i>Warner Bros Pictures</i>	945
	<i>Zipper Transportation Services (Man QB).....</i>	951
	<i>Zipper Transportation Services (Man CA).....</i>	952
14-15	FINAL EXAM	

UNIVERSITY POLICIES AND EMERGENCY PROCEDURES

Capilano University has policies on Academic Appeals (including appeal of final grade), Student Conduct, Cheating and Plagiarism, Academic Probation and other educational issues. These and other policies are available on the University website.

Emergency Procedures are posted in every classroom. Students are directed to review these.

Grading Profile

A+	90-100%	B+	77-79%	C+	67-69%	D	50-59%
A	85-89%	B	73-76%	C	63-66%	F	0-49%
A-	80-84%	B-	70-72%	C-	60-62%		

FACULTY OF BUSINESS & PROFESSIONAL STUDIES POLICIES

In addition to the policies of the University, the Faculty of Business & Professional Studies has the following policies governing the management of our classes and curriculum.

Attendance

Regular attendance and punctuality are both essential and expected due to the nature and format of the course materials.

Cheating and Plagiarism

Cheating is an act of deceit, fraud, distortion of the truth, or improper use of another person's effort to obtain an academic advantage. Cheating includes permitting another person to use one's work as his or her own. Plagiarism is the presentation of another person's work or ideas as if they were one's own. Plagiarism is both dishonest and a rejection of the principles of scholarship. Information about how to avoid plagiarism by proper documentation of sources is available in the Library and Writing Centre, and on the University website.

Penalties for Cheating and Plagiarism

A grade of '0' for an examination, quiz or assignment or 'F' for the course may be assigned if cheating or plagiarism has taken place. First incidents deemed by the instructor to be particularly serious or second or subsequent incidents of cheating and plagiarism will be dealt with under the provisions of the University Policy on Cheating and Plagiarism (see the University website). All students should familiarize themselves with the University Policy on Cheating and Plagiarism as such behaviour can result in suspension from the University.

Incomplete Grades

Incomplete grades will not be given unless special arrangements have been made with the instructor prior to the date set by University Administration.

Professional Behaviour

Students must demonstrate a professional attitude and behaviour toward work, fellow students and their instructors. Each student should demonstrate reliability, respect for and co-operation with colleagues. A willingness to work calmly and courteously under difficult conditions as well as a determination to achieve first-class work while meeting deadlines is necessary in the Faculty of Business & Professional Studies. Students should have respect for equipment and systems. Students should display a constructive response to criticism.

Copyright Policy

Students are expected to familiarize themselves with and abide by the University's Copyright Policy. The University's Copyright Policy is published on the University website.

SCHOOL OF LEGAL STUDIES POLICIES

In addition to the University and Faculty of Business & Professional Studies policies, the School of Legal Studies has the following policies governing the management of our classes and curriculum.

Missed Exams and Quizzes

Missed exams or quizzes will receive a grade of "0" unless PRIOR arrangements (wherever possible) are made with the instructor. Permission to make up an exam will only be given in extraordinary situations such as illness of the student or the death of a close family member. A doctor's certificate, or other proof supporting the reason for the absence, may be required.

English Usage

All assignments are marked for correct English usage, proofreading and formatting.

PARALEGAL PROGRAM COURSE LEVEL POLICIES

In addition to University, Faculty of Business & Professional Studies, and School of Legal Studies policies, the following policies govern the management of this Paralegal Program course and its curriculum.

Assignments

Homework assignments are due at the **start of class** on the due date unless otherwise advised by your instructor. Late assignments will only be accepted if prior approval for a late submission date has been given by the instructor.

Participation Grades

If course participation is part of the evaluation profile, the grade is based on the student's participation in weekly classroom or online discussion forums. Both the frequency and the quality of the student's comments, questions and observations are important factors in determining course participation. The quality of participation is determined by, among other things, the relevance, insight and clarity of the remarks. Course participation is also determined by the student's willingness to work with other classmates in a productive, prompt and respectful manner.

In-Class Testing

Please note that the use of electronic tools such as calculators and cell phones, or other resources such as written materials, is not allowed during tests, quizzes, and exams, unless expressly authorized by the instructor.

Express additional clarification/expansion of departmental or course level policies may be provided at the discretion of the instructor.



CAPILANO UNIVERSITY VISION, MISSION AND GOALS

UNIVERSITY VISION

Students are drawn to our dynamic and unique programs, passionate faculty, welcoming staff, and close-knit learning environment; graduates are independent learners, thinkers, and doers actively contributing to their communities.

UNIVERSITY MISSION STATEMENT

We are a teaching-focused university offering a wide range of programs and services that enable students to succeed in their current studies, in their ongoing education, in their chosen careers, in their lifelong pursuit of knowledge, and in their contribution as responsible citizens in a rapidly changing and diverse global community.

UNIVERSITY GOALS

Arising from the Mission statement, the Institutional Goals are broadly defined as the general areas of success that are desired for all students. From the Mission, the Institutional Goals are:

- Student success in ongoing education
- Student success in chosen career
- Student success in lifelong pursuit of knowledge
- Student success in contributing as responsible citizens in a rapidly changing and diverse global community

In order to support student success in these areas, the institution has identified seven broad learning outcomes for students in all programs.

These **institutional student learning outcomes** are:

1. Self-directed learning, awareness, and responsibility
2. Up-to-date information gathering and research skills
3. Communication skills
4. Quantitative reasoning ability
5. Group and social interaction skills
6. Creative, critical, and analytical thinking skills
7. Community/global consciousness and responsibility



FACULTY OF BUSINESS & PROFESSIONAL STUDIES

MISSION STATEMENT

To provide students with the necessary skills and abilities to be immediately effective in their employment or further studies, and to possess a sound basis for future progression in their chosen career, in the lifelong pursuit of knowledge, and in their contribution as responsible citizens in a rapidly changing and diverse global community.

OUR COMMITMENT TO SKILLS AND ABILITIES

The Faculty of Business & Professional Studies, through the delivery of this course, is committed to the development of skills so that students can perform the tasks of this discipline in an efficient and effective way.

In addition, through the delivery of all courses, the Faculty is committed to the development of core 'abilities' that will prepare students for future career progression in a chosen field. A well rounded graduate, in addition to being able to perform certain tasks, will have the following CAPabilities;

CAPability	Description
Communication	Selects, uses and integrates oral and written communication skills to develop informative, explanatory and persuasive presentations to a variety of audiences, demonstrating qualitative, quantitative and technological literacy.
Analysis and Decision-Making	Brings a unique perspective to the analysis of organizational issues through systematic thinking and the application and adaptation of frameworks and tools that assist decision-making
Social Interaction	Uses appropriate interpersonal and group theory to deal with interpersonal, team, stakeholder and professional situations to inform, persuade and influence others.
Citizenship and Global Perspective	Understands corporate social responsibility within organizational contexts and the social role and impacts of organizations. Integrates personal, professional and community values in a decision-making context as a member of an organization. Works effectively with interdependence and diversity by framing issues in the broader global context, understanding the social and cultural roots of business, governments and other organizations and by providing managerial support as part of a global strategy.

OUR COMMITMENT TO ASSESSMENT AND CONSTRUCTIVE FEEDBACK

The Faculty of Business & Professional Studies is committed to providing feedback that rewards excellence and motivates personal development. We use a mixture of personal, peer and professional assessment so that students have a diverse view of their progress in skills and abilities development. It is important to use feedback to enhance the quality of learning.

The assessment model is designed to give a fair reflection of the letter grade earned, as well as a road map for personal skill and ability development. For each skill and ability in the course students will be assessed as to the level of comprehension demonstrated. Grades are a function of how students have met course expectations as to those levels of comprehension.

SIX "LEVELS" of comprehension

KNOWLEDGE	
1. Recognize	Be able to identify the components of a framework or tool.
2. Define	Be able to describe the aspects of the components of the framework or tool.
APPLICATION	
3. Use	Be able to manipulate the framework or tool to cause a result.
4. Interpret Results	Be able to understand the result of the manipulation in a meaningful way.
JUDGMENT	
5. Situational Use	Be able to identify situations where the framework or tool should be applied, and then apply the framework or tool, including using the results effectively.
6. Adaptation	Be able to creatively adapt the framework or tool such that its use will maximized in a given situation.



PARALEGAL PROGRAM SCHOOL OF LEGAL STUDIES

MISSION STATEMENT

The mission of the Paralegal program is to provide students with the knowledge, skills, and values to obtain challenging careers as paralegals in law firms, corporate legal offices, government departments and agencies, and other legal settings. This mission supports the mission of the University to enable students “to succeed in their current studies, in their ongoing education, in their chosen careers, in their lifelong pursuit of knowledge, and in their contribution as responsible citizens in a rapidly changing and diverse global community.”

PROGRAM OUTCOMES

Knowledge

To provide students with an understanding of the basic legal concepts and procedures in major areas of the law, and to define the role students will play as paralegals in a professional working environment.

Skills

To provide students with training in research, analysis, writing, drafting and interviewing as applied in various legal contexts.

Values

To instill the importance of professional ethics in all practice contexts, and to provide an understanding of how paralegals contribute positively to the administration of justice and improve access to it.

STUDENT LEARNING OUTCOMES

Students completing this program will:

1. Demonstrate the ability to examine legal problems by identifying appropriate areas of the law and sources to consult in commencing the process of legal analysis.
2. Demonstrate competence in researching legislation, case law and secondary legal materials.
3. Summarize legal research findings using legal formatting styles and with clear and compelling analyses and conclusions.
4. Demonstrate competence in effective communication in legal contexts such as presentations of case summaries, interviewing clients, and group presentations.
5. Prepare, draft and produce legal documents, including pleadings and other court documents, wills, contracts, corporate documents, or real estate documents.
6. Demonstrate an awareness of and ability to identify legal issues in a broad range of areas through an exposure to a variety of legal subjects.