

## Law 302.3 COMMERCIAL RELATIONSHIPS

1(3L)

(2017-2018 Bangsund)

**Calendar Description:** The course examines the law applicable to a range of relationships that arise in a variety of commercial transactions: sale of goods, leasing and suretyship. While the course occasionally focuses on consumer issues, its primary focus is commercial transactions and the various relationships established thereunder.

**Prerequisites/Co-requisites:** NONE

**Detailed Description:** A significant portion of the course is devoted to the exploration of legal issues that arise under contracts for the sale of goods governed by *The Sale of Goods Act*. The following topics are covered: statutory scope, classification of goods, the seller's right and/or power to transfer title in goods, express and statutorily implied terms, delivery and payment obligations, acceptance and rejection of goods, and buyer's and seller's remedies.

The importance of leasing in the consumer and commercial markets warrants that attention be given to legal issues that are encountered when this alternative form of use arrangement is utilized in place of a contract of sale. The second part of the course examines the following topics: function and characterization of leases, lessor's obligations, and lessor's remedies. Special attention is given to leases of new implements governed by *The Agricultural Implements Act*.

Suretyship law (i.e. the law of guarantee and indemnity) is a very important aspect of modern contracting. It facilitates transactions that might not otherwise occur by providing the assurance that, if the principal contractor fails to perform his or her obligations, the guarantor (surety) will do so in its stead. This part of the course examines the supposed distinction between guarantee and indemnity, sets out the guarantor's numerous rights and defences, and explores contract formation issues that arise in the agricultural context under the governance of *The Saskatchewan Farm Security Act*.

**Course Materials:** All primary course materials are available in electronic format, and will be posted on the course website.

**Teaching and Assessment:** The instructor will use various pedagogical techniques. Most areas are covered by lectures, then through examination of the law through its application to factual scenarios (i.e. problem sets). Student performance is assessed through a final open book examination. Five students may elect to write a research paper for 30% of the final grade in the course. Students electing to complete a minor paper must state their intention within the first month of the term and have the nature and topic of the paper approved by the instructor. These students are required to write the entire final examination for the remainder of their final grade. Students not electing to write a minor paper will write the final open book examination for 100% of their final grade.

**Minor Papers Allowed:** 5

## Law 303.3 SECURED TRANSACTIONS – PERSONAL PROPERTY

2(3L)

(2017-2018 Bangsund)

**Calendar Description:** The course canvasses secured financing practices in Canada involving collateral in the form of personal property, with a primary focus on commercial secured transactions. The subjects addressed include the policy and economic implications of secured financing law, including the history, doctrinal basis and specific provisions of the primary sources of secured financing law in Canada – the provincial *Personal Property Security Acts* and the secured financing regime of the federal *Bank Act*. The study of case law will provide a contextual framework to interpret and apply this legislation. These subjects are examined in the context of the two primary themes of the course: *inter partes* creation and enforcement of security agreements, and third party priority issues.

**Prerequisites/Co-requisites:** NONE

**Detailed Description:** Secured financing is a fundamental and pervasive aspect of modern economic activity, provincially, nationally and internationally. This course will provide students with a sound working knowledge of the law of secured financing currently in effect in all Canadian common law jurisdictions, broken down as follows: (i) the concept of a security interest in personal property, (ii) the scope of the relevant secured transactions statutes including, most notably, the *Personal Property Security Act* and the *Bank Act*, (iii) the requirements for attachment and perfection of a security interest (including the procedural requirements for attaining superpriority status in respect of a purchase money security interest), (iv) the rules governing priority disputes over collateral, (v) the rules governing proceeds, (vi) interjurisdictional issues and basic conflict of laws framework, and (vii) the post-default enforcement rights of secured parties.

Students will learn how to advise clients regarding their rights and obligations in secured financing transactions. They will critically evaluate the law of secured financing and understand developments in the case law and governing legislation. In addition to addressing the fundamental mechanics of secured financing law, students are encouraged to consider its primary features in light of public policy goals, and to explore approaches to the resolution of evolving and potential issues in this area.

**Course Materials:** All primary course materials are available in electronic format, and will be posted on the course website.

**Teaching and Assessment:** The instructor will use various pedagogical techniques. Most areas are covered by lectures, then through examination of the law through its application to factual scenarios (i.e. problem sets). Student performance is assessed through a final open book examination. Five students may elect to write a research paper for 30% of the final grade in the course. Students electing to complete a minor paper must state their intention within the first month of the term and have the nature and topic of the paper approved by the instructor. These students are required to write the entire final examination for the remainder of their final grade. Students not electing to write a minor paper will write the final open book examination for 100% of their final grade.

## Minor Papers Allowed: 5

### Law 307.3 SECURED TRANSACTIONS – REAL PROPERTY

1(3L)

(2017-2018, Cuming)

**Purpose and Orientation:** This course has been designed to give student the opportunity to examine in detail the historic background, conceptual structure and operation of an area of law is of great practical significance in contemporary society. Almost all large scale construction and most acquisitions of homes and commercial buildings are financed under mortgage law. Modern mortgage law is complex and multifaceted. It entails an examination of:

- the concepts of equity, such as redemption, subrogation, consolidation, apportionment and marshalling, developed over several hundred years,
- the statutory reconceptualization of a mortgage as a charge under *The Land Titles Act, 2000*;
- the full range of remedies available to mortgagees in the event of default by mortgagors, including the extensive legislative modification of those remedies *The Queen's Bench Act 1988* and *The Limitation of Civil Rights Act*;
- the interface between mortgage law and builders' lien legislation and fixtures provisions of *The Personal Property Security Act, 1993*;
- the effect of *The Limitations Act* on the enforceability of mortgages;
- critical features of the federal *Interest Act* affecting mortgages; and
- the judicial and legislative reaction to the recent increase in mortgage fraud in Canada are examined.

In addition, the law applicable to agreements for sale of land is examined.

Students are given the opportunity to consider not only the operation of a central feature of modern society but, in addition, will be asked to consider whether important aspects of mortgage law require reconsideration in the light of changes in the social and economic structure of Western Canada over the last few decades.

**Pedagogical Approach:** The course and the posted course materials have been designed to facilitate examination of the mortgage law using the following approach:

- All students will read and consider the assigned portion of the course materials prior to the class meeting.
- Class discussion will focus on the statutory provisions and the comments and questions in the materials. Class members are expected to engage in class discussion of all aspects of the course materials. This involves questions, comments and requests for a fuller explanation of an aspect of the law being addressed in the class meeting.

**Electronic Record of Class Proceedings:** Every effort will be made to electronically record each class meeting. However, experience has demonstrated that the on-line availability of class discussions induces a some students to stay away from class meetings, particularly during the cold weather. This is unacceptable (and unwise). The learning environment of the classroom is a

fundamental feature of the study of law. In any event, the electronic facilities at the College are not completely reliable and there will times when recording is not possible.

**Assessment:** Various methods of assessment will be used. Generally, student performance in this course is assessed through a written, problem-oriented, open book examination. Other assessment methods may be used. Up to five students may elect to do a minor research paper for 30% of the final mark in the course. Suggestions for research topics and assistance in locating source materials will be provided upon request by the instructor.

**Sources:** All primary materials used in the course are provided in digital form.

**Minor Papers Allowed: 5**

### **Law 314.3 HEALTH LAW**

**2(3L)**

(2017-2018 von Tigerstrom)

**Calendar Description:** This course introduces students to the basic principles of medical law and their application to common issues in health care. It also explores the legal framework for the health professions and the health care system.

**Prerequisites/Co-requisites: NONE**

**Purpose and Orientation:** This course introduces students to basic principles of health law and to the complex legal and policy environment for the provision of health care in Canada. It will provide an overview of the health care system and its legal framework. The major part of the course will then consist of an exploration of professional regulation, medical negligence, consent to treatment, health information, and issues relating to the health care system. As time permits, we will also discuss some specialized areas and current issues in health care. Throughout the course, students will be encouraged to consider the interaction of ethical and legal obligations from various sources and of different mechanisms for the accountability of health care providers.

**Required Course Materials:** Readings will be assigned from materials available online and/or on reserve in the Law Library.

**Teaching and Assessment:** The course will be taught using a combination of lecture and class discussion. Assessment will be by way of one or more written assignments and an open book final examination.

**Minor papers allowed: 5**

### **Law 326.3 TRUSTS**

**1/2(3L)**

(2017-2018 Term 1 (s. 1) Miazga; Term 2 (s. 2) Hansen)

**Calendar Description:** The course covers the creation, administration, variation and breach of express trusts. Resulting and constructive trusts are also examined.

**Prerequisite/Co-requisite:** NONE

**Course Objective:** The purpose of the course is to describe the structure of the trust and investigate the functions that modern trusts perform. Trusts are an indispensable tool for many formal arrangements between parties. Students will be introduced to this general utility and, at the same time, learn the limitations of the use of the trust. Students should be able to: define terminology commonly used in trusts, state and apply the rules which govern validity of trusts, as well as contrast the trust with other legal concepts. Furthermore, they should be able to solve problems by applying the law related to **express trusts, remedial trusts, purpose trusts, trust remedies, the administration of trusts and trust theory.**

**Course Materials:** The casebook used is *Oosterhoff on Trusts: Text, Commentary and Materials*, 7<sup>th</sup> ed. (Toronto, Thomson Carswell, 2009).

**Teaching and Assessment:** Assessment is based on a 100% open-book final exam.

**Minor Papers Allowed:** 0

**Law 340.3 ADMINISTRATIVE LAW**

**1/2(3L)**

(2017-2018: Term 1 (s. 1) – MacLean; Term 2 (s. 2) - Hoehn)

**Calendar Description:** A survey of the role of administrative agencies within the Anglo-Canadian legal system focusing primarily on consideration of the extent to which agency and executive action is subject to judicial review and control.

**Prerequisite/Corequisite:** NONE

**Purpose and Orientation:** This course will provide an introduction to the basic principles of administrative law which govern the activities of administrative bodies and the relationship between the legislative, executive and judicial branches of government. The areas discussed will include procedural fairness, bias and independence, discretion, the application of the *Charter* to administrative decision making, judicial review, and other remedies available with respect to administrative decisions. Students will have an opportunity to consider and discuss both practical and theoretical issues regarding the role of administrative decision makers. The course will serve as a foundation for further study and practice in a wide range of areas, including health, environment, immigration, labour, professional regulation, education, and financial regulation.

**Term 1 – MacLean Course Materials : TBA. Term 2 – Hoehn Course Materials: TBA.**

**Teaching and Assessment:** The course will be taught by a combination of lectures and class discussion. Assessment will be primarily by way of an open book final examination but may include a mid-term examination or assignment. A limited number of students also have the option of writing a minor paper.

**Minor Papers Allowed: 5**

**Law 351.3 EVIDENCE I**

**1(3L)**

(2017-2018, Term 1 (s. 1), Plaxton)

**Calendar Description:** This course examines the common law foundations of the law of evidence in Canada – principally rules and standards of admissibility. The topics examined include judicial notice, presumptions and burdens/standards of proof, relevance and materiality, receivability, character evidence, opinion evidence, privilege, and hearsay.

**Prerequisite/Co-requisite: NONE**

**Purpose and Orientation:** The purpose of the course is to introduce students to fundamental concepts, principles, rules and standards in the law of evidence. Evidentiary issues arise in all areas of legal practice. Even where there is no resort to litigation, the rules of evidence often determine the strength of the client's legal case and so must be considered. This course focuses on the rules of evidence in criminal proceedings, but we will sometimes also look at evidentiary issues arising in civil and constitutional litigation, as well as administrative hearings.

The law of evidence is in a state of perennial flux. Over the past twenty years, the Supreme Court has completely re-fashioned the law pertaining to hearsay evidence, expert opinion evidence, similar fact evidence, judicial notice, the right to silence, and various other fundamental concepts. The object of this course is not simply to describe the law of evidence, but to examine and critically assess the directions in which it moves. To that end, we will consider the extent to which the various rules of evidence can be justified on moral and policy grounds, drawing upon the historical development of the law, and sometimes comparing the Canadian approach to that used in other countries.

The law of evidence is primarily concerned with admissibility and receivability. Evidence is presumptively admissible if it is relevant to a material issue. We will consider the meaning of materiality and relevance early in the course. These concepts, though they apply in every case to every kind of evidence, apply differently depending on the type of evidence adduced; *i.e.*, depending on whether the evidence in question is direct, circumstantial, or real. These classifications will also be explained. Even if evidence is relevant to a material issue, it will be inadmissible if it is subject to an exclusionary rule (*e.g.*, the hearsay rule or the confessions rule). A number of these rules (though, due to time constraints, not all) will be examined later in the course. Finally, evidence may be admissible but not receivable – the trial judge may use her discretion to exclude admissible evidence if she concludes that its prejudicial effect exceeds its probative value. We will consider the circumstances in which trial judges have (and have not) exercised their discretion in this way.

**Course Materials:**

□ Ron Delisle, Don Stuart & David Tanovich, *Evidence: Principles and Problems*, 10<sup>th</sup> ed. (Carswell, 2012)

Teaching and Assessment: The course will be taught primarily in a lecture format, though students will be expected to participate in class by asking and responding to questions about the materials, and by engaging each other in debate.

All students will write one open-book final examination. Assessment may include a midterm examination or assignment. A limited number of students also have the option of writing a minor paper.

**Minor Papers Allowed: 5 or with permission of the instructor**

## **Law 351.3 EVIDENCE I**

**2(3L)**

**(2017-2018 - Term 2 (s. 3) – Vandervort; (s. 2) Burningham)**

**Calendar Description:** Examination of the foundations of the law of evidence in civil and criminal trials in Canada. The principles, rules, statutes, and procedures are examined from a critical perspective with emphasis on the history, rationale, and reform, of rules and statutes affecting the admissibility of evidence. The topics examined are admissibility, relevance, character evidence, opinion evidence, hearsay evidence, competence, privilege, and confessions.

**Prerequisite/Co-requisite: NONE**

**Purpose and Orientation:** The course introduces students to fundamental concepts, principles, rules, and the role of discretion in the law of evidence. Evidentiary issues arise in all areas of legal practice whether the parties choose to litigate, negotiate, or mediate. The rules of evidence determine the strength of the factual basis for a client's legal position and must be routinely considered when advising clients. This course focuses on civil and criminal trials but will also examine the application of fundamental evidentiary rules and principles in other legal contexts and consider how context affects the application of evidentiary rules and principles. **The course provides students with the tools required to analyse and research evidentiary problems in connection with courses, research, or clinical experience in any area of law.**

The core material deals with matters of perspective and context including the roles and functions of the participants in common law trials and other legal proceedings. The foundational concepts of materiality, legal and logical relevance, probative and prejudicial value, and admissibility as well as the three major classifications of the law of evidence---testimonial, circumstantial and real evidence are introduced.

The law of evidence continues to develop. In recent years, the Supreme Court re-fashioned the law on hearsay evidence, similar fact evidence, judicial notice, the right to silence, and clarified a number of fundamental concepts. The object of this course is not primarily to describe the law of evidence – a daunting and arguably futile task, because it is a moving target – but to examine the factors that shape it. To that end, we will consider the extent to which the various rules of evidence can be justified on grounds of principle and policy, drawing upon the historical development of the law and comparing the Canadian approach to that used in other countries.

Students may find comparisons with the approaches used or being developed in other legal systems, such as the European Union and international tribunals, especially helpful in understanding the relationships between the law of evidence and the values that are generally

regarded as fundamental to the Canadian legal system. Comparative study is especially useful when examining the merits of changing some of the procedures now used in Canada in specific contexts, such as administrative hearings or sentencing.

Much of the law of evidence is concerned with admissibility. Evidence is presumptively admissible if it is relevant to a material issue. Evidence that is relevant to a material issue, may be nonetheless inadmissible if it is subject to an exclusionary rule (e.g., the hearsay rule) or the trial judge uses her discretion to exclude it on the ground that its prejudicial effect exceeds its probative value or on other policy grounds. We will consider representative circumstances and contexts in which trial judges have exercised their discretion to exclude evidence or have declined to do so. Topics ordinarily studied in Criminal Procedure or Professional Responsibility, such as confessions and privilege, receive only limited attention in Professor Vandervort's section of this course to avoid duplication.

### **(Section 3, Term 2 – Vandervort)**

#### **Required Course Materials:**

- Casebook–Hamish Stewart, *Evidence: A Canadian Casebook*, 4<sup>th</sup> ed, (Toronto Emond 2016).
- *Canada Evidence Act*: available on-line and in *Martin's Annotated Criminal Code*.
- *The Path To Justice: Preventing Wrongful Convictions*, Report of the Federal/Provincial/Territorial Heads of Prosecutions Subcommittee on the Prevention of Wrongful Convictions, Fall 2011, <http://www.ppsc-sppc.gc.ca/eng/pub/ptj-spj/ptj-spj-eng.pdf>
- Supplementary cases and other materials (on-line)

### **(Section 3, Term 2 – Vandervort)**

#### **Recommended Course Materials (on reserve):**

- R.J. Delisle, Lisa Dufraimont, *Canadian Evidence Law in a Nutshell*, 3<sup>rd</sup> ed. (Toronto: Thomson Carswell, 2009). Succinct discussion of core principles.
- David M. Paciocco and Lee Struesser, *The Law of Evidence*, 7th ed. (Irwin Law: Toronto, 2015); also available as e-book.
- *Martin's Annotated Criminal Code 2017---(includes the Charter and the Canada Evidence Act)---or any annotated Code you may prefer.*
- Sopinka, Lederman & Bryant, *Evidence*, 4th Student ed. (Markham, Ont., Lexis-Nexis, 2014).
- Treatises and related materials in the library.

### **(Section 3, Term 2 – Vandervort)**

**Instruction:** A lecture and discussion format with a focus on problems, illustrated by cases and materials selected to generate discussion of leading principles and issues. Classes include problem solving exercises and discussion of sample exam problems.

### **(Section 2) S. Burningham**

For this section of Evidence I will depart from the usual course description in the following ways:

- a) It will be limited to 24 students;
- b) Preference will be given to aboriginal students and to students whose first language was not English;
- c) There will be a focus on issues of particular interest to aboriginal peoples;
- d) Assessment will be other than a final exam worth 100% of the grade; and
- e) Students need to complete an application form available from the Balloting Information page on the College of Law website to enrol in the class.

Please complete the application (found under the “Current Students” webpage on the College of Law website under “Application Based Courses) and send it to: Pam Kimber, Room 280, College of Law, 15 Campus Drive, University of Saskatchewan, Saskatoon, SK S7N 5A6 or scan and e-mail it to [pam.kimber@usask.ca](mailto:pam.kimber@usask.ca).

**(Section 3-Term 2) L. Vandervort -**

- Assessment is by a three hour open book final examination.
- All students write the final examination.
- Students may elect to combine the examination with an alternate mode of assessment.
- The alternate assessment options are: 1) one minor paper (for 35% of the final course mark), or 2) up to seven short (1,000 word) papers analyzing and discussing controversial issues or current problems in the law of evidence (each worth 10% of the final course mark).
- All written work, including papers, is due on the last day of classes in the College. Topics for major or minor papers should be selected and approved no later than the beginning of week 5 of the term.

Topics for short papers will be approved on a rolling basis throughout the term.

**(Sections 2, 3)**

**Minor Papers Allowed: 5 or with permission from the instructor**

**Law 361.3 BUSINESS ORGANIZATIONS I**

**1(3L)**

2017-2018 (Term 1 – Flannigan)

**Calendar Description:** Examination of the basic features of business corporations. Topics include corporate personality, the process of incorporation, the powers and duties of directors and officers, shareholder rights and remedies.

**Prerequisite/Co-requisite: NONE**

**Purpose:** In Saskatchewan there are three different general incorporation statutes, the Business Corporations Act, the Cooperative Corporations Act and the Non-Profit Corporations Act. The focus in this course is on the Business Corporations Act. The purpose of the course is to acquaint students with the basic elements of corporate structure. No commerce or business background is required in order to do well in this course.

**Course Materials:** The casebook used will depend on the instructor.

**Teaching and Assessment:** Instruction is by lecture and discussion. The form of assessment will be a 90% open-book final examination and 10% class participation.

The use of laptops is not permitted in this section.

**Minor Papers Allowed: 5**

### **Law 361.3 BUSINESS ORGANIZATIONS I**

**2(3L)**

2017-2018 (Term 2 – Odumosu-Ayanu)

**Calendar Description:** Examination of the basic features of business corporations. Topics include corporate personality, the process of incorporation, the powers and duties of directors and officers, shareholder rights and remedies.

**Prerequisite/Co-requisite: NONE**

**Purpose:** In Saskatchewan there are three different general incorporation statutes, the Business Corporations Act, the Cooperative Corporations Act and the Non-Profit Corporations Act. The focus in this course is on the Business Corporations Act. The purpose of the course is to acquaint students with the basic elements of corporate structure. No commerce or business background is required in order to do well in this course.

**Course Materials:** The required casebook will be available for purchase and will also be on reserve in the law library. Recommended textbooks are on reserve in the law library. Supplementary materials will be posted on Blackboard.

**Teaching and Assessment:** Instruction is by lecture and discussion. The form of assessment will be an open-book final examination and a written assignment.

**Minor Papers Allowed: 5**

### **Law 372.3 FAMILY LAW I**

**1/2(3L)**

(2017-2018 (Term 1 – (s. 1) Walen – Term 2 (s. 2) Wiegers)

**Calendar Description:** Introduction to trends in families and family law, the constitutional and

statutory framework for the regulation of families and the role of process issues in family law practice. The course also provides a detailed examination of maintenance and property rights as between spouses, both married and common law.

**Prerequisite/Corequisite:** NONE

**Purpose and Orientation:** This course provides an introduction to the substantive themes and trends in families and family law, the constitutional and statutory framework for the regulation of families and the role of process issues in family law practice.

In addition to providing an introduction to substantive and process issues in family law, the course offers a detailed examination of the legal meaning and implications of spousal status.

Examination of the legal definition of spouse will include a review of the extension of marital status to gay and lesbian couples as well as to the circumstances in which spousal status is attributed to unmarried cohabitants, both same sex and heterosexual.

A substantial portion of the course will deal with spousal rights to property division under *The Family Property Act* including division of the family home, household goods and other types of family property. Finally, spousal rights to support or maintenance will be examined both under the federal *Divorce Act* and the provincial *Family Maintenance Act*. The impact of private agreements on rights to support and division of property will also be reviewed.

**Course Materials:** A case book is available on PAWS. No other materials are necessary for the course, although reference may be made to certain commentaries and articles.

**Assessment:** Students will be assessed by way of a 100% open book final examination in Professor Walen's class. A number of possibilities for assessment are available including smaller assignments and an exam in Professor Wiegiers' class.

**Minor Papers Allowed:** Wiegiers - 5, Walen - 0

**Law 384.3, CIVIL PROCEDURE**

**1/2 (3L)**

(2017-2018 (Term 1 – (s. 1) Wagner/Lavier; Term 2 – (s. 2) Kennedy)

**Calendar Description:** A chronological study of the procedural steps, rules and related substantive law in a civil action from the moment of the decision to sue to the trial of the matter. The context of the adversarial process in an action is examined by reference to the policies underlying civil procedure, the role and authority of the lawyer, the organization and jurisdiction of the courts, limitations of actions and costs. The civil action is examined through a focus on principles of jurisdiction and venue, type and manner of commencement of proceedings, pleadings, multiple claims and parties, and discovery. The course will involve the drafting of documents.

**Prerequisite/Co-requisite:** None

**Purpose and Orientation:** The course is intended to provide a basic understanding of the process, principles, rules and discretion in adjudication in formal legal proceedings (specifically, a civil action in superior court-in Saskatchewan, The Court of Queen's Bench). The initial focus is on the decision-making that takes place in the law office with respect to suing. Basic issues with respect to the role of the lawyer, choice of courts, limitation periods and costs of litigation are developed as aspects of the decisions to sue and settle litigation. The main focus in the examination of procedures is to develop an understanding of the content and scope of procedures by reference to definition, history and purpose of the rules. Drafting of documents and pleadings in an action are used to compliment case and rule analysis as part of understanding the process of litigation.

**Course and Materials:** tba

**Teaching and Assessment:** The method of teaching is a combination of lecture, modified Socratic and group discussion and activities. A major element of the course will require the students to work as "counsel" in an hypothetical action. This simulation will require the students to draft pleadings, prepare a Pre-Trial Conference Brief, and participate in a Pre-Trial Conference. The course is marked on a Pass/Fail basis. Students must successfully complete all aspects of the course to achieve a pass.

**Minor Papers Allowed:** 0

**Law 394.3 JURISPRUDENCE**

**2(3L)**

(2017-2018 Carter)

**Calendar Description:** This course examines the nature and function of the law, focusing particularly on the relationship between the law and society, law and morality, and law and political theory.

**Prerequisite/Co-requisite:** NONE

**Course Objectives:** This course introduces students to dominant themes of debate in contemporary legal theory. At the most general level, these debates concern the relationship between law and morality, the nature of law, the extent to which law is distinguishable from politics and the exercise of power, and the concept of the rule of law. The course will help students better understand 'what law is' and the relationships between law and social and political issues and controversies, past and present.

**Materials:** Articles, cases, web-sites, and excerpts from books available on Blackboard or on-line. **In 2015-2016, the materials selected emphasize the themes of "rule of law" and the theoretical and practical implications of cultural assumptions and cognitive frameworks for legal fact-finding and legal reasoning.**

**Instruction:** Combination of discussion and lecture.

**Assessment:** Students have a wide choice of assessment options available—All students write the **open book final examination. This may be combined with other** options that include one or more short papers (8 pages), a minor (15 page) paper or a major (35 page) paper. Students may choose to have the final exam count for 100% of the course mark; when combined with other options, the exam counts for a lesser portion of the final mark in the course.

**Short Papers:** Students choosing assessment options that include one or two short papers will be provided with a list of topics for these papers. The topics ordinarily pose a broadly framed question designed to facilitate discussion of issues and materials discussed in class in previous weeks of the course.

**Minor Papers:** Students choosing assessment options involving a minor paper will be provided with some suggestions for topics and approaches they may wish to use to structure the paper, but students are also encouraged to **identify their own topics** for their minor papers. Please discuss these ideas with the instructor before proceeding, however.

Papers for this class are **not research papers unless the student chooses the major paper option.** Students who write short papers or minor papers are expected to use the course materials as their principal sources. Discussion of jurisprudential issues in relation to a specific case, legal topic, or controversial legal issue, is permitted, however.

**Exam:** The final exam, to be written on or before on or before Friday April 15, 2016, is a self-scheduled take-home **open book exam**, to be picked up and signed for in Room 230 and submitted to the instructor's secretary (to preserve anonymity) by email attachment within **24 hours**. All students in the course will write the same final exam.

**Minor Papers Allowed: No limit subject to approval of topic.**  
**Major Papers Allowed: With permission.**

## **Law 401.3 SECURITIES REGULATION**

**2(3L)**

(2017-2018 Pajic)

**Calendar Description:** An introduction to the principles of securities regulation in Canada. The course will provide an overview of the regulatory system, including registration and prospectus requirements (and exceptions thereto), continuous disclosure, insider trading and reporting and control transactions. Special emphasis will be given to the regulatory aspects of advising a public company, including corporate finance, disclosure and governance matters.

**Pre-requisite:** Business Organizations I 361.3 (recommended, but exceptions can be made)

**Purpose and Orientation:** The purpose and orientation of this course is to introduce the principles of securities regulation for those who wish to practice in the area of corporate or securities law or who may ultimately advise publicly traded companies, in either an in-house or external counsel

role. For students who will likely maintain a more general practice, it is designed to enable the practitioner to recognize and identify securities law issues as they may arise.

**Course Materials:**

Required materials include:

- **Canadian Securities Regulation, 5<sup>th</sup> Edition, David Johnston, Kathleen Doyle Rockwell, Cristie Ford**, LexisNexis Canada, 2014
- Primary sources: Saskatchewan Securities Act 1988 and various National Instruments and Policies

Recommended (available in library, on reserve list):

- **Securities Law in Canada: cases and commentary, 2<sup>nd</sup> Edition, Mary Condon, Anita Anand, Janis Sarra**, Emond Montgomery Publications, 2010

**Teaching and Assessment:** The course will be principally taught by lecture, with case study and fact situations designed to elicit discussion and provide illustrations of the problems and issues facing market participants pertaining to the materials covered. Assessment will be based on attendance and participation (5% of the grade), midterm (20%) and final exam (75% of the grade).

**Minor Papers Allowed:** In lieu of midterm. Please discuss topic and timing with instructor.

**Law 407.3 BANKRUPTCY, INSOLVENCY AND RECEIVERSHIPS 2(3L)**

(2017-2018 Cuming – Term 2)

**Purpose and Orientation: Calendar Description:** This course has been designed to permit close examination of central features of the law of bankruptcy, insolvency and equitable receiverships. The specific issues that will be examined in the context of bankruptcy law will include: The role and efficacy of consumer and business bankruptcy proceedings, the position of secured creditors of the bankrupt, the status of statutory lien holders, the relationship between receivership and bankruptcy, dealings with undischarged bankrupts, bankruptcy exemptions, the role of unsecured creditors in bankruptcy administration and consumer bankruptcies. The central features of Insolvency (reorganization) systems contained in the *Companies' Creditors Arrangement Act* and the *Bankruptcy and Insolvency Act* are examined in detail. The specific issues that will be examined in the context of equitable receivership include: the receiver as agent of the debtor and representative of the secured party, the special position of a receiver-manager and receiverships under *The Personal Property Security Act* and *Bankruptcy and Insolvency Act*.

**Prerequisite/Corequisite: NONE**

**Course Materials:** Statutory provisions, case reports, notes and questions, all of which are integrated into the structure of the course, are available on PAWS.

**Pedagogical Approach:** Various pedagogical techniques are used in this course. Some areas are covered by lectures while others are addressed through questions and examination of factual situations.

The course and the posted course materials have been designed to facilitate examination of the mortgage law using the following approach:

- All students will read and consider the assigned portion of the course materials prior to the class meeting.
- Class discussion will focus on the statutory provisions and the comments and questions in the materials. Class members are expected to engage in class discussion of all aspects of the course materials. This involves questions, comments and requests for a fuller explanation of an aspect of the law being addressed in the class meeting.

**Electronic Record of Class Proceedings:** Every effort will be made to electronically record each class meeting. However, experience has demonstrated that the on-line availability of class discussions induces a significant number of students to stay away from class meetings, particularly during the cold weather. This is unacceptable (and unwise). The learning environment of the classroom is a fundamental feature of the study of law. In any event, there are times when the electronic facilities are not available.

**Assessment:** Various methods of assessment will be used. Generally, student performance in this course is assessed through a written problem-oriented, examination. Other assessment methods may be employed. Up to five students may elect to write a research paper for 30% of the final grade in the course. Suggestions for research topics and assistance in locating source materials are provided by the instructor. Students who elect to write a research paper are required to write a selected portion of the examination written by other students for the balance of the mark.

**Minor Papers Allowed: 5**

## **LAW 405.3 ADVANCED CRIMINAL LAW**

**1(2S-IR)**

(2017-2018, Term 1– Vandervort)

**Calendar Description:** The seminar focuses on substantive criminal law with emphasis on critical analysis of the grounds of criminal liability and criminal responsibility. The challenges that social and cultural diversity pose for the development of substantive criminal law will be considered throughout.

**Prerequisite: None.**

**Purpose and Orientation:** In 2017-2018 the readings present competing views on the nature and role of “harm” and “autonomy” in criminal law and the factors that influence decisions about what is “harmful,” what compromises “autonomy,” and whether/when an individual is criminally liable and criminally responsible for his or her acts and the consequences that result. Students are invited to examine legal theory and doctrine within a broad societal context, to consider the implications of relevant studies in health and the social sciences for analysis of specific issues, and to reflect on the broader normative, ethical, legal, and political context and implications of substantive criminal law.

The purpose of the seminar is: 1) to develop knowledge of substantive criminal law, analytical skills, and over-all scholarly competence and confidence through oral and written analysis and discussion within the context of theoretical, historical/political, cross-cultural, and multi-disciplinary frameworks; and (2) to gain new skills and experience in research, analysis, and argumentation. Each student prepares either a major scholarly research paper or two minor analytic papers.

In 2017-2018, we will first review the elements of substantive criminal law and recent leading cases. Then legal regulation of sex work, drugs, and work in resource industries will be examined to provide context for examination of the concepts of “harm” and “autonomy,” which, in turn, may provoke us to re-examine our understanding of the operation of those concepts in analysis of traditional crimes against the person and property. The seminar then turns to an examination of “voluntary” acts and “criminal” responsibility. Recent and recurring controversies related to interpretation and application of defences, such as self-defence and necessity, provide yet further opportunities to examine the roles of life experience, socialization, attitudes, beliefs, and cultural differences in shaping perceptions of “facts” and conclusions about what constitutes a “reasonable” response to apprehended “harm” and threats of “harm.” Recent legal and social issues related to patterns of drug use and violence in Canada may also be considered.

### **Required Course Materials:**

- *Martin’s Annotated Criminal Code 2018*---or another annotated Code.
- Selected cases and supplementary materials on-line and on reserve in the law library.
- The schedule for assigned weekly readings will be posted separately and is subject to change.
- Readings for the final weeks of the term will reflect student research projects.
- Students will receive assistance with research problems and strategies.

### **Recommended Course Materials:**

- The 6th edition of Kent Roach, *Criminal Law*, Irwin Law, August 2015. (Available in paper & as an e-book—both \$65.00.) Previous editions are useful but do not address current developments.
- A wide range of perspectives on sex work is included in *Selling Sex: Experience, Advocacy, and Research on Sex Work in Canada*, ed. by Emily van der Meulen, Elya M. Durisin, & Victoria Love, UBC Press: Vancouver, 2013---paperback, excerpts to be assigned..
- *Still Dying for A Living: Corporate Criminal Liability After the Westray Mine Disaster*, by Steven Bittle, (UBC Press: Vancouver, 2012) introduces issues arising in conjunction with individual, corporate, and societal/governmental responsibility for injury and death in the Canadian work-place or public space affected by economic activity---paperback, excerpts to be assigned.
- Current legal research guides on-line (see law library web-page) and in print and various resources in the supplementary materials folder. Resources such as *Legal Research: Step by Step*, 4<sup>th</sup> ed., by Margaret Kerr, JoAnn Kurtz and Arlene Blatt, Emond Montgomery:

Toronto, 2015, may be especially useful for assistance in developing and refining your legal research skills.

**Teaching:** This is a student-centred seminar in which students actively engage with the assigned materials, guided by questions and issues raised by them and by the instructor. A workshop approach is used to encourage students to discuss their research from the definition of a problem through completion of a working outline and preliminary draft. The final seminar-workshop schedule will be established in consultation with students enrolled in the seminar.

**Assessment:** A major paper (70% - approximately 35 pages or 8750 words)---topics to be approved by the instructor; with permission of the instructor, students may substitute two minor papers (combined weight – 70%) that together total about 35 pages or 8750 words. A substantial portion of all papers shall consist of original analysis and discussion. Minor papers are exercises in critical analysis of specific materials and issues approved by the instructor, will not require extensive research, and may take the form of case comments, memos, or analytic papers. This affords each student writing options that are academic or practice oriented or a combination of both. The remainder of the mark is based on oral participation and workshop leadership in the seminar (15%) and written participation on the Discussion Board on Blackboard. Successful completion of the seminar fulfills the seminar and major or minor paper requirements, and may provide useful background for independent directed research (IDR) on advanced topics in substantive criminal law and criminal law theory in subsequent terms.

**Major papers: 15; with the instructor’s permission, two minor papers may be substituted for the major paper.**

## **Law 405.3 Advanced Criminal Law**

**2(2S-1R)**

(2017-2018 – (s. 2) Plaxton)

**Calendar Description:** This seminar introduces students to a range of issues concerning the substantive criminal law, approaching these questions from the perspective of moral, political, and legal philosophy. The questions to be considered include: what are the moral and constitutional limits of Parliament’s authority to create new criminal offences, and what are legitimate bases upon which to criminalize courses of action; what is the purpose of the substantive criminal law, and what does this tell us about its scope, and about the relationship between offences and defences; what does it mean to ‘consent’; and is there an appropriate role for overbreadth in the criminal law?

**Prerequisite: Criminal Law 204.6**

**Purpose and Orientation:** The principal aim of this course is to deepen students’ appreciation of a range of issues in substantive criminal law, and to acquaint them with thinkers – mainly drawn from the realm of contemporary moral, political, and legal philosophy – whose ideas shed light on those issues. Though some of the discussions will have relevance to specific cases and pieces of legislation, students should be prepared to participate actively in highly abstract debates about,

among other things, the role of the substantive criminal law; the relationship between courts and legislatures; the nature of criminal wrongdoing and the appropriate bases for criminalization; the structural relationship between offences and defences; the nature of various core concepts pertaining to moral and legal wrongdoing (e.g., consent, voluntariness, fault); and more. In addition, students will be expected to research and write a major paper on a topic that fits with the broadly theoretical and philosophical orientation of this course.

**Course Materials:** To Be Determined

**Instruction and Means of Assessment:** This is a seminar, meaning that students will be expected to have done the applicable reading in advance of each class, and be prepared to discuss what they have read. The main mode of assessment will be a major paper. It is, however, *possible* that students will be graded, as well, on their in-class participation and on an in-class presentation.

## **Law 407.3 BANKRUPTCY, INSOLVENCY AND RECEIVERSHIPS**

**2(3L)**

(2017-2018 Cuming)

**Calendar Description:** This course has been designed to permit close examination of central features of the law of bankruptcy, insolvency and equitable receiverships. Recent changes to bankruptcy and insolvency law will be considered and comparisons will be made with the law of other jurisdictions which have recently enacted reforms in this area of the law. The specific issues that will be examined in the context of bankruptcy law will include: The role and efficacy of consumer and business insolvency proceedings, the position of secured creditors of the bankrupt, the status of statutory lien holders, the relationship between receivership and bankruptcy, dealings with undischarged bankrupts, bankruptcy exemptions, the role of unsecured creditors in bankruptcy administration and consumer bankruptcies. The central features of Insolvency (reorganization) systems contained in the *Companies' Creditors Arrangement Act* and the *Bankruptcy and Insolvency Act* are examined in detail. The specific issues that will be examined in the context of equitable receivership include: the receiver as agent of the debtor and representative of the secured party, the special position of a receiver-manager and receiverships under *The Personal Property Security Act* and *Bankruptcy and Insolvency Act*.

**Prerequisite/Corequisite:** NONE

**Course Materials:** Statutory provisions, case reports, notes and questions, all of which are integrated into the structure of the course, are available on PAWS.

### **Pedagogical Approach**

Various pedagogical techniques are used in this course. Some areas are covered by lectures while others are addressed through questions and examination of factual situations.

The course and the posted course materials have been designed to facilitate examination of the mortgage law using the following approach:

- All students will read and consider the assigned portion of the course materials prior to the class meeting.
- Class discussion will focus on the statutory provisions and the comments and questions in the materials. Class members are expected to engage in class discussion of all aspects of the course materials. This involves questions, comments and requests for a fuller explanation of an aspect of the law being addressed in the class meeting.

### **Electronic Record of Class Proceedings**

Every effort will be made to electronically record each class meeting. However, experience has demonstrated that the on-line availability of class discussions induces a significant number of students to stay away from class meetings, particularly during the cold weather. This is unacceptable. I consider the learning environment of the classroom to be a fundamental feature of the study of law.

### **Assessment**

Generally, student performance in this course is assessed through a written problem-oriented, 3 hour examination. However, up to five students may elect to write a research paper for 30% of the final grade in the course. Suggestions for research topics and assistance in locating source materials are provided by the instructor. Students who elect to write a research paper are required to write a selected portion of the examination written by other students for the balance of the mark.

### **Minor Papers Allowed: 5**

## **Law 410.3 INTELLECTUAL AND INDUSTRIAL PROPERTY I**

**1(3L)**

(2017-2018 Roberts)

**Calendar Description:** This course will comprise a survey of substantive elements of some areas of intellectual and industrial property law and the current legal frameworks respecting copyright, industrial design, trademarks, patents and plant breeders' rights. Approximately one quarter of the course will be devoted to each of copyright, trademarks and patents. Industrial design and plant breeder's rights laws will be treated only with sufficient detail to familiarize students with their scope. Some time will be allocated to considering the development of current Canadian and international intellectual property regimes. An examination of developments and problems caused by internationalization and by new technologies and demands on the law in a post-industrial, information-age society will be included.

**Prerequisite: NONE**

**Purpose and Emphasis:** Governments throughout the world are increasingly reliant on innovation to sustain and increase productivity and, hence, living standards. Therefore, intellectual property, the principal device for recognizing and monetizing mental productivity, is a critically important and growing repository of commercially and socially valued assets. This course is intended to familiarize students with both the basic concepts of intellectual property law in Canada and its theoretical underpinnings. This course is a general introduction to the present law of intellectual property and a survey of copyright, industrial design, trademark, patent and plant breeders' rights laws. The course will include discussion of the principles underlying grants of intellectual property, the pertinent legislative frameworks and current issues. The course will also examine the benefits and challenges created by the internationalization of intellectual property law schemes and practices and by the emergence of new technologies such as those respecting information and communications and biology and genetics.

**Course Materials:** A detailed syllabus and a collection of cases and ancillary materials will be supplied by the instructor for use in the course.

**Teaching and Assessment:** Class time will be devoted to discussion of selected concepts, cases and materials. The format will involve a mixture of lecturing, questioning and general class discussion. A short writing assignment (approximately 10 pages) is mandatory, for 20% of each student's the final grade. The remaining 80% of the assessment will be based on a final written examination. Notwithstanding the foregoing, the instructor *may* consider the requests to write minor papers. If permitted, minor papers will be accorded 30% of final grades and the value of the final exams of paper writers will be reduced to 50%.

## **Law 413.3 CURRENT ISSUES IN LAW REFORM**

**1(2S-1R)**

(2017-2018 Cotter)

**Calendar Description:** This Seminar will introduce students to the principles and process that guide the reform of the law. The seminar will use selected readings and presentations by guest lecturers and the professor to provide the foundation for a consideration of the processes, machinery and potential for law reform initiatives in areas of provincial jurisdiction. Students will be introduced to approaches to law reform, interact with the Law Reform Commission of Saskatchewan and will learn about the successes and failures of a number of recent provincial law reform initiatives.

The core of the course will involve a series of law reform projects selected by the professor and the students that will be undertaken by the class. Students will work in groups, leading in the development of one project and commenting on/critiquing aspects of a second project. Students will undertake group research and develop and present an issues paper on their law reform research project. Following the receipt of feedback, each group will then develop a legislative, regulatory or policy proposal to address the issues associated with their project, prepare background materials that support their approach and present their proposal to a Panel.

Students will also write a short commentary/critique of another group's issues paper and a short commentary/critique of the legislative, regulatory or policy proposal of that group.

**Prerequisite:** NONE

**Purpose and Orientation:** The course is intended to introduce students to the process of law reform and to provide a ‘hands-on’ opportunity to undertake a specific law reform initiative. It is also intended to replicate the collaborative processes by which law reform is achieved, including research, policy development and group work. The course will enable students to participate directly in a process by which societal needs are identified and analyzed and in which law can be developed to address these needs.

**MATERIALS:** Materials for the class will be posted to blackboard.

**ASSESSMENT:**

Students will be evaluated on the following basis:

ISSUES PAPER AND PRESENTATION:	40%	[GROUP MARK]*
LEGISLATIVE/REGULATORY/POLICY PROPOSAL AND PRESENTATION	40%	[GROUP MARK]*
CRITIQUE OF ISSUES PAPER	10%	[INDIVIDUAL MARK]
CLASS PARTICIPATION	10%	[INDIVIDUAL MARK]

**LAW 414.3 ACCESS TO JUSTICE**

**1(2S-1R)**

2017-2018 – Buhler

**Calendar description:** This 3-credit seminar explores the topic of access to justice. The seminar will address definitions and theoretical debates concerning access to justice, and will critically examine the role of legal institutions, governments, communities, the legal profession and individual lawyers in addressing the issue of access to justice in our society. While the course focuses on the roles of legal actors and institutions, it will also situate the issue of access to justice in its social, political and economic context, and critically examine perspectives such as those offered by “community lawyering” writers and critical Indigenous scholars about the solutions to the problem of access to justice in Canada.

**Prerequisite/Co-requisite:** NONE

**Purpose and Orientation:** “Access to Justice” is currently heavily debated within the legal community and within legal scholarship, and the purpose of this seminar is to introduce students to the theoretical and practical aspects of this debate. This course offers an opportunity for students to engage critically with the literature surrounding access to justice and the professional responsibility of lawyers to engage in this issue. It also will create space for critical dialogue about the limits of institutional responses to access to justice and the exploration of alternatives.

## **Learning Objectives for this course:**

By the end of this seminar, students should:

- Have a solid understanding of the key debates and issues in access to justice discourse and scholarship and be familiar with access to justice jurisprudence and scholarship in Canada;
- Have an understanding of the rationales for various access to justice initiatives;
- Be able to articulate a critical perspective on the limits of the ability of legal institutions and actors to address access to justice and articulate alternate perspectives;

## **Course Materials:**

Academic journal articles, reports, and cases, to be made available to students electronically.

## **Teaching and Means of Assessment:**

The seminar meets for two hours each week.

Evaluation is based on:

- A minor research paper (40%) and creative project or book review (30%)  
OR  
A major research paper (70%) AND
- Attendance and participation in seminar (30%)

Details are as follows:

*Minor paper:* 15-20 pages in length, on a topic relating to the substantive content of the course, to be approved by the course instructor in advance. Papers are due on the last day of classes (40%).

*Creative project or book review:* (30%). Student writing a minor paper must also submit a creative project or book review (due on the last day of classes). Further details to be provided in the syllabus.

*Major paper:* 35-50 pages in length, on a topic related to the substantive content of the course, to be approved by the course instructor in advance. Papers are due on the last day of classes (70%).

*Class participation:*

The participation mark (30%) comprises three elements.

First, attendance and engaged contribution to seminar discussions is worth 10%. Students are expected to attend all seminar discussions. Students are expected to complete the assigned readings and be prepared to engage in informed discussion about the readings in class. I assess class participation based on several components, including the student's

self-evaluation, the student's active listening in class, and the student's engagement in informed discussion, thoughtful questioning and contribution to the class dynamic. A variety of opportunities for discussion and participation will be offered.

Second, each student will assist in the facilitation of one seminar discussion over the course of the term. This counts as 10%.

Third, 10% of the participation mark is allocated for short written responses or questions about the required readings for the day, which students post on a class discussion board on PAWS prior to each class. These questions and comments form the basis for the in-class discussion.

### **Law 415.3 MUNICIPAL LAW**

**2(3L)**

(2017-2018 Warwick)

**Calendar Description:** This course examines the scope and exercise of municipal authority, municipal liability in tort, as well as planning, subdivision, zoning and other means of land use regulation.

**Prerequisite/Co-requisite: NONE**

**Purpose and Orientation:** To gain a solid understanding of:

- a) The fundamental principles of municipal authority;
- b) The standards of judicial review of local government action;
- c) Jurisdictional conflict;
- d) Municipal liability;
- e) Land use control, zoning and regulation.

**Course Materials:** Students will be required to access legislation and cases as assigned. In addition, excerpts from the text *Municipal Law* by Felix Hoehn will be posted on PAWS.

A syllabus and collection of case and textual materials is prepared by the instructor.

**Teaching and Assessment:** Materials are covered by the lecture method combined with active class discussion of assigned materials.

Students will be evaluated by an open book final exam (100%).

**Minor Papers Allowed: 0**

### **Law 417.3 INSURANCE LAW**

**2(3L)**

(2017-2018 Sandstrom)

**Calendar Description:** An examination of general topics of insurance law and how legislation and common law deal with these topics in relation to property, life and automobile insurance. Considered topics include classifications of insurance, the legal position of brokers and agents and concepts of indemnity, insurable interest, non-disclosure and misrepresentation, the rights of third parties to recover insurance proceeds, warranties and conditions, valuation, subrogation and contribution.

**Prerequisite/Co-requisite: NONE**

**Purpose and Orientation:** Although the relationship between an insured and an insurer is usually set out in multi-page contracts, the course is not simply an extension of basic Contract Law. One significant difference is built upon the foundation that the creation of the relationship is not an arm's length transaction. Indeed, the common law theories developed out of a notion that the applicant-insured was in the dominant position although the passage of time and the development of standard form contracts have given the insurers the dominant position. Many forms of insurance contracts are still governed by the common law principles. However, statutes have intervened in a number of areas by preventing pure freedom of contract. This statutory intervention was designed to balance the interests of insurers with the interests of the insured. A prominent aspect of the course is examining both the common law and the statutory law as to whether there has been a proper balancing of the interests.

Applicability of Statutory Intervention in Other Jurisdictions: The statutory intervention into the insurer-insured relationship is done through provincial legislation. In some courses there can be dramatic differences in the way in which individual provinces legislate in relation to subject matter. **The statutory intervention in the insurance field tends to be the same in each of the provinces.** This is because of the dominant role played by the national body of the provincial Superintendents of Insurance in proposing and encouraging legislative change at the provincial level.

Why Insurance Law? Practitioners are often faced with clients with insurance problems. Insurance Law, however, shares that characteristic with a large number of other courses taught in the College. Where this course differs from many, however, is that it has relevance for each of you from a personal perspective. Most people have numerous types of insurance either as law students (e.g. extension automobile insurance, home insurance) or after graduation (e.g. life insurance, accident and sickness insurance, errors and omissions insurance). Yet, few understand what their responsibilities are in effecting the contract, during the contract and after a loss has been sustained.

**Course Materials:** A text is used in the course, supplemented by relevant case reviews.

**Assessment:** Assessment will be based on an open book final examination worth 100% of each student's grade in the course.

**Minor Papers Allowed: 0**

(2017-2018 – Vandervort)

**Calendar Description:** The seminar examines sexual assault in domestic and international criminal and civil law. Topics addressed include: 1) comparison of alternate theoretical conceptualizations and legal definitions of sexual assault; 2) interpretation of current substantive law: consent in the *actus reus*, consent and voluntariness, *mens rea*, mistakes of fact and law, the ‘reasonable steps’ provision; 3) administration of justice in relation to sexual assault: police and prosecutorial practices and policy, determinations of credibility and admissibility of evidence, questions of law and fact, the judicial role, jury instructions, and sentencing; 4) civil actions; 5) criminal compensation boards; 6) the *Charter* and international human rights law, the *UN Declaration of Human Rights*, *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*, 1979, *Declaration on the Elimination of Violence Against Women*, 1993, *Statute of the International Criminal Court (Rome Statute)*, 1998, including recognition of ‘rape’ and other forms of sexual violence of comparable gravity as ‘war crimes’ and ‘crimes against humanity’.

**Pre-requisites: None.** Evidence I (Law 351.3) and Criminal Procedure (Law 423.3) are strongly recommended as either pre-requisites or co-requisites.

**Purpose and Orientation:** The seminar examines the administration of criminal justice in relation to sexual assault offences and the interpretation and application of criminal sexual assault laws. The primary focus is on the criminal legal process, with limited attention to civil remedies. Cases currently before the courts and the roles of police, prosecutorial, and judicial discretion in shaping the responses of the legal system are emphasized. Non-Canadian and international criminal and human rights law and legal initiatives may be considered to provide comparative perspectives.

The seminar is especially useful for students who intend to specialize in criminal law or provide legal services in areas of law and policy dealing with assault, interpersonal or domestic violence, and offences involving abuse of power affecting vulnerable persons or populations.

**Required Course Materials:** The syllabus includes selected cases, statutes, articles, and other materials on-line and on reserve. The materials are multi-disciplinary and address both ~~persistent~~ perennial issues (e.g. controversy over statutory interpretation, one or both parties are intoxicated or impaired or acquainted or minors or otherwise vulnerable due to relationships of power or trust) and emerging/developing issues (e.g. institutional responses: sexual assault on campus, in the military, low rates of reporting, data that suggest arbitrariness in enforcement decisions, complaints about the unprofessional conduct of counsel and the judicial conduct of trials, and sentencing). Reading assignments are posted periodically. The seminar materials are revised annually to incorporate recently decided and pending cases and discussion of emerging issues. The materials include selected articles and materials on-line and books on reserve. Portions of one or more books may be assigned or recommended. Where feasible, subject to copy-right laws, materials will be posted on-line. Students may find it useful to have access to a copy of *Martin’s*

*Annotated Criminal Code 2018*. If you purchase a copy directly from the publisher you will also receive supplements to the *2018 Code* by mail. Links to a collection of web-sites and reference materials are posted on Blackboard to assist with your research. Students will find it useful to check the Blackboard course web-site on PAWS periodically throughout the term for links to a variety of resources, including new material as it becomes available. Selected materials that are not available on-line or available in print as well as on-line, are on reserve in the law library for reference purposes.

As we study the elements of the offence of sexual assault and the trial process, you may often find it useful to refer to Hamish Stewart, *Sexual Offences in Canadian Law* (loose-leaf) on reserve in the law library. Chapter 3 deals with the key substantive issues in sexual assault law; other chapters focus on historical offences, evidentiary issues, offences involving children, etc. etc. This loose-leaf is probably the best single source currently available for a detailed overview of the Canadian case law and literature (as to be expected, there are some omissions, but for the most part it is quite thorough). You will likely want to refer to this volume in your research. Only Chapter 3 will be posted on Blackboard, due to copyright restrictions. You may download a copy of Chapter 3 for personal use.

**Instruction:** This course is conducted as a seminar in the classic sense. Students discuss assigned materials guided by questions raised by students or the instructor. Legal material and theoretical perspectives needed as background to research and write effectively in this area are introduced in assigned readings, lecture segments, comments, and handouts. A workshop approach is used at key stages over the course of the term to ensure students have an opportunity to present their research projects to their peers throughout the research and writing process from definition of a problem through completion of a working draft.

**Assessment** is based on:

- **a major paper** (70% - approximately 8750 words)---a research paper on a topic approved by the instructor, based on extensive research and demonstrating significant analytic engagement with one or more problems or issues related to the topic selected. Papers that are predominately expository and descriptive are not acceptable.
- **with permission of the instructor, students may substitute two minor papers** (70%) which together total about 8750 words. Minor papers analyze specific materials and issues approved by the instructor, do not require extensive research, and may take the form of case comments or memos on a specific point of law. Minor papers must be primarily analytic, not expository and descriptive.
- posts in a minimum of 7 out of 12 weeks on Blackboard, **prior to** each seminar meeting, commenting on the assigned seminar readings and responding to posts by other students (15%);
- seminar participation and seminar leadership (each student leads one workshop discussion of unresolved, contested, or potentially controversial issues related to their research/writing topic using a workshop format organized in consultation with the instructor) (15%).

- Criteria and weight for assessment of the major paper and on-line comments are: 1/3 - style and efficacy in communication/expression; 2/3 - content (demonstrated familiarity with research materials, originality and insight in defining, framing, and analyzing the issues).
- Successful completion of the seminar fulfills the seminar requirement; successful completion of the major or minor paper may be used to satisfy the paper requirement.

**Major papers: 15.**

**Minor papers: 2 per student with permission of the instructor.**

## **Law 420.3 CURRENT ISSUES IN INSOLVENCY**

**2(2S-1R)**

(2017-2018 Arvanitis-Zorbas)

**Calendar Description:** In our world of ever growing corporate structures and technology the practice of insolvency is changing and adapting. This seminar will examine new and emerging legal issues that today's companies face when they reorganize under the Companies' Creditors Arrangement Act in Canada by comparing it to how the United States treats similar issues under Chapter 11 of the Bankruptcy Code. The various areas of law that will be discussed include debtor-in-possession financing, critical suppliers, how mass tort claims can be included in the reorganization process (ie. the Red Cross tainted blood scandal), cross-border insolvencies of multinational corporations, the treatment of environmental claims, the treatment of intellectual property as "property", employment law and the treatment of employee benefits and pensions in a reorganization, as well as the use of the CCAA and Chapter 11 to liquidate companies. The focus of the course will be to not only examine how the legislation in each country deals with these issues but also how the legislation has evolved over time to meet the needs of the current debtors and creditors of today.

**Prerequisites/Co-requisites: NONE**

**Course Materials:** Readings will be available electronically. Materials will be primarily in the form of journal articles and legal cases.

**Teaching:** The first few classes will be lecture based to introduce to the students to the *Companies' Creditors Arrangement Act* as well as Chapter 11 of the Bankruptcy Code. Thereafter the students will make a 20-30 minute presentation on their major paper topics and the class will discuss the issues that arise as well as issues that arise in case law and articles that they have read for that week's topic. Every student will write a major paper for this class.

**Assessment:**

Presentation	10%
Participation	15%
Major paper	75%

## Law 421.3 LEGAL ETHICS AND PROFESSIONALISM

1(3L)

(2017-2018: Term 1 – (ss. 1,2,3) Cotter)

**Calendar Description:** This course introduces students to i) the roles, responsibilities and authority of the legal profession and ii) the legal and ethical duties of lawyers in the practice of law. The regulation of various aspects of the profession – admission, regulation of the practice of law, lawyer discipline, etc. are critically examined. As well students will learn the elements of a lawyer's duties to client, the court and others, including himself or herself. This involves an understanding of the lawyer's role in the adversary system, the nature of lawyer-client confidentiality, integrity and conflicts of interest in various roles performed by lawyers.

**Prerequisite/Co-requisite:** NONE

**Purpose and Orientation:** The purpose of the course is to examine the roles and responsibilities of the legal profession and the role of the lawyer in the various contexts in which lawyers act in our society.

The course is intended as an introduction to the process of personal development of a conception of the professional role of a lawyer and a critical examination of conceptions of that role. The central issues are framed by jurisprudence related to lawyers and the legal profession, academic writing, the Code of Professional Conduct and real life ethical dilemmas encountered by lawyers, all of which are examined from the perspectives of history, moral criticism, character formation and public policy.

**Course Materials:** Law Society of Saskatchewan, Code of Professional Conduct; Woolley et al. Lawyers' Ethics and Professional Regulation [required casebook]

**Teaching and Assessment:** The primary teaching method is a combination of lecture and seminar discussion and dialogue. Assessment is by open book final examination [70%] and paper. In addition each student will be required to prepare materials for and participate in a group presentation to his or her seminar [30%].

The course is offered in part-lecture, part-seminar format. The first class of the week will be in the form of a lecture or presentation on a designated topic or theme to all sections of the course. The second class is in the form of (one of three) seminars in which the week's topic or theme will be explored in greater detail through discussion and a consideration of problems and scenarios.

**Minor Papers Allowed:** unlimited

## Law 421.3 LEGAL ETHICS AND PROFESSIONALISM

2(3L)

(2017-2018 Term 2 Buhler)

**Calendar Description:** This course introduces students to i) the roles, responsibilities and authority of the legal profession and ii) the legal and ethical duties of lawyers in the practice of law. The regulation of various aspects of the profession – admission, regulation of the practice of law, lawyer discipline, etc. are critically examined. As well students will learn the elements of a lawyer’s duties to client, the court and others, including himself or herself. This involves an understanding of the lawyer’s role in the adversary system, the nature of lawyer-client confidentiality, integrity and conflicts of interest in various roles performed by lawyers.

**Prerequisite/Co-requisite: NONE**

**Purpose and Orientation:** The purpose of the course is to examine the roles and responsibilities of the legal profession and the role of the lawyer in the various contexts in which lawyers act in our society.

The course is intended as an introduction to the process of personal development of a conception of the professional role of a lawyer and a critical examination of conceptions of that role. The central issues are framed by jurisprudence related to lawyers and the legal profession, academic writing, the Code of Professional Conduct and real life ethical dilemmas encountered by lawyers, all of which are examined from the perspectives of history, moral criticism, character formation and public policy.

**Course Materials:** Law Society of Saskatchewan, Code of Professional Conduct; Woolley et al, Lawyers’ Ethics and Professional Regulation [required casebook]

**Term 2 – Buhler:** The primary teaching method is by lecture and class discussion. Assessment: All students will be Students have 3 options in terms of assessment. Option 1: Personal ethical statement (5%); short written assignment (25%) and final open-book exam (70%); Option 2; Personal ethical statement (5%); minor paper (50%); final open-book exam (45%); Option 3: personal ethical statement (5%); final open-book exam (95%).

## **Law 423.3 CRIMINAL PROCEDURE**

**1/2(3L)**

(2017-2018, Term 1 – (s. 1) Roe; Term 2 – (s. 2) Talbot)

**Description:** This class will provide students with a general overview of the criminal process namely:

- arrest and release on bail
- elections and re-elections for trial
- role of Crown and defence counsel
- the trial process before judge alone
- the trial process in a jury trial
- pre-trial motions
- disclosure at trial
- plea bargaining

formalities of informations and indictments

(10) special pleas

(11) the appeal process

The class will also deal with the Canadian Charter of Rights and Freedoms, jurisdiction and remedies and the study of the Charter will be a very significant part of the class. We will discuss remedies under Section 24(1) and 24(2) of the Charter. Charter violations, applications for relief and potential remedies will be reviewed, including:

(1) Abuse of process

(2) Unreasonable delay

(3) Search and seizure

(4) Detention and arrests

(5) Right to counsel

(6) The right to silence.

**Prerequisite/Co-Requisite: None.** Although not required, students may find Evidence I (Law 351.3) helpful in understanding Criminal Procedure.

**Course Materials:** Students taking the class will be required to purchase the text, Stuart, Delisle, & Quigley, Learning Canadian Criminal Procedure (11th ed.), Carswell, 2010 and a current Criminal Code, annotated.

**Teaching and Assessment:** The primary teaching method is by lecture, interspersed with questions and discussion.

The final examination will be open book for 100% of the mark. If students choose, they may write a minor paper 15 to 25 pages in length on a topic that is approved by the instructor. In that event, the paper will comprise 50% of the final mark, and the examination will comprise the other 50%.

**Minor Papers Allowed: 0**

## **Law 425.3 SENTENCING IN THE CRIMINAL JUSTICE SYSTEM**

**1(3L)**

(2017-2018 Kalenith)

**Calendar Description:** Selected topics relevant to sentencing in the criminal justice system combining theory, doctrine and practice. Theoretical aims of punishment and their translation into current legal doctrine and practice will be discussed, with particular emphasis on the Canadian and Saskatchewan context.

**Prerequisite/Co-requisite: NONE**

**Purpose and Orientation:** The course is designed to fill a gap in the existing curriculum. It is recognized by many of the participants in the criminal justice system including lawyers, judges, probation and parole officers, and police that the sentencing aspect is the most important part of the process. It is therefore important to have at least one course dealing with this in

the curriculum. More important, for a proper understanding of substantive, evidentiary and procedural criminal law, it is necessary to have some understanding of the aims of punishment and the form that it takes. Some of the course will be looking at the theoretical aims of punishment including deterrence, both general and specific, retribution and rehabilitation. While this will necessarily have a philosophical orientation, it will not be discussed in isolation from the actual doctrine and practice of sentencing. Students will also consider the sentencing framework established in the Criminal Code and the legal doctrine and practice associated with that. The course will be taught from a critical and practical standpoint with much discussion of the efficacy of achieving the aims sought to be achieved by the criminal justice system. New developments especially those being developed in the Aboriginal community, will also be a major focus

**Course Materials: (2016-2017)** Required: Martins Annual Criminal Code and the 2016“Assigned Reading List.” (2017-2018) TBD.

**Teaching and Assessment:** (2016-2017) The class evaluation will consist of BOTH of the following:

1. 50% take home exam/assignment; and
2. 50% mock sentencing.

Attendance must be in compliance with the College of Law Assessment Regulations, see

<http://www.law.usask.ca/students/current-students/assessment-regulations.php>

NOTE: Students who require accommodation are encouraged to contact DSS as soon as possible or to apply to the College of Law by the appropriate deadlines.

If you are unable to complete the assignments on the dates scheduled, you must contact the Associate Dean without delay. If you are writing the exam and unable to finish, you must inform the invigilator before you leave the room and immediately contact the Associate Dean.

There will be a 50% take home exam/assignment and 50% mock sentencing (exam). The take home exam/assignment will be due on December 3rd and the mock sentencing will also be on December 3rd. The schedule for the mock sentencing and the take home exam/assignment will be released later in the term.

**Teaching and Assessment:** (2017-2018) TBD

**Minor Papers Allowed: 0**

**Law 427.3 GALE MOOT**

**1/2[Nov.-Feb](3S)**

(2017-2018 Brayford)

**Calendar Description:** Participation in the Gale Moot Competition held annually in Toronto is required. It will involve research and advocacy, both oral and written, on a complex case or problem in the field of criminal and/or constitutional law. Students are responsible for the preparation of both an Appellant's and a Respondent's factum, and will participate in at least three practice moots at the College prior to the competition. Recommended for students with an interest in public speaking and exacting research.

#### Course Content

a) outline:

This seminar is for students of the College of Law who wish to take part in the Gale Moot Competition. The Gale Moot is held annually at Osgoode Hall in Toronto and attracts teams from law schools across Canada. The case argued by the students is a recent Supreme Court decision in the criminal/constitutional law area. The students are responsible for the preparation of both an Appellant's factum and a Respondent's factum, and will participate in at least three practice moots at the College prior to the competition. The number of moots participated in at Osgoode Hall will depend on how far the team advanced in the competition. The final two rounds will be judged by three judges from the Supreme Court of Canada. Every fourth year the winner of the Gale Moot is Canada's representative in the Commonwealth Moot which is held once every four years.

b) objective:

To provide students with an opportunity to perform in-depth research, analysis, writing and advocacy in the criminal/constitutional law area, as well as developing their appellate advocacy skills through argument and presentation to actual appellate court judges.

#### Means of Evaluation

The means of evaluation will be the same as for the Laskin Moot (Law 441.3).

#### Additional Information

There are four students on the College Gale Moot team.

### **Law 428.3 WILLS**

**1(3L)**

(2017-2018 Doucette)

**Calendar Description:** This course examines:

- the law surrounding the execution, construction and revocation of wills, powers of attorney, and advanced health care directives;
- issues of probate, survivorship, intestate succession, dependants' relief, and family issues as they relate to wills and estates, including a discussion of the law surrounding adult guardianship applications;

- pre and post-mortem tax planning opportunities relating to wills and estates.

**Prerequisite/Co-requisite: NONE**

**Purpose and Orientation:** Everyone dies. Some people plan for this by having a will – others do not. Lawyers are often called upon to determine how an individual’s property is distributed upon their death. The course is designed to provide students with the skills necessary to determine the order of death of individuals, to determine the validity of wills, and to determine exactly how property is distributed upon death whether or not the individual had a will. In addition, the course is designed to impart some practical skills to the students - as part of the course, the students will have an opportunity to work through a “mock” client file, communicating with this mock client and drafting a will for the client.

The making, alteration, revocation, republication, and revival of wills are examined from the perspective of the court of probate, which determines what documents and words comprise the will. Issues concerning how the property is to be distributed are examined from the perspective of the court of construction, which rules on what the words used in the will mean. Differing approaches of the two courts to matters such as standard and burden of proof and admissibility of evidence are compared.

The course also deals with intestate succession to property not disposed of by will and with claims that may be made outside of the will under dependants' relief, family property, insurance, and trust law.

Finally, this course provides an introductory overview of the tax implications of death, and a discussion of some pre and post-mortem planning opportunities that can be taken advantage of to minimize the same.

**Course Materials:** There is no text. A case book is available on PAWS. No other materials are necessary for the course, although reference may be made to certain commentaries and articles.

**Teaching and Assessment:** Instruction is by lecture, discussion and classroom activities. Classroom activities will be unmarked. Students will be required to successfully complete the opening and closing of a mock client file which will be valued at a total of 30-50% of the course mark, with the remainder of the mark being derived from the open-book final exam.

**Minor Papers Allowed: 0**

**Law 430.3: NEGOTIATION AND DISPUTE RESOLUTION**

**1/2 (3L)**

2017-2018: Term 1, Section 1: Mark Baerg  
Term 1, Section 2: Mark Baerg  
Term 1, Section 3: Michaela Keet  
Term 1, Section 4: Michaela Keet  
Term 2, Section 5: Charmaine Panko

Term 2, Section 6 (\*\*FAMILY SECTION): Charmaine Panko

**Calendar Description:** This course examines the form and function of negotiation as a problem-solving process. Negotiation is critical to lawyers and others concerned with preventing or resolving disputes. We study effective negotiation from theoretical, critical and practical perspectives, placing emphasis on the lawyer's role in negotiation.

**Prerequisite:** First-Year Dispute Resolution Program\*

**Purpose and Orientation:** This is the core upper-year course in negotiation. It builds on the introduction in first year and provides the foundation for other courses in negotiation and dispute resolution. We address negotiation through hands-on simulations, encouraging you to develop problem-solving skills. You reflect critically on the lawyer's role as a communicator, problem-solver, advisor and advocate in the context of both transactional and dispute negotiation. We also invite you to consider issues of negotiation ethics, professionalism, legal contexts, strategy and the use of related processes such as mediation and collaborative law.

**\*\* Section 6 (Charmaine Panko, Term 2) will focus on the family law context. Scenarios, case studies and simulations will allow students to explore challenges and opportunities in the resolution of family law disputes. Processes commonly used in the family arena (and lawyer's roles within those, including Collaborative Law) will be experienced and examined.**

**Texts:**

Resources are currently being re-examined. Students will be advised as to required and recommended texts.

**Teaching and Assessment:** Course work includes in-class and out-of-class simulated negotiations (depending on the instructor, this may include such exercises as an email negotiation or a videotaped negotiation), as well as written reflective assignments and in-class debriefings of what took place in the exercises. The emphasis is on formative assessment (development of skills over time) and collaborative learning. There is no exam. The course is not eligible for either the major or minor paper credit. Class size is limited to 24.

\*Or, for exchange students, equivalent prior training.

**Minor Papers Allowed: 0 Major Papers Allowed: 0**

**Law 431.3 ADVANCED CONSTITUTIONAL LAW**

**1(2S-1R)**

(2017-2018 Carter)

**Calendar Description:** This seminar will engage in examination of current issues in constitutional law, including issues of constitutional theory, federalism and the constitutional protection of individual and group rights.

**Prerequisites/Co-requisites: NONE**

**Purpose and Orientation:** This seminar will examine issues in constitutional law including issues of constitutional theory, federalism and the constitutional protection of individual and group rights including an examination of the interconnecting legal and political arguments involved in constitutional interpretation.

**Assessment:** 20% of the final grade will be based on seminar participation. In each seminar, other than the introductory evening, one or two students will be asked to introduce the readings and issues they raise.

80% of the grade will be based on a term essay. Students will have the option of meeting their major paper requirement with this paper.

**Law 432.3 HUMAN RIGHTS**

**2(2S-1R)**

(2017-2018 Norman)

**Calendar Description:** An understanding of contemporary debates about universalism and of the meaning of human rights with attention to political theory and international underpinnings. The concept of discrimination and the constitutional position of human rights and fundamental freedoms in Canada. Detailed analysis of the concept of equality as it is embedded in the domestic anti-discrimination law and enshrined in section 15 of the Charter.

**Prerequisite/Co-requisite: NONE**

**Purpose and Orientation:** The seminar serves as a vehicle for research and writing in the field of human rights. The range of topics available for papers is very broad. Depending on students' interests and university pre-law backgrounds, questions of the place of rights within liberal and communitarian theory, the concept of group rights, theories of equality, problems of definition and of international and domestic human rights law enforcement may be pursued. There is a wealth of literature available for student papers. The field of human rights has grown at an enormous rate in recent years. Mr. Justice Walter S. Tarnopolsky, in his forward to the materials reminds us:

When I went to law school in the mid-1950's, only the Law School at McGill ... had courses dealing with human rights issues as such. Today, every law school in Canada includes human rights as a topic in its Constitutional Law course and probably one or more specific courses as well. This new focus has been matched by an ever-expanding body of legal writing. However, to state the very obvious, human rights are not the concern only of the legal professions. They are the concern of everyone.

**Course Materials:** Materials by Ken Norman.

**Teaching and Assessment:** The seminar begins with several sessions led by the instructor, based upon assigned readings. By the mid-point of the term seminars are led by students on topics

relating to their research projects. Papers submitted in this seminar will fulfill the major writing requirement. The seminar is conducted as a colloquium with discussion and debate being a central objective as almost any aspect of human rights discourse raises inherently contestable moral questions.

### **Law 435.3 LAW AND ECONOMICS**

**2(2S-1R)**

(2017-2018 Donald)

**Description:** This seminar will apply economic principles to analyze legal principles. Topics covered will include the economic analysis of major areas of the common law, namely, property law, tort law and contract law. Other topics include (i) the economic approach to corporate law, (ii) bankruptcy, and (iii) competition law. As the various topics are covered, students will see how the law might be addressing certain kinds of recurring economic problems, including prisoners' dilemmas, transactions costs, externalities, asymmetric information, principal-agent problems, and free-rider problems. A previous background in economics is not required.

**Prerequisite/Corequisite: None**

**Course materials:** Certain textbooks are recommended. Other textbook materials will be made available on reserve. Other materials will be downloaded from Hein Online, jstor.org and case law databases.

**Teaching and Assessment:** Meetings will typically include a lecture component by the instructor on certain technical aspects of reading materials. Students are expected to participate with each other and the instructor in a general discussion about the readings assigned for any specific meeting. Students will write a paper due at the end of term (worth 75%). As well, during the term, students are expected to write three short synopses (once monthly), each about a theoretical aspect of Law and Economics (each worth 3% for a total of 9%), and they will be evaluated on their participation in classroom discussion (worth 16%).

### **Law 436.3 ABORIGINAL LAW**

**1(3L)**

(2017-2018 Hoehn)

**Calendar Description:** The Aboriginal peoples of Canada; Aboriginal title and Aboriginal rights, treaties and the treaty-making process, including hunting and fishing rights, Natural Resources Transfer Agreements; the Metis; land claims; federal and provincial jurisdiction over Aboriginal peoples and lands; Indian Act, including membership and Bill C-31; constitutional recognition and protection of the rights of Aboriginal peoples; Aboriginal self-determination.

**Prerequisite/Co-requisite: NONE**

**Purpose and Emphasis:** The course is a survey of Canadian law as it relates to Aboriginal people in a legal, political and social context. The materials illustrate the importance of colonial theory and historical patterns in understanding contemporary issues concerning Aboriginal peoples and attempts to resolve them. Current issues are emphasized throughout the course.

Course Materials: Borrows and Rotman, *Aboriginal Legal Issues: Cases, Materials and Commentary*, 4th ed. Butterworths, 2012. Other materials will be provided on PAWS.

**Teaching and Assessment:** The primary teaching methods is by lecture interspersed with discussion and questions. Assessment is generally 90% final examination and 10% for class participation. Students may reduce the weight of the final examination grade by preparing a short presentation for an additional 10-20%, or a minor paper for 50%. Students electing to write a minor paper may choose to write only a portion of the final exam. I will also consider proposals for other assessment alternatives.

**Minor Papers Allowed: 5**

## **Law 439.3 MEDIATION**

**1/2(3L)**

(2017-2018: Term 1 - Dumonceaux; Term 2 – Dumonceaux)

**Calendar Description:** Mediation—broadly speaking, the process of assisting the negotiations of others—is being increasingly used to resolve legal disputes. This course explores mediation from both theoretical and practical perspectives. As well as examining the structure and different approaches to mediation, students will develop skills for engaging the mediation process effectively in every role. While students will experience and study mediation from a variety of perspectives, it is the implication for their role as lawyers that forms the common theme.

**Prerequisite: Law 430.3, Negotiation.**

**Purpose and Orientation:** The course considers the use of mediation in various contexts, which may include family, wills and estates, labour, commercial and personal injury law. Issues explored may include barriers to resolution, cultural influences, coaching parties for effective participation, and the role of power and the law in mediation. Through the use of simulations, students experience the mediation process as lawyers, clients and mediators.

**Required Text:** Douglas Frenkel and James Stark, *The Practice of Mediation: A Video-Integrated Text* (New York: Aspen, 2008).

**Teaching and Assessment:** Teaching is based on a combination of lecture, demonstrations, simulations and skill-building exercises with individual and group reflections on those exercises. Assessment is based on the following components:

65% Journal (multiple entries throughout the term; two submissions)

20% Assignments (four throughout the term worth 5% each)

15% Class Attendance and Participation (evaluated every class)

Although written work will be required, Law 439.3 is not eligible for either the major or minor paper credit. Class size is limited to 20.

### **Law 441.3 LASKIN MOOT**

**1/2[Oct.-Mar.](3S)**

(2017-2018 Singer)

**Calendar Description:** This seminar is designed to provide academic supervision and credit for the four students who are members of the College team in the Laskin Memorial Moot Court competition. Participants do research and written and oral advocacy on a complex problem in administrative and constitutional law. The seminar is recommended for those with an interest in advocacy, exacting research, and public law issues. The Laskin Moot is a bilingual (French/English) competition where a minimum of one of the four team members participates in French.

**Prerequisite/Co-requisite:** NONE. Administrative Law is recommended.

**Purpose and Orientation:** Participation in appellate moot competitions provides an excellent means to obtain advocacy experience.

Two factums are prepared by the team and the four students moot twice in competition and many more times at the College in preparation for competition. All interested students are invited to be interviewed on “Moot try-out day” which will occur during the first few weeks of Term 1. Team selection will be completed shortly thereafter.

The team receives the moot problem in early October. The moot competition itself occurs around the end of the third week in February. Three hours academic credit are earned in the Spring term by each of the five participants.

**Assessment:** Evaluation is based on the student's written and oral work, as well as participation at meetings and practices. The teams' performance in the final competition is based on 66% of the marks for oral presentations and 33% of the marks for the factums. The College's evaluation will be influenced by the same mark allocation, but will also depend on the discretion of the instructor based on the College's evaluation criteria.

### **Law 442.3 REFUGEE LAW**

**1(2S-1R)**

(2017-2018 Amirzadeh)

**Calendar Description:** Refugee Law is a seminar class which will examine the essential principles and process as related to refugee law both in Canada and internationally. We will consider, amongst others, the Refugee Convention, the Canadian Immigration and Refugee Protection Act and Regulation, and will look to significant players including the United Nations High Commissioner for Refugees. Students will also observe the relationship between the refugee

law, human rights law and administrative law. We will also examine the effect of environmental changes such as global warming which will result in massive population shift. The process and criteria for the attainment, denial, and withdrawal of refugee status underpin much of the class content.

**Prerequisite:** **None.** Law 304 (Immigration Law) would be beneficial.

Refugee law is an increasingly important area of law in Canada, and our students would benefit by having a class dedicated specifically to it. There are no other courses at the College of Law focussing primarily on Refugee Law which is a very important issue both at the national and international level.

In 2013, the International Organization for migration (IOM) estimated that 214 million people were living outside the country of their birth. This is a substantial increase from the 150 million person estimate for the year 2000. UNHCR reports the worldwide total of 51.2 million are forcibly displaced. Children constitute about 41 percent of the world's refugees, and about half of all refugees are women and two-thirds of the world's refugees have been in exile for more than five years, many of them with no end in sight. Majority of all refugees are in the developing world, in countries that are least equipped to provide the most basic necessities of life.

Many refugee law practitioners and scholars argue that states around the world are not living up to their obligation to provide refugees with the protection to which they are entitled under international law. Refugees are forced to leave their home by interweaved factors such as persecution, Civil war and armed conflicts, gross human rights violations, poverty, natural disasters.

This course will examine domestic and international refugee law framework, outlining the development for the Refugee Convention and the Canadian Immigration and Refugee Protection Act and Regulation (IRPA/IRPR). We will discuss significant players including the United Nations High Commissioner for Refugees (UNHCR), the Canadian Immigration and Citizenship, the Immigration and Refugee Board of Canada, Canada Border Service Agency and the Department of Justice and a few not-for-profit organizations both nationally and internationally, such as International Organization for Migration and Canadian Council for Refugees.

Students will learn the definition of "refugee" as interpreted in Canada and will consider at length the process of refugee selection and the process and criteria for the attainment, denial, and withdrawal of refugee status. The principle of non-refoulement will also be examined. Students will also observe the relationship between the refugee law, human rights law and administrative law. We will also examine the effect of environmental changes such as global warming which will result in massive population shift.

We will evaluate the challenges to refugee protection on both the international and domestic levels, also we will examine the predicament faced by policymakers in balancing refugee protection while safeguarding national security and at the same time addressing transnational crime.

Students will examine various historical and contemporary cases of involuntary displacement, and we will employ various classroom strategies in order to enable discussion of these issues.

Course Materials: Required and recommended course materials are being developed.

Teaching and Evaluation: The assessment process is being developed however, I will assess the student's work based on one of two streams, which they'll choose. The essential components are set out below.

Stream I	Stream II
Participation 15%	Participation 15%
Presentation 15%	Presentation 15%
Written case study 30%	Major Paper 70%
Minor Paper 40%	

### **Law 444.3 ENVIRONMENTAL LAW**

**2(3L)**

(2017-2018 MacLean)

**Calendar Description:** A course description surveying the actual and potential role of the law in protecting the integrity of the environment from threats posed by scientific and technological advances over exploitation of resources, rapid development and population growth.

**Prerequisite/Co-requisite: NONE**

**Course Description:** This course will explore the relationship between the law and the environment with emphasis on the ways in which we manage related risks and uncertainties. The course will begin with an explanation of basic environmental law concepts and then go on to consider environmental law provincially, federally, and internationally. It will provide insight into jurisdictional authority, common law principles, as well as criminal law aspects of environmental protection. Focus will be placed on regulatory compliance and enforceability, environmental rights and corporate responsibility. These elements as well as the importance of environmental assessments, climate change considerations, and the protection of biodiversity, lands and waters will be highlighted through lectures, guest speakers, class discussions and student presentations.

This course will provide a basic understanding of the environmental law process in Canada. It will give a thorough grounding in the logic, institutions, structures and rules of environmental law; however, it will not attempt to cover the full breadth of issues that may arise in environmental law, or cover any topic in its full depth.

With marks for participation and presentations the course hopes to lighten the weight of your final examination while engaging you beyond the strict regurgitation of case law allowing for a greater appreciation of the concepts of environmental law.

## **Objectives:**

- Identify and explain primary federal and provincial environmental statutes
- Identify and explain leading principles, concepts and areas of law relevant to environmental issues
- Develop self-perspective on environmental legal issues and be able to draw a connection to other substantive and procedural legal areas
- A solid understanding of major environmental case law and their impact on legal systems and environmental decisions of governments, institutions, and society
- Develop a critical perspective toward environmental law, including its underlying philosophy, ethics, and purpose
- Identify and explain the achievements and failures of current environmental regulatory systems and present rationalized ideas for improvement.

**Teaching Format:** This is a lecture course but given its substantive objectives, active engagement and discussions are a necessity. A number of guest lecturers in the environmental field have been invited to speak to some topics so as to introduce you to a diverse array of expertise and a range of perspectives. If you are unable to attend class please let me know in advance.

## **Evaluation:**

- **10% Participation:** measured by attendance and contribution to class discussion
- **15% Presentation:** a 4-5 page paper (single-spaced, 12pt font, Arial or Times New Roman, 1-inch margins) on current environmental issues. Topics will be assigned, but areas of interest will be considered. Presentations can be done alone or in groups of 2 or 3. Focus of the grade will be on the substantive content in the presentation and related class engagement; the paper will act more as a background document and must be submitted at least 24 hours before the presentation. Students may also opt to submit their paper to the class to ensure class engagement criteria of the presentation is fulfilled.
- **75% Final Examination.**

**Course Material:** To save on costs for you and to reduce paper waste I will be posting course materials on PAWS. However, the inability to download files from PAWS will not be an acceptable excuse for not being prepared for class. Most cases are available on Canlii and other papers can be easily found on Google Scholar or on the internet.

**Law 447.3 ABORIGINAL RIGHTS MOOT**

**1/2[Oct.-Mar.](3S)**

(2017-2018 TBD)

**Calendar Description:** The Aboriginal Rights Moot is a moot structured on the traditional Aboriginal circle consensus-building process. It is designed to allow law students to debate and discuss Aboriginal rights issues vital to the Aboriginal Peoples.

**Prerequisite or Corequisite:** LAW 436.

**Note:** Team is chosen in October and competition takes place in March.

**Description:** The Kawaskimhon (speaking with knowledge) Aboriginal Rights Moot is a culturally sensitive national forum where issues regarding Aboriginal rights are debated by students from across Canada. Kawaskimhon is a great opportunity for law students to speak to issues of Aboriginal rights. Kawaskimhon is hosted each year by a different law school.

This event is a two day forum. On the first day participants present oral arguments based on written submitted factums or other legal documents. At the end of the first day the host law school prepares a cultural night which usually includes a banquet, singers, and dancers. Kawaskimhon participants are required to work toward reaching consensus on the mooted problems or issues by the end of the second day. Band membership rights, territorial overlaps, the effects of hydro projects on Indian lands, Metis rights and the history of missing Indigenous women in Canada are some of the topics this moot has explored.

### **Law 448.3 MEDIATION AND NEGOTIATION ADVOCACY MOOT 1&2(3S)**

(2017-2018 Keet)

**Calendar Description:** Lawyers use dispute resolution skills in various procedural settings, and often advocate for their clients in the mediation process. This course offers students an opportunity for intensive skill development in dispute resolution and mediation advocacy through a competitive moot experience.

**Prerequisite:** Law 430.3. In the late spring or early fall, a call for applications is circulated to students for the following year, and the coach selects students after an interview process.

**Teaching and Assessment:** In preparation for the Canadian National Mediation Advocacy Competition, students participate in series of practice sessions, which include receiving in-class presentations and feedback from outside guests, videotaping and reviewing simulations, and completing readings and reflective writing assignments. Practice sessions focus on the development of active listening skills and the use of techniques that balance integrative and distributive dimensions of conflict resolution.

### **Law 450.3 WESTERN CANADA MOOT\SOPINKA CUP 1/2[Oct.-Mar.](3S)**

(2017-2018 Smith)

**Calendar Description:** This course involves preparation and participation in a trial advocacy moot initially involving the six western Canadian law schools followed by a national competition. Participants are involved in juried trial relating to a problem in evidence, criminal procedure and/or criminal law. Participants are expected to prepare opening juror addresses, examinations-in-chief and cross examinations and closing arguments. In addition, there is research on various evidentiary

points which arise during the course of argument.

**Note:** there are no prerequisites for this course although it is desirable that students will have completed a course in either evidence or criminal procedure.

### **Law 452.3 TRIAL ADVOCACY**

**1/2(3L)**

(2016-2017, (Term 1 -Section 1 &2 – Scharfstein; Term 2 – Section 3 - Zakreski)

**Calendar Description:** Advocacy techniques, practice and tactics in trial fora. Topics covered will include: the essentials of direct examination and cross examination, chambers advocacy, examinations for discovery, impeachment of witnesses, occurrence witness testimony, expert witnesses, the use of exhibits, closing arguments and addresses.

**Prerequisite:** Law 384.3, Civil Procedure

**Purpose and Orientation:** The course is designed to introduce students to the conduct of civil and criminal trials. The emphasis is on making students confident and comfortable in a trial setting. Students will undertake counsel roles including a short trial near the end of the term. Role plays will begin with client preparation, pre-trial steps such as basic pleadings, chambers applications, examinations for discovery and direct and cross-examination techniques. Building on this, students will proceed through evidentiary matters such as the use of exhibits, impeachment of witnesses, the use of experts in a trial and eye witness testimony. Other topics will include trial tactics, objections and responding to objections, procedural matters, opening statements and closing addresses.

**Course Materials:** Case files are contained in Course Materials on Trial Advocacy (Shapiro). The text used is Stuesser, An Advocacy Primer, Carswell, 1990.

**Teaching and Assessment:** The instructor gives an introduction to each topic area and will endeavour to provide coaching and a critique of student's performances. Students are encouraged to assess each other. The course is assessed on the basis of advocacy roles, class participation including a short trial. The remainder of the mark is based on a short paper on an advocacy related topic and/or a trial brief. Guest speakers supplement class instruction as time permits.

### **LAW 453.3 ABORIGINAL LAW & POLICY IN CANADA**

**1(2S-1R)**

(2017-2018 Zlotkin)

**Calendar description:** An overview of historical and contemporary legal and policy developments affecting Aboriginal people and their interests in Canada, and an examination of the relationship between colonialism and law and policy in this area. The emphasis will be on developments since the second half of the 20<sup>th</sup> century.

**Prerequisite or Co-requisite: None**

**Purpose and Orientation:** The aim of this course is to give students an overview of the main historical and contemporary legal and policy developments affecting Aboriginal people and their interests in Canada, and to examine the relationship between colonialism, and law and policy in this area. Legal and policy institutions and processes will be examined, as well as the social and political context in which the law and policy operate. Students will gain an enhanced understanding of the law by examining its context, its effects and the relationship between the functions of the three branches of government in respect to the interests of Aboriginal peoples. Specific topics covered in past sessions included a Cree perspective on treaties in Saskatchewan, consultation issues, Treaty Land Entitlement in Saskatchewan, modern treaties and treaty processes, residential schools, and alternative approaches to child welfare and the criminal justice system.

**Materials:** Borrows & Rotman, *Aboriginal Legal Issues: Cases, Materials & Commentary*, 4th ed, (Markham: LexisNexis Butterworths, 2012). Further materials will be available in the course bin.

**Teaching:** This seminar is conducted as a colloquium designed to promote discussion and debate. Initially several sessions will be led by the instructor, and based upon assigned readings. Subsequent sessions will be led by students on topics related to their research. Special guests may be invited to participate in presentations or discussions.

**Assessment:** 1. Major Paper (approximately 35-40 pages): 80% of the final grade.  
2. Class Participation and presentation: 20% of the final grade.

**Law 455.3 OIL AND GAS LAW**

**2(3L)**

(2017-2018 Heavin)

**Calendar Description:** This course introduces students to oil and gas law. Topics addressed will include: the nature of interests in oil and gas; rights of mineral interest holders inter se and the operation of the rule of capture; acquisition of freehold interests in oil and gas; the freehold oil and gas lease; estoppel, waiver and involuntary termination; disposition of minerals by the Crown; oil and gas conservation (pooling unitization and shut-in wells); and, surface rights.

**Prerequisites/Co-requisites: NONE**

**Purpose and Orientation:** Lawyers in Saskatchewan and Alberta regularly advise clients on their rights and obligations in relation to oil and gas law generally and oil and gas leases specifically. This course is designed to introduce students to the body of law associated with the regulation and exploitation of oil and gas including industry background; the nature of oil and gas interests; interpretation of Crown and freehold leases; surface rights acquisition, compensation and reclamation; and an overview of Federal and Provincial government regulation of the Oil and Gas Industry.

**Course Materials:** A detailed syllabus and case book is prepared for this course.

**Teaching and Assessment:** This course will be taught using lectures and discussion. Students will be expected to have read the relevant materials prior to class to facilitate class discussion. Students will be assessed through a minimum of one written assignment and an open-book final examination.

**Minor Papers Allowed: unlimited**

**Law 456.3 CONFLICT OF LAWS**

**1(3L)**

(2017-2018 Hansen)

**Calendar Description:** Conflict of Laws, or Private International Law as it is also widely known, deals with the analysis and resolution of legal problems involving more than one jurisdiction. Using cases primarily from tort, contract, property and family law, the student learns how to characterize a legal issue, how to determine which jurisdiction is the most appropriate forum, and which jurisdiction's law governs the issue, and how to evaluate the significance of factors that influence recognition and enforcement of the foreign judgment.

**Prerequisite/Co-requisite: NONE**

**Purpose and Orientation:** Conflict of Laws (a.k.a. Private International Law) is potentially one of the most intellectually demanding but also most important classes of one's law school career. Knowledge of conflict of laws is essential for any practitioner who deals with private law issues involving any "foreign" facts, parties, events, or laws. ("Foreign" here means extra-provincial as well as international.) To take just a few examples, you cannot operate at the required standard of legal competence without knowledge of conflict of laws if you are advising someone on a damages claim concerning a foreign tort, engaged in estate planning where there are assets in more than one jurisdiction, or dealing with a division of spousal property where the spouses have moved from one jurisdiction to another during their relationship. Conflict of laws, of course, takes on an increased importance in a globalizing world, and knowledge of both Canadian and foreign conflict of laws principles is essential in the context of various transnational legal arrangements and transnational litigation. Conflict of laws can raise very challenging conceptual issues, but the instructor works to make the course as accessible as possible.

During the course, we are going to examine at length the traditional doctrinal approach to conflict of laws within Canadian common law, as dramatically modified in recent years. At the end of the course, students will not be experts on conflict of laws, but they should be able to work effectively with the doctrinal principles as applied to fact scenarios of a reasonable level of difficulty. We will also spend some time examining theoretical writings on conflict of laws and reform efforts advanced through the common law, statutes, and international conventions, and students at the end of the course should be able to offer some insightful critiques of possible versions of conflict of laws doctrine. Finally, we will also consider briefly applications of conflict of laws in some selected current areas. [Note re 2014-15 – Professor Newman is back in the course (which he

taught for a number of years) during Professor Hansen's maternity leave this year. Though not in any way to the exclusion of the significant commercial applications of the class, he will be orienting the class in the applications phase partly around the examination of certain types of transnational human rights litigation that have been the subject of significant recent case law.]

The course is thus aimed at sensitizing students to a range of conflict of laws issues and helping them develop intellectual tools to confront such issues. Some of the instruction will be through lecture format (though with the instructor calling upon students extensively), and some will involve breaking the class down into smaller groups examining particular problem scenarios. The material can be challenging and the expectations within the course are not low, but the understandings and legal intellectual development attained are worth it. Many past students have indicated that they have used the course extensively in the early years of practice and appreciated that they took the course rather than trying to learn it on their own.

**Course Materials:** The main legal materials will be provided on Blackboard. In addition, there is a mandatory text, which students have found very helpful in past years: Stephen Pitel & Nicholas Rafferty, *Conflict of Laws* (Irwin 2010).

**Assessment:** The current plan (subject to modification based on the ultimate class size) is that students will complete two short assignments together worth 30% of the mark and an open book final exam for the remaining 70%. Students who successfully ballot for a minor paper in this course and identify an appropriate conflict of laws topic that the instructor approves within the first two weeks of class will have that paper count for 40% and will complete just one assignment for 15% of the marks, with the final exam providing the remaining 45%.

**Minor Papers Allowed: 5**

**Law 457.3 INTERNATIONAL LAW**

**1(3L)**

(2017-2018 Hansen)

**Calendar Description:** An examination of the legal principles governing the conduct of states and other subjects of international law. Topics studied will include the creation and ascertainment of international law, application of international law in domestic and international tribunals, sovereign immunity, diplomatic relations, law of armed conflict, international protection of human rights, and international environmental protection.

**Prerequisite/Co-requisite: NONE**

**Purpose and Orientation:** The course introduces students to the basic principles and structure of international law. It is designed to acquaint students with the international legal framework and its relevance to Canadian law, and to provide a foundation for those interested in further study of particular areas of international law (e.g. human rights, environmental protection, trade and investments, etc.) The topics to be studied will include; the history and sources of international law, international legal persons, the relationship between international and domestic law, state jurisdiction over territory and persons, sovereign immunity, United Nations system and other

international institutions, state responsibility for breaches of international law, and some discussion on the use of force.

**Course Materials:** The required text is T.B.A. Supplementary materials will be made available online or on reserve in the library.

**Teaching and Assessment:** The course will be taught by a combination of lectures and class discussion. Assessment will be primarily by way of an open book final examination but may include a mid-term examination or assignment. A limited number of students also have the option of writing a minor paper.

**Minor Papers Allowed: 5**

### **Law 459.3 JESSUP MOOT**

**1/2[Nov.-Feb.](3S)**

(2017-2018 Memauri)

**Calendar Description:** This seminar is designed for students who wish to compete in the Jessup International Law Moot Court Competition. Students will receive three course credits to be designated for term one or two. The seminar takes place over first and second semester, with the former designed to prepare students for written submissions to the International Court of Justice and the latter emphasizing on preparation for the oral rounds of the competition. The seminar involves; discussion of contemporary issues in public international law matters relevant to the Jessup Moot problem; instruction and focus on the necessary research tools related to public international law to solve the Jessup Moot problem; and extensive oral advocacy training. A team of five students encompassing four oralists and one designated research counsel will be selected to represent the College at the competition. The seminar is recommended mainly for those with an aptitude for public speaking, exacting research and interest in international law matters.

**Prerequisite/Co-requisite: NONE**

**Purpose and Emphasis:** This seminar is designed to prepare students for participation in the Philip C. Jessup International Law Moot Court Competition at the national rounds and at the international rounds of the competition in Washington D.C., if students place 1<sup>st</sup> or 2<sup>nd</sup> at the national rounds. The content of the seminar depends on the issues raised by the Jessup problem. The problem is typically available by September or October and the national round of the competition takes place in February or March, with the international rounds typically in April. Work over the Christmas break is essential.

The Dean invites students to participate in the seminar but students who are not invited may indicate their interest and compete for a place on the team. No more than 5 students may participate. Students are selected on the basis of their academic record, mooting or public speaking experience and other relevant experience. Interested students will be interviewed as a part of the selection process and are invited to submit a letter outlining any relevant experience they would like considered.

**Course Materials:** The materials covered depend on the issues raised by the Jessup problem. The competition itself provides basic materials which serve as a starting point. Students are expected to identify the issues in the Jessup problem and then the issues are divided amongst team members to be researched. Research materials identified in this process make up the bulk of the course materials, in addition to the basic materials provided by the competition.

**Teaching:** In accordance with the rules of the competition, faculty assistance is limited to a general discussion of public international law as it relates to the issues of the Jessup problem, guidance as to sources for research and instructions on how students can improve their oral advocacy skills. In addition to seminar discussions of the issues and research sources, students will participate in at least four practice moots from stretching from mid-January to the end of February. Students will prepare and exchange informal memos on their research, which will form the basis for discussion at each seminar meeting. In addition, students will jointly prepare several drafts of applicant and respondent memorials (factums) with the final memorials submitted to the competition in early January.

**Teaching and Assessment:** Students will receive a mark worth 25% of their grade based on their individual work on the research memos. They will receive a group mark worth 25% of their grade based on the final draft of the memorials submitted to the competition. The other 50% of each student's grade will depend on their individual performance in the oral component of the seminar. The seminar will not satisfy the major paper requirement but students are invited to propose topics for independent directed research for second semester.

## **Law 460.3 INTERNATIONAL TRADE LAW**

**2(3L)**

(2017-2018 Hansen)

**Calendar Description:** This course examines principles and obligations contained in international and regional trade agreements and the use of dispute resolution to uphold and enforce such commitments. The agreements to be addressed are World Trade Organization Agreements, including the GATT 1994, the North American Free Trade Agreement and the Canadian Agreement on Internal Trade.

**Prerequisite/Co-requisite: NONE**

**Purpose and Orientation:** The course examines the fundamental principles of international trade law as set forth in trade agreements. The course focuses primarily on the fundamental principles and obligations contained in international trade agreements including: non-discrimination obligations, non-tariff barrier regulations and disciplines on the use of domestic trade remedies (including anti-dumping and countervailing duties). It also considers the relationship between international trade law and domestic law/international law. These topics will be examined through reference to trade agreements containing such commitments, case law generated through international and regional dispute resolution systems and Canadian courts, as well as academic and/or institutional commentary on the agreements and international dispute resolution systems.

**Materials:** The casebook used in 2015-2016 was Simon Lester, Bryan Mercurio & Arwel Davies, *World Trade Law: Text, Materials and Commentary*, 2<sup>nd</sup> ed. (Oxford and Portland: Hart Publishing, 2012).

**Assessment:** In 2015-2016, assessment was based on a short assignment related to the Agreement on Internal Trade, an arbitration moot involving a NAFTA issue, an optional assignment related to international agreements, and a final open-book examination.

**Minor Papers Allowed: 0**

## **Law 461.3 BUSINESS ORGANIZATION II**

**2(3L)**

(2017-2018 Flannigan)

**Calendar Description:** An examination of the different vehicles that may be employed as alternatives to the corporation for the purpose of carrying on a business. The structures examined include sole proprietorships, agency relationships, employer/employee relationships, partnerships, co-ownerships, joint ventures, nonprofit corporations, limited partnerships, business trusts, cooperative corporations, limited liability partnerships and franchises. The characteristics of these structures and other factors that influence the choice of business vehicle are explored in detail.

**Prerequisite:** Law 361.3

**Purpose and Emphasis:** This is an advanced course. It examines alternatives to the standard business corporation introduced in Business Organizations I. The purpose of the course is to acquaint students with the distinguishing features of these alternative vehicles. The common law, and relevant legislation, is closely analyzed so that students will thereafter be prepared to advise on the suitability of different vehicles given the needs of clients. No commerce background is required in order to do well in this course.

**Course Materials:** The casebook is *Business Organization II: Cases and Materials* by Professor Flannigan. There are numerous texts and other materials available for reference for each type of business structure.

**Teaching and Assessment:** Instruction is by lecture and class discussion. The form of assessment may vary from year to year. Normally there will be a 90% final open book examination with a 10% class participation mark.

The use of laptops is not permitted in this course.

**Minor Papers Allowed: 5**

## Law 463.3 FIDUCIARY OBLIGATION

1(2S-1R)

(2017-2018 Flannigan)

**Calendar Description:** The seminar introduces students to the law regulating the actions of fiduciaries. The content of fiduciary accountability is addressed in detail.

**Prerequisite/Co-requisite:** NONE

**Purpose and Orientation:** The purpose of the seminar is to introduce students to a developing area of substantive law in a principled fashion. Fiduciary responsibility is now recognized as a general head of obligation affecting both individuals and institutions. It extends to every facet of human endeavour, from family to commercial relations. The general rule is that persons engaged to act for others must not allow their own interests to conflict with the interests of those who trusted them. Certain persons, such as trustees, agents, solicitors, guardians, priests, directors and partners, are fiduciaries as a matter of status. Others are fiduciaries because they satisfy the abstract criteria that courts have identified. Recent attempts to reconfigure the jurisdiction will be examined.

**Teaching and Assessment:** Students will prepare a major paper for 75 percent of their mark. Class participation will account for the remaining 25 percent.

## Law 464.3 DAVIES CORPORATE/SECURITIES MOOT

1/2[Oct.-Mar.](3S)

(2017-2018 TBD)

**Description:** The College will once again participate in the annual Davies Canadian Corporate/Securities Law Moot. Work on the problem begins in early January 2015, with factums to be submitted by early February and oral argument in Toronto in late February/early March. Thus, the moot involves intensive work in the first part of the second semester. As with other competitive moots in which the College participates, the Corporate/Securities Moot is a 3-credit course with travel costs covered to promote equal access. **Five students will be selected to participate in the moot, four of whom will act as oralists and one of whom will act as a researcher and participate fully in the drafting of factums and the critiquing oral arguments. All team members will attend the moot in Toronto. Students in both 2<sup>nd</sup> and 3<sup>rd</sup> year are eligible to apply.**

Recognized as the leading event of its kind in Canada, the annual Davies' Corporate/Securities Law Moot provides an opportunity for top students from Canadian law schools to debate current legal issues in corporate and securities law with senior practitioners from Toronto law firms and corporations, regulators from the Ontario Securities Commission and judges. In addition to the formal moot competition, students have the opportunity to meet and socialize with other participants as well as many of the senior lawyers, regulators and judges who sit as justices for the competition.

## Law 467.3 LABOUR AND EMPLOYMENT LAW

2(3L)

(2017-2018 Vallance)

**Calendar Description:** A study of the legal concepts, institutions and procedures concerning the employment relationship in Canada, including the contract of employment at common law; legal protection of the right to organize; status under collective bargaining legislation; the concept of the exclusive bargaining agent; the role of labour relations tribunals; the legal principles relating to industrial disputes; and statutory regimes concerning employment.

**Prerequisite/Co-requisite:** NONE

**Purpose and Orientation:** The purpose of this course is to introduce students to the strands of doctrine which underlie labour and employment law so as to enable them to understand the theoretical basis of the common law contract of employment, the statutory schemes governing collective bargaining relationships, and, to a lesser extent, the regulatory system associated with the establishment of minimum labour standards. Consideration will be given to the premises underlying various legal regimes which regulate the employment relationship, and a contrast will be drawn between the common law principles related to employment contracts, and the elements of the system created by collective bargaining legislation.

**Course Materials:** Students will be asked to purchase the Labour Law Casebook Group, *Labour and Employment Law: Cases, Materials and Commentary*, 8<sup>th</sup> ed (Toronto: Irwin Law, 2011). Supplementary cases and materials will be posted on PAWS.

**Teaching and Assessment:** A combination of lectures and classroom discussion will be the basis of instruction. Students may choose one of the following methods of assessment:

- (1) a final examination worth 100% of the grade
- (2) a final examination worth 60% of the grade plus a minor paper worth 40%
- (3) a final examination worth 30% of the grade plus a major paper
- (4) a final examination worth 60% of the grade plus a midterm examination worth 40%
- (5) a final examination worth 60% of the grade plus two assignments worth 20% each

**Minor Papers Allowed:** 90

## Law 471.3 FAMILY LAW II

2(3L)

(2017-2018 Wiegers)

**Calendar Description:** Examination of rights to child support, custody and access, determinations of paternity, child protection and adoption and the enforcement of support and custody orders.

**Prerequisite/Co-requisite:** Law 372.3

**Purpose and Orientation:** This course builds on the foundations provided in Family Law I but focuses on legal issues particularly relevant to the child-parent relationship.

We begin with a brief survey of the social policy framework in relation to the care of children in Canada. We then canvas issues pertaining to the definition of the parent-child relationship both within and outside of spousal or biological relationships under the *Divorce Act* and various provincial Acts. Controversies related to the impact of reproductive technologies are identified. The rights to child support, custody and access are extensively examined including proposals for legal reform in the area of custody and access and the impact of the 1997 *Child Support Guidelines*. We will also address enforcement procedures for support, custody and access orders.

If time permits, the process for the removal of children from their parents and committal to the state will be reviewed, as will specific legislation pertaining to the adoption of children.

The course materials will be taught primarily by way of lecture and small group discussion using a problem-based method. Multi-disciplinary perspectives on the issues of parenthood and child care and development will be examined. Students will be expected to participate in class discussions and to engage in a critical commentary on or evaluation of the reading materials and legal outcomes. Adequate preparation and familiarity with the casebook materials will be assumed.

**Course Materials:** Cases and statutory materials will either be placed in the course bin or available for purchase through the Bookstore.

**Assessment:** A number of possibilities for assessment are available including smaller assignments and an exam.

**Minor Papers Allowed: 5**

## **Law 472.3 CORPORATE RESTRUCTURING**

**1(2S-1R)**

(2017-2018 Arvanitis-Zorbas)

**Calendar Description:** A commercial reorganization is a court sanctioned scheme under which a financially distressed business is restructured so as to permit it to continue in business through the compromise of the claims of creditors and others. There has been a fundamental shift in Canadian insolvency over the past 30 years, in that there has recently emerged effective systems that actively facilitate restructuring and rescue of insolvent businesses as an alternative to their liquidation. This course will make use of several highly realistic simulations in order to develop both an understanding of the substantive law that governs commercial reorganizations as well as the advocacy and negotiation skills that are necessary to provide effective legal advice and representation to your clients.

**Prerequisite:** None. It is strongly recommended that students would benefit from taking Law 407.3, Bankruptcy, Insolvency and Receiverships prior to or at the same time as this course.

**Purpose and Orientation:** Students will gain an understanding of the systems that actively facilitate restructuring and rescue of insolvent businesses as an alternative to their liquidation.

Students will demonstrate their ability to appropriately conduct a court application related to corporate restructuring, including preparation and presentation of an oral argument, preparation of a notice of motion with relevant affidavits, a bench brief, development of a negotiation strategy and a final negotiation analysis.

**Learning Objectives for this course:**

- Develop an advanced understanding of the substantive law respecting corporate restructuring law
- Develop skills in the preparation of court documents (affidavits, notice of motion, briefs of law)
- Develop research skills in the preparation of discussion topic and in the preparation of legal memos
- Develop negotiation skills and strategies in the context of a corporate restructuring

**Required Text:**

- Casebook: Duggan, Ben-Ishai, Telfer, Wood & Ziegel, Canadian Bankruptcy and Insolvency Law, 3rd edition

**Student Evaluation:**

- Presentation of a topic to the seminar (oral and written component): 10%
- Class participation: 10%
- Court Application (oral submission) 20%
- Court application (written submission): 30%
- Negotiation strategy outline: 15%
- Final Negotiation Analysis: 15%

**Law 477.3 TAXATION I**

**2(3L)**

(2017-2018 Larre)

**Calendar Description:** This course deals with federal income taxation which focuses on basic tax principles and underlying theoretical concepts. The taxation unit concentrated upon is the individual. Topics normally covered in the course include procedure, statutory

interpretation, the tax base, measurement of income, deductions, exemptions, and capital gains.

**Prerequisite/Co-requisite: NONE**

**Purpose and Orientation:** The course is designed to introduce students to income tax law with

an emphasis on the underlying policy considerations which are manifested in the Federal Income Tax Act. It is hoped that the student will achieve an appreciation of the Income Tax Act as an important document of social policy. The course focuses upon the taxation of the individual, but deals with many of the concepts that are necessary to understand taxation of other units such as corporations, trusts and partnerships. Thus, the course acts as a building block for the senior tax courses, but it is also designed to enable the generalist to identify taxation issues in many other areas of the law. Finally, since the course is highly statutorily based, it facilitates the skill of statutory interpretation.

**Course Materials:**

Recommended and required books and supplemental material for this course will be available for purchase through the Bookstore, placed on reserve in the library, available online, or placed on the course website.

**Teaching and Assessment:** The primary teaching method has been by lecture interspersed with problem solving. Assessment is primarily by way of a final examination and may also include midterm exams or assignments.

**Minor Papers Allowed: 5**

**Law 481.3 BUSINESS REGULATION**

**2(2S-1R)**

(2017-2018 Flannigan)

**Calendar Description:** Students will investigate the norms and principles that inform the public and private regulation of business activity. Issues of legitimacy, scope, efficacy and enforceability are addressed.

**Prerequisite: None**

**Purpose:** The seminar will introduce students to the principles and instruments of business regulation. Students will:

- Explore competing/complementary models of regulation
- Review the arguments for and against the public regulation of business
- Assess the practical deficiencies/excesses of public and private regulation
- Examine public and private standard-setting
- Explore mechanism design for policy instruments
- Develop a toolbox of policy instruments
- Explore the impact of regulatory difference on jurisdictional competition

- Explore rationales for different levels of regulation intensity
- Explore regulator liability
- Assess the trajectory of future regulation
- Develop research skills
- Develop oral/written communication skills

**Teaching and Assessment:** Participation is expected. Students will prepare a major paper for 75% of their mark. Class participation will account for the remaining 25%.

The use of laptops is not permitted in this course.

## **Law 486.3 LAW AND PSYCHIATRY**

**2(2S-1R)**

(2017-2018 Luther)

**Calendar Description:** Introduction to psychiatric theory; the methodology of psychiatric diagnosis and modern psychiatric treatment; the role of psychiatrists in the legal process. Psychiatry and the criminal process: remand for mental examination, fitness to stand trial, sentencing, automatism, insanity and dangerous offenders. The concept of competency: contractual and testamentary capacity. Civil commitment of the mentally ill: a comparative study. The psychiatrist as expert witness. Selected problems.

**Prerequisite(s):** LAW 351 (Evidence I). Students will find it helpful to have taken Health Law 314.3

**Purpose and Orientation:** This seminar is designed to provide students with a strong introduction to the area of Psychiatry and the Law. As the calendar description shows, Psychiatry plays an important role in many areas of law. This is most obvious in criminal law and evidence. On the other hand, the area of Contract and Wills are also affected in important ways by issues surrounding capacity. The seminar will be supported by the Department of Psychiatry and it is expected that a member of that department will assist in the presentation of the seminars. It is also hoped that several Psychiatric residents will be involved in the seminar as part of their class load.

**Required Course Materials:** Readings will appear on PAWS. Some materials will also be available on reserve in the Law Library.

**Teaching and Assessment:** Student led seminars will not be employed. Rather the course will involve classes on each of the topics listed in the calendar description. A faculty member from Psychiatry will co-teach the course and many of the seminars will involve psychiatric residents and some may involve the interviewing of psychiatric patients. It is also hoped that the class will spend at least one day visiting a psychiatric institution. It is expected that the students will come to each class prepared, having read the assigned readings.

Assessment will take the form of a major paper worth 75% (35-50 pages) and a class journal worth 25% of the final grade. Attendance at all seminars will be mandatory. No final exam will be held.

Further details will be provided about the papers and journals at the beginning of term. Completion of the research paper will fulfill the major paper requirement and successful completion of the seminar will fulfill the seminar requirement.

### **Law 488.3 TAX POLICY**

**2(2S-1R)**

(2017-2018 Larre)

**Calendar Description:** This seminar will focus on evaluating tax policies by examining their tax equity implications, social and economic consequences, and administrative feasibility. This seminar will provide students with the opportunity to engage in tax policy issues, resulting in a heightened appreciation of the social and economic implications of tax policy, an increased ability to evaluate tax policies, and a deeper understanding of technical tax law rules. Topics will include: (1) criteria for and methods of evaluating income tax policies; (2) theories of income; (3) the tax mix; (4) the use of the income tax system to implement tax expenditures; (5) the preferential treatment of certain groups and entities under the tax system; (6) the detrimental effects of taxes on certain segments of society or the economy the appropriate tax unit; and (7) taxation as a means to redistribute wealth.

Students in this seminar will be introduced a number of resources specifically designed for tax research and will be expected to use them to complete assignments. This seminar should be of interest to students who desire to practice tax law in a private firm or in government as well as those students interested, more generally, in the social and economic implications of tax law.

Students can take this course after completing or at the same time as Law 477.3 (Taxation I).

**Co-requisite/Pre-requisite: Law 477.3**

**Purpose and Orientation:** Studying tax policy can help students understand and interpret tax law, and also can give students the opportunity to understand the ways in which taxation laws have important implications for economic and social policy. This can lead to thoughtful critique of existing laws. Given the broad and diverse nature of the course objectives, this seminar should appeal to students who desire to practice tax law in a private firm or in government as well as those students interested, more generally, in the social and economic implications of tax law.

The students in this course are expected to:

- a) Become familiar with the ways in which tax laws are evaluated.
- b) Identify tax provisions as either tax expenditures or provisions that are part of the normative tax structure.
- c) Become familiar with the tax mix and the characteristics of the different types of taxes.
- d) Become familiar with the political process leading to changes in tax laws.
- e) Understand the policy reasons underlying various tax rules.
- f) Evaluate tax policies by examining, among other things, their tax equity implications, social and economic consequences, and administrative feasibility.

- g) Learn how to use various hard copy and electronic tax research tools designed specifically for tax research.

**Course Materials:**

Materials will be put on reserve in the library or will be available electronically through Blackboard or other research databases available to students. Materials will be primarily in the form of journal articles, legal cases, and book excerpts.

**Teaching and Assessment:**

Assessment will be varied and may include class participation, short written assignments and a major research paper.

**Minor Papers Allowed:** no limit

**Law 490.3 LAW REVIEW**

**1/2(3S)**

(2017-2018 Heavin)

**Calendar Description:** This course publishes the Saskatchewan Law Review. The work involves selecting and editing material submitted for publication, participating in policy decisions, proofreading, and other miscellaneous tasks. Each student also undertakes written work for possible publication in the Review.

**Note: A one-year commitment to the Review is required. Academic credit is, however, awarded only for one term. Students will designate the term for which academic credit is awarded.**

**Purpose and Emphasis:** Students in the seminar are members of the Editorial Board of the Saskatchewan Law Review. The work load includes editorial duties and a writing requirement. Currently each student must write a short book note reviewing a recently published book for publication in the Review, or write three abstracts of previously published articles for publication on the Law Review web site. Students also complete a minor paper under the supervision of a faculty member who has expertise in the topic selected. The minor paper is a short research paper on any topic of interest to the student. One option is for the paper to take the form of a critique of a recent case, or a note on recent legislation, with a view to publication in the Review as a case comment or legislative note. This paper satisfies the College's minor paper writing requirement.

The Law Review class is **not** a vehicle for the writing of a major paper, which will normally be completed as part of the requirement for another seminar. The work in the Law Review class is, however, intended to assist students in developing their skills with respect to the style and form of major papers and law journal articles, and to enhance their skills in the writing of legal memoranda and opinions. Although major papers are not written as a component of the Law Review class,

students are encouraged to write their papers in other classes with a view to publication in the Review.

It is normally possible to offer summer employment, at normal full-time research student remuneration, to three members of the Editorial Board to work as summer editors for the Law Review. These students automatically qualify for the class in the subsequent year, and will be the Managing Editors of the Review for that year.

**Credit Hours:** The course carries three credit hours, allocated to one or other of the semesters. Students must, however, make a one-year commitment to the Review to allow sufficient time to develop editorial expertise and complete group assignments. The overall work load over the year is consistent with the awarding of a half-class credit, and editorial work, assessment and writing requirements have been adjusted to ensure that the work load is appropriate. Students will designate the term for which they will receive academic credit but, whichever term they designate, their grade for the course is awarded at the end of the academic year.

**Assessment:** Assessment is prima facie as follows: Work as a member of the Editorial Board (60%); Book Note or Abstracts (10%); Minor Paper (30%). At the discretion of the Faculty Editor, and with the agreement of the student, assessment may be varied from the above to accommodate particular needs of the Review or the special interest of a student.

**Enrolment:** Enrolment is restricted to 18 students, selected by the Faculty Editor. All students are Members of the Editorial Board, three of them being the Managing Editors. The course may be taken in either the second or third year, or both. Each year, students with exceptionally strong academic records receive letters from the Dean inviting them to apply. However, other interested students are also welcome to apply. All students who wish to be considered for selection for Law Review, **whether invited to apply or not**, can e-mail a letter of application along with their resume and writing sample to Michelle Halvorson, Administrative Coordinator, ([m.halvorson@usask.ca](mailto:m.halvorson@usask.ca)) by Monday, August 14<sup>th</sup>. The letter of application may include the student's qualifications and commitment, and, where relevant, describing any special experience or expertise in writing or publishing which the student might bring to the Review. Students will be notified in late August whether or not they have been selected. Students will be able to self-register in the class after they have been notified that they have been selected for the class. They will then have to drop a class and add Law Review in the term in which they wish to receive credit.

**Law Review is recognized along with other academic honours in the commencement program when the student graduates.**

<b>LAW 491.3 INTENSIVE CLINICAL LAW SEMINAR</b>	<b>1/2(2S-1R)</b>
<b>LAW 492.12 INTENSIVE CLINICAL LAW PRACTICUM</b>	<b>1/2(12C)</b>

**(THIS IS AN APPLICATION COURSE)**

OFFERED IN 2017 Fall term AND 2018 Winter term – Buhler

**NOTE: Entry into the intensive clinical law program is by selection by the course instructor. Students who wish to be considered are asked to send an email to Professor Sarah Buhler, at [sarah.buhler@usask.ca](mailto:sarah.buhler@usask.ca) outlining the reasons for their interest in the course and describing any relevant experience. Students may also wish to attach their cv or resume. Students should also indicate whether they prefer to participate in the fall or winter term. The deadline for submission of the email application is June 28, 2017. Applicants will be informed by June 30 of their acceptance in the program.**

**Calendar Description:** This is a 15-credit one-semester (13 week) intensive clinical law program including practicum and academic seminar. Students enrolled in Intensive Clinical Law will be placed at Community Legal Assistance Services for Saskatoon Inner City (CLASSIC) where they will take on the role of legal advocates under the supervision of the clinic's supervising lawyers and the course instructor. Students will assume carriage of client files in a wide variety of substantive law areas. They will be engaged in all aspects of legal practice in a poverty law context, including client interviewing and counselling, file management, legal research, the preparation of legal documents, letters and memoranda, and representing clients in administrative law hearings and provincial court trials. Students may also take on one or more "systemic initiative" projects that may include public legal education sessions in the community, community-based projects or law reform campaigns.

Through their clinic work, students will engage critically with legal problems in the complicated social contexts in which they arise, build relationships with clients and learn about the communities of their clients, develop professional identities, grapple with ethical issues, and develop lawyering skills. Through structured and critical reflection during the seminar, students will analyze and synthesize the various components of their experiences and reflect on larger issues relating to professional responsibility, the legal system, and the limits and possibilities of legal practice in situations of social injustice.

The practicum will be graded on a pass-fail basis and the seminar will be graded on a percentage grade basis. The practicum and seminar will provide extensive exposure to criminal, civil and administrative law procedure, evidence law, trial advocacy, negotiation, legal research and writing, and professional responsibility. Specific areas of practice that students will be exposed to include: criminal law, human rights law, immigration and refugee law, housing law, social assistance law, employment law prison law and more.

**Purpose and Emphasis:** The course is based on a model of experiential education, where it is assumed that students learn through experience, hands-on mentorship, and critical reflection on experience. The course is centred on students' clinical experience at CLASSIC, where they will assume carriage of client files in a board variety of legal areas. Students are supervised on every step of their legal work at CLASSIC. In addition to substantive legal work, students may also have the opportunity to be involved in law reform initiatives, community based projects and public legal education. Students will learn about legal practice in contexts of social injustice and will gain the tools to reflect critically upon their practice and their identities as future lawyers, and gain insights into the legal system from "the ground up". Students will be expected to be at CLASSIC from Monday to Thursday each week, and will attend a clinical law seminar on Friday mornings.

The seminar is designed as an opportunity for students to critically reflect upon their clinical

experiences, the law, the legal system, and their roles as lawyers-in-training. The seminar attempts to create a balance between substantive content (i.e. file management, interviewing, advocacy, and specific areas of practice such as residential tenancies law) and more critical reflective discussions about the relevant clinical literature and its application to the experiences of the students. In many classes, the “case rounds” model will be used, wherein students discuss and analyze their files and clinical work as a group, and learn from each other’s experiences.

**Course materials:** Seminar materials consist of a set of articles which will be made available electronically, and a required text book.

**Teaching and Assessment:** The 12 credit unit clinical practicum will be assessed on a pass-fail basis. The seminar will be graded on a percentage grade basis. Students will be required to write a major paper as a major portion of their seminar grade, and will also write several reflective journals. A detailed letter of evaluation and explanation can be provided to the student by the course instructor to be used for the purposes of job applications, etc.

**15-credit course:** Students will receive 15 credits for this course (12 clinical credits plus 3 seminar credits).

**Selection of students:** The course is open to second and third year students, but preference will be given to third year students, and to students who have demonstrated an interest in or commitment to community service and/ or pro bono work.

**Prerequisites:** Completion of first year law.

## **Law 493.6 SYSTEMIC JUSTICE**

**1&2(2S-1R)**

(2017-2018 Dodge)

**NOTE:** Please note that this seminar runs over both Term One and Term Two. Entry into the Systemic Justice 493.6 seminar is by selection by the course instructor. Students who wish to be considered are asked to send an email to Amanda Dodge [amandakdodge@gmail.com](mailto:amandakdodge@gmail.com) outlining the reasons for their interest in the course and describing any relevant experience. Please indicate whether or not you have previously been registered in the Intensive Clinical Law course. Students may also wish to attach their cv or resume. The deadline for submission of the email application is **FRIDAY, JULY 14, 2017**. Applicants will be informed by July 23 of their acceptance in the seminar.

**Calendar Description:** This 6-credit unit course examines the root causes of injustice. We seek an understanding of power and how it aligns along hegemonic structures. We observe how social hierarchies play out in institutions as well as in the lives of individuals. We learn how sociological, psychological and economic forces perpetuate hegemonic structures, even by the oppressed themselves. We consider the causal connection between hegemonic power dynamics and the

incidence of injustice/creation of legal problems experienced by marginalized peoples. We examine specific instances of injustice and legal problems which have systemic origin and propagation. Understanding how these power dynamics are created and are perpetuated allows us to understand how they can be changed and a more just world pursued. We look at the role of the law in pursuing equitable systemic changes and then at the role of the lawyer seeking greater social equity. Students enrolled in this year-long course attend weekly seminars and are engaged in experiential learning outside the seminar, placed with CLASSIC's Systemic Initiatives Program (SIP). Students will work on SIP projects which address systemic barriers facing marginalized people by engaging in policy and legislative advocacy, community based education and research to support advocacy efforts.

**Prerequisite:** None. Preference will be given to students who have already completed the Intensive Clinical Law course.

**Detailed Description:** Course participants seek an understanding of power and how it aligns along hegemonic structures. We observe how social hierarchies play out in institutions as well as in the lives of individuals. We learn how sociological, psychological and economic forces perpetuate hegemonic structures, even by the oppressed themselves. We consider the causal connection between hegemonic power dynamics and the incidence of injustice/creation of legal problems experienced by marginalized peoples. We examine specific incidences of injustice and legal problems which have systemic origin and propagation. Understanding how these power dynamics are created and perpetuated allows us to understand how they can be changed and a more just world pursued. We look at the role of the law in pursuing equitable systemic changes and then at the role of the lawyer seeking greater social equity. Students enrolled in this year-long course attend weekly seminars and are engaged in experiential learning outside the seminar, placed with CLASSIC's Systemic Initiatives Program (SIP). Students will work on SIP projects which address systemic barriers facing marginalized people by engaging in policy and legislative advocacy, community based education and research to support advocacy efforts.

**Course materials:** All materials and resources required for this course will be provided in electronic format and available in PAWS.

**Teaching and Assessment:** Students are expected to attend and participate in weekly, two hour seminars. Students write six journal entries reflective of their systemic project placement, the course materials and seminar discussions. Students write a major paper on a substantive topic of their choice and present them to the class at the end of the year. Students select one or two SIP projects to be involved in, to which they are expected to devote at least 3 hours per week. Their participation in the SIP project will range from research and writing to support legislative advocacy or test case litigation, to direct involvement with community-based education and empowerment.

**Systemic Initiatives Program:** Through community consultation and collaboration, CLASSIC's Systemic Initiatives Program (SIP) projects identify and address systemic issues which create unjust outcomes for marginalized people in Saskatchewan, with a particular focus on recipients of social assistance, inmates, and people living with disabilities, with priority given to Indigenous people across these categories. Students will be assigned a placement within a SIP project at

CLASSIC, for which they will be expected to devote at least 3 hours per week. Through their work on SIP projects, students may have opportunities to be involved in advocacy toward policy and legislative reform, test case litigation, grassroots community organizing, raising public awareness, education to empower community members and more.

### **Law 495.3 INDIVIDUAL DIRECTED RESEARCH**

**1/2(3S)**

**Calendar Description:** This seminar allows interested students to undertake a substantial research project. Enrolment is limited to two students for each of the professors willing to take on student(s). The course is not timetabled as convenient meeting time can be arranged to suit the instructors and students concerned. Students must approach individual professors with a research proposal. All proposals must be approved by the Studies Committee

**Prerequisite/Co-requisite: NONE**

Proposed topics must be outside the scope of seminar courses offered in the College.

### **Law 498.3 (s. 19) LAW & HAPPINESS**

**2(2S-1R)**

(2017-2018) (Term 2 - Ritter)

**Calendar description:** This course focuses on the practical side of law and incorporating the principles of happiness through physical and emotional wellbeing into everyday practice. You will learn how to practice law and how to remain happy doing it. This course will incorporate the essential elements of happiness into your legal practice and provides a toolkit for maintaining work/life balance right through from articling to practicing.

Emotions are typically viewed as external to the realm of law, jurisprudence and rational thinking. The role of emotion within the law has always been there in terms of mitigating factors, aggravating factors and so on but is now being uncovered as an academic discipline. Happiness or well-being has been more likely relegated to the domain of personal life satisfaction and conversations on the sofa of our psychologists. Now these topics are entering the field of economics, business, taxation, torts and more.

Several studies have shown that pessimists do better than optimists in law school and in the practice of law generally. Law students and lawyers fall in abnormally high rates for propensity to a major depressive disorder- higher than most professions.

This course will build on a large and growing body of research to look at the role of happiness and emotion within the domain of law and the lives of lawyers both professionally and personally and how to build this into your everyday life as a lawyer. The burgeoning research in this field will lead us to ask questions about choice, process and structure in the law that impacts the individual, the firm, the bench and our system of justice as a whole. Relying on the fundamentals of “how to be a lawyer” and essentials for “practice management”, you will learn the tools you need for the

intersection of well-being and ethical choice and professionalism. Ultimately we will examine the questions: As a lawyer, how do I deal with stress and all of the other pressures and still maintain a happy life?”, and “How do I set up, manage and run a law practice?”

**Rationale for introducing this course:** This course will address the practical things you need to know when articling, setting up a law firm/practice, dealing with law society complaints, maintaining a diary system and properly servicing your clientele. The course will review the current issues facing law students and lawyers through their study and work of thinking and acting like lawyers, to identify ways and means to ensure stable, healthy personal and professional lives.

**Required materials:**

*A book of your choice, approved by the instructor, dealing with Law and Happiness.*

**Learning Outcomes:** Students who take this course should be able to

- identify and analyze components of thinking/acting like a lawyer that contribute to dis-ease in law students/ lawyers/ law;
- compare and contrast unhealthy professional relationships and situations and strong networks for decision making and support within the legal profession;
- recognize and build the skills to assess and handle legal issues, practice management issues, the complexities of the legal arena, roles of the lawyer, the perspectives of clients, the culture of a firm and handle the diversity of the needs of each while understanding the role of the lawyer, ethically, professionally and responsibly.

**Classroom Expectations:**

Respect, Participation, Preparedness.

**Grading:**

Participation	15%
Weekly chapter and journal assignments	15%
A Major Paper	70%

**Law 498.3 (s. 11) YOUTH CRIMINAL JUSTICE**

**1(2S-1R)**

(2017-2018 Healy)

**Calendar Description:** This course would examine the Youth Criminal Justice Act (YCJA). It would examine the YCJA and how it fits within Canadian criminal law, how it corresponds to international practices, how it has responded to the inherent challenges of adolescence especially for those described as marginalized, and how successfully (or unsuccessfully) has it achieved its goal of reducing crime through a multi-disciplinary approach.

**Rationale for Introducing this Course:** The YCJA has been praised and criticized because it challenges many of the assumptions in criminal law. Some of its provisions are starkly different

than the equivalent provisions in the general criminal law. A thorough understanding of criminal law requires an understanding of its distinctions. Moreover the practice of many law firms is to send junior lawyers to youth court.

**Learning Objectives for this Course:** Students should have an understanding of the unique sentencing, procedural, evidentiary and constitutional issues inherent in the relationship between the YCJA and criminal law. Students should also have an understanding of how adolescence and the special circumstance that some adolescents experience affects youth criminal justice.

**Student Evaluation:** Evaluation based on: 3 short critical papers (80%) **Or** major research paper (80%)

**And** attendance and participation in class (20%)

*Short critical papers:* 10-15 pages, on a topic relating to the substantive content of the course, to be approved by the course instructor in advance.

*Major paper:* 30-40 pages, on a topic relating to the substantive content of the course, to be approved by the course instructor in advance.

*Class participation:* Attendance, engaged discussion based on assigned readings and thoughtful consideration of the issues and the insights of other students will be 10%

A class presentation is worth 10%.

**Required Text:** Bala et Anand Youth Criminal Justice Law, Third Edition (Toronto: Irwin Law Inc. 2012)

<b>Law 499.6 (s. 20) INTENSIVE CRIMINAL LAW SEMINAR</b>	<b>2(4S-2R)</b>
<b>Law 499.9 (s. 22) INTENSIVE CRIMINAL PRACTICUM</b>	<b>2(9C)</b>

OFFERED IN THE WINTER TERM ONLY

(2017-2018 Pfefferle, Watson)

**NOTE: Entry into the intensive criminal law program is by selection by the course instructors. Students who wish to be considered are asked to send an email to Brian Pfefferle, at [brian@pfefferlelaw.com](mailto:brian@pfefferlelaw.com) outlining the reasons for their interest in the course and describing any relevant experience. Students should also attach their cv or resume. The deadline for submission of the email application is FRIDAY JULY 21, 2016. Applicants will be informed by July 28, 2017 of their acceptance in the program.**

**Prerequisites/Co-requisites: Both Criminal Procedure and Evidence I are prerequisites (to be completed by December 2017)**

**This is a 15-credit one-semester (13 week) clinical course including practicum and academic seminar.**

**Calendar description:** The Criminal Practicum and Seminar is designed to provide real world practical exposure to the practice of criminal law. The students will be placed in the office of a criminal lawyer for nine weeks at 32 hours per week (Monday to Thursday) where the students will become intimately involved in the practice of criminal law. The practicum placements will be supplemented with a series of lectures during the first two weeks of term and then with a weekly seminar (Fridays) with the course instructors and students will be required to complete one major paper, one minor paper and weekly reflective journals. The instructors also hope that the students will also be placed for one four day week with a Judge of a criminal court. The practicum encourages reflection by the student about the practice of criminal law and will provide an opportunity for advanced research in the form of two papers.

**Learning Objectives:** Students will be exposed to a wide variety of criminal practice issues from the defence of criminal accused to the running of a criminal law practice. The students will be encouraged to reflect upon what they observe and will also learn about several advanced criminal law, ethical, evidence, trial advocacy and criminal procedure issues. *The Charter of Rights and Freedoms* legal rights and procedural issues will also be discussed in depth. The course will be designed so as to represent a culmination of all that a criminal lawyer needs to know and will build on the student's substantive knowledge in the discipline. While entitled the "intensive criminal practicum" the courses will result in students being exposed to many areas of the law which in practice will tend to blur together. This will involve those subjects above listed and a myriad of other issues including insurance law, property law and other areas which will arise as a result of the various criminal matters to which the student is exposed during their placements with the supervising lawyers and Judges. Nonetheless the placements will be with Criminal lawyers and students should be continually involved in that area of the law rather than be exposed to all areas of the law as generally envisaged in an articling process.

### **The Externship (Lawyer) Placements**

Students will be placed from about January 9 to March 10, inclusive, with hand selected lawyers in the community. They are expected to be in the placement Monday to Thursday work hours, which are assumed to be 8:00 or 9:00 AM to 4:00 or 5:00 PM. The students are then to be at the Friday seminar with the instructors. The instructors will hand select the supervising lawyers and law firms and will be in regular contact with them. It is expected that the lawyers will engage with the students on several fronts. This is not an early "articles" process but rather is intended to encourage reflection on what criminal practice involves and how it should best be done. There are almost no "criminal articles" in the private criminal bar in Saskatoon and these placements are not intended to compete in any way with the articling process. Students require an assigned supervisor with whom they can report to with work related questions and concerns. The instructors will develop feedback forms for completion by the supervising lawyers and by the students at various stages throughout the placements and after they are completed, to continually gauge the success and worth of the experiential learning opportunities to which the students are exposed.

The instructor will have regular contact with both the supervisor and the student. The students are not lawyers or junior counsel and are not expected to be providing legal advice in any way to the placement or to clients of the placement. The student is required to attend, be professionally dressed, and to understand the work environment within which they will be expected to act professionally.

**Student Evaluation:** The program will be open to 5 students per year. The seminar will constitute six credits of course work. Students will be required to complete the Intensive Criminal Seminar which will involve one major paper (50% of six credits) and one minor paper (25% of six credits) and weekly journals and seminar participation (25% of six credits) and all will be marked by the instructors. The practicum will be worth 9 credits of course work. Together then, the complete program will be the equivalent of 15 credits or one semester's worth of work.

**Law 498.3 (s. 15) SPECIAL TOPICS: INDIGENOUS RIGHTS AND RESOURCE DEVELOPMENT**

**1 (3L)**

(2017-2018 Newman)

**Description:** This course will explore a series of key topics related to how Indigenous rights interact with natural resource development and expose students to current scholarly research on related topics. In doing so, the course will seek to improve student knowledge on the law related to Indigenous rights and the law related to natural resource development, to engage with policy and strategic thinking about finding reconciliations between competing considerations in this area, and to offer greater perspective on how to integrate together different areas of law in analyzing highly complex legal problems.

Planned topics will include: review of key doctrines in Indigenous rights; general concepts of resource regulation; comparative approaches to the doctrine of Aboriginal title and implications for subsurface rights and other rights related to mining and other resource activities; comparative survey of provisions in historic and modern treaties bearing on natural resource development; domestic and international law on the duty to consult and FPIC (free, prior, and informed consent); examination of impact and benefit agreements (IBAs); legal frameworks for co-management and resource revenue sharing; legal jurisdiction in the Canadian North and implications for resource development; on-reserve resource development; general considerations on social licence to operate.

The aim throughout is to encourage deep thinking that brings together many complex considerations in the context of issues with major significance to Indigenous communities, to Canada as a resource superpower, and to a world that needs resources. Students will need to be ready to work to try to find ways to integrate different areas of law (including constitutional and international law, as well as common law and Indigenous legal traditions) and even to try to find points of reconciliation between different worldviews.

**Prerequisite/Corequisite:** None.

**Course materials:** Primary legal materials and some scholarly materials will be downloadable and/or on reserve. In addition, students will make extensive use of the following four required

texts: (1) Thomas Isaac, *Aboriginal Law: Commentary and Analysis* (Purich 2012); (2) Dwight Newman, *Revisiting the Duty to Consult Aboriginal Peoples* (Purich 2014); (3) Rachel Ariss, *Keeping the Land: Kitchenuhmaykoosib Inninuwug, Reconciliation, and Canadian Law* (Fernwood 2012); and (4) D.B. Tindall, R.L. Trosper, & Pamela Perreault, *Aboriginal Peoples and Forest Lands in Canada* (UBC Press 2013).

**Teaching and Assessment:** The planned default assessment is a 100% final exam. The aim of the course is maximum learning for each student and there will accordingly be various in-class exercises, engagement with guest speakers, and class participation to enhance learning, but the current plan is to make these components solely for learning purposes rather than for assessment. Students who wish to do a minor paper (for 40%) or a major paper (for 70%) will have some opportunities to do so, with a modified final exam so as to create a balanced workload.

### **Law 498.3 (s. 46) WILDLIFE REGULATION**

**2(2S-1R)**

(2017-2018 Farnese)

**Course Description:** The regulation of human interaction with wildlife and wildlife habitat often receives limited attention in courses on environmental or natural resource law. The significant relationship between the health of wildlife and health of humans, broadly defined to include economic health, justifies focused study of the regulation of wildlife. Specifically, students will consider how agriculture and environmental regulation impact wildlife. Given that at least 70% of emerging infectious diseases of concern to humans have originated in wildlife, students will consider how various legal mechanisms can support and undermine the health status of wildlife. This section will also look at existing regulations to control specific diseases such as CWD. In addition, students will study hunting and fishing regulations including the right to stop and search vehicles. Next, the regulation of game farms and the controversy surrounding their existence will be reviewed. A portion of the course will also look at the illegal trade in wildlife and consider some of the international and domestic mechanisms trying respond. Students will also review the legal mechanisms attempting to conserve species at risk and migratory birds which introduces the complexity private land ownership adds to wildlife regulation. Finally, this seminar will address how the recognition of aboriginal hunting and fishing rights impacts the regulation of wildlife. In addition to a substantive review of Wildlife Law, students will systematically complete a piece of scholarly writing on a topic of their choosing. In class exercises and presentations will provide students with the opportunity to discuss the writing process and receive feedback on their individual papers from their colleagues and the professor.

**Evaluation:** 90% major paper

10% participation (pop quizzes on readings and class discussions)

### **Law 498.3 DONALD G. H. BOWMAN NATIONAL TAX MOOT ½ [Nov.-Feb.](3S)**

(2017-2018 Gill/Sittler)

Description: Up to five students will be selected annually to participate in the Donald G. H.

Bowman National Tax Moot held in Toronto. The moot will involve research and advocacy, both oral and written, and will allow students from Canadian law schools to debate current legal issues in taxation law with senior tax practitioners and with justices of the Tax Court and Federal Court of Appeal. The seminar is recommended to those with an interest in advocacy, exacting research and taxation issues.

**Calendar Description:** This seminar is designed for students who wish to participate in the Donald G.H. Bowman National Tax Moot held in Toronto. The moot will involve research and advocacy, both oral and written, and will allow students from Canadian law schools to debate current legal issues in taxation law with senior practitioners and with justices of the Tax Court and Federal Court of Appeal. The seminar is recommended to those with an interest in advocacy, exacting research and taxation issues. A team of up to five students (four oralists and up to one additional participant) will be selected to represent the College at the forthcoming Moot. The seminar is recommended mainly for those with an aptitude for public speaking and exacting research.

**Prerequisite/Co-requisite: NONE**

**Purpose and Emphasis:** This seminar is designed to prepare students for participation in the Donald G.H. Bowman National Tax Moot. The content of the seminar depends on the issues raised by the moot problem. The problem is usually available by the end of November, and the competition takes place in late February or early March. Some work over Christmas is required and work over the February break is essential.

Students who are invited may indicate their interest and compete for a place on the team. No more than five students may participate. Students are selected on the basis of their academic record, mooting experience and other relevant experience. Interested students will be interviewed as a part of the selection process and are invited to submit a letter outlining any relevant experience they would like considered in reviewing their file.

**Course Materials:** The materials covered depend on the issues raised by the moot problem. Students identify the issues, then divide them among the group in two teams (two appellants, two respondents). Research materials identified by the coaches and/or the Bowman Tax Moot problem make up the bulk of the course materials.

**Teaching:** In accordance with the rules of the competition, faculty assistance is limited to a general discussion of the issues, suggestions as to research sources, and suggestions on ways students can improve their mooting style. In addition to seminar discussions of the issues and research sources, students will participate in at least four practice moots in the month of February. Students will prepare both an appellant and respondent factum, the final draft of which is to be submitted in late January (for the appellant) and early February (for the respondent) to the competition organizers.

**Teaching and Assessment:** Each student's mark will be arrived at using a combination 25% attendance, 25% quality and timeliness of written work (which will necessitate evaluation of the written work as a group effort), 25% quality of oral work, and 25% group participation. Pursuant to the moot rules, the additional participant may not be required to present oral argument at the

moot competition but the additional participant will have the opportunity to present oral argument in a practice setting. In the case of the additional participant, their individual mark will be based on their research contributions to the moot team as well as their participation in practice moots (and the moot competition itself if required). The seminar will not satisfy the major paper requirement nor will it meet the seminar program requirement.

**Law 498.3 (s. 44) SPORTS LAW**

**1(2L-1R)**

(2017-2018 Cotter)

**Calendar Description:** This course examines the application of various aspects of law to the field of sports.

The course will examine the role played by sports in our culture and our society. We will look at the application of contract law and collective bargaining in professional sports, including arbitration, and the role of anti-trust legislation to the sports industry, including comparative approaches to the regulation of sport. The course will also examine issues of the right to participate, ethics in sports, including drugs in amateur and professional sports and the role of sports agents in professional sport. The application of tort law and criminal law to violence in sports will also be examined.

Students will have the opportunity to identify specific research topics related to the subject of sports law, and will make individual or group presentations to the class.

**Prerequisite/Co-requisite: NONE**

**Purpose and Orientation:** The purpose of this course is to encourage discussion, research and reflection on the role of sports in our society, and to examine the ways in which different legal concepts apply to the field of sports. This will occur through lectures, simulations and the opportunity for directed student research.

By the end of the course, students should:

- have a greater appreciation of the role of sports in society, and the many dimensions of law that interact with amateur and professional sports;
- be able to take knowledge and skills learned from other courses and apply them to the specifics of sports, and begin to develop an appreciation for the ways that certain legal concepts have been moulded in their application to the field of sports;
- have become up to date on developments in sports law, and become acquainted with the legal dimensions of current developments;
- develop skills of critical analysis in relation to dominant paradigms in the area of sports law, with a view to being able to engage in informed discussion and debate on these issues and to challenging their legitimacy and value, as appropriate;
- be able, in their research, writing and performance in simulations, to exhibit skills of high quality legal analysis and insight.

**Course Materials:** Course Materials developed by professor - assigned readings.

Sets of problems and topics for class discussion and presentation.

**Teaching and Assessment:** The primary teaching method is a combination of lecture and seminar-style discussion and dialogue. The first half of the course will be dedicated to a series of specific topics that will provide a foundation for further sessions. Each week during the first half of the course will be devoted to one or two specific topic in the field of Sports Law. The second half of the course will consist of student presentations of their research topics and class discussion related to these topics.

Assessment in the course is primarily by major paper. In addition, each student will be required to prepare materials for and lead a portion of a class on a topic related to his or her research paper. There will also be a small component of the assessment based on class participation and engagement.

Students will be evaluated on the basis of:

- i) A major paper [70%];
- ii) Performance in one presentation [20%];
- iii) Class participation and engagement [10%]

**Major Papers Allowed: unlimited**

**Law 498.3 (s. 33) INDIGENOUS LEGAL PRACTICES AND PROCESSES: CIRCLE TEACHINGS SEMINAR** **1(2S- 1R)**

**(2017-2018 Maria Campbell)**

**Introduction:** The 3-credit seminar explores Circle Teachings. Using four circles as a starting place and teaching tool, the students will be given an understanding of traditional family structure, governance and an overview of history. Using stories, songs and dance as well as invited guests the class will discuss the laws of *wahkotohwin*, which demonstrates the traditional roles, responsibilities and obligations of family and community and, to the land and creation.

This course aligns itself with the Principles of Reconciliation outlined by the Truth and Reconciliation Commission of Canada regarding the support and inclusion of Indigenous knowledge systems, oral histories, laws, protocols and connections to the land as essential to long-term reconciliation processes.

**Learning Objectives:**

- Have a solid understanding of the key debates and issues in the recognition of traditional Indigenous laws and practices;
- Have an understanding of the Indigenous perspectives, issues and;
- Be able to articulate a critical perspective on the opportunities for and the limitations of, the Indigenous legal/government institutions and actors to address their inclusion and participation within the state systems of law and governance;

- Have a good understanding of the various individual placements/institutions that are the subject of externship placements in the course;
- Be able to critically examine their own experiences and observations in light of larger theoretical and scholarly discourse.

**The Seminar:** Students will have course requirements for a minimum of 2-3 hours/ week- either as a group with a scheduled class or individually with assigned research topics. Outside of class activities and engagements will be scheduled from time to time during the term. These 'outside of class time' requirements will be compensated by the cancellation of one or more regularly scheduled classes. Students will examine and discuss place, language, taboos, laws, principles, values, protocols, and the traditional roles of headmen and women, societies and councils. They will look at language, knowledge translation and the problems that arise when the perspectives and worldviews of Indigenous people are not acknowledged in the transition to "Canadian law".

The cultural meanings of key words often used in contemporary dialogue such as self-determination, self-government, fiduciary rights, Innovation etc. will also be examined and discussed. Traditional storytellers, dancers, ceremonialists, leaders, trappers/hunters, lawyers and historians or people who have expertise in these areas will be invited. Discussion and preparation of traditional food will also be used to illustrate the teachings.

Classes will be seminar style done in a circle to ground and further illustrate basic foundational principles of respect, reciprocity and responsibility.

**Assessment:** Evaluation is based on:

- Major research paper, 70%
- Attendance and participation in seminar, including class participation, 30%

Major paper: 30-35 pages in length,( 7, 500 - 12,000 words. ) See College of Law Assessment Regulations, on a topic related to the substantive context of course, to be approved by the course instructor in advance. Papers are due on the last day of classes, 70%

**Class participation:** The participation mark (30%) comprises two elements.

First, attendance and engaged contribution to seminar discussion is worth 10%. Students are expected to attend seminar discussions. They are expected to complete assigned readings or material and be prepared to engage in informed discussion about the readings in class as well as suggest readings to their colleagues from research they are doing towards their major papers.

Class participation is based on several components: The student's self-evaluation, and the student's engagement in informed discussion, thoughtful questioning and contribution to the class dynamic.

The second element, worth 20%, will be a class presentation based on some element of Indigenous knowledge and history, selected in consultation with the instructor. For example, a student may find an old story, ceremony or song, and or talk to and interview an expert (knowledgeable elder,

artist, trapper/hunter or knowledge keeper. The student may invite their source to class to assist with the presentation. The presentation will be made to classmates and invited guests who will provide feedback on the presentation.

The assessment of the presentation will be based on the students demonstrated knowledge and understanding of Indigenous knowledge and history.

**Academic Honesty:** Students are responsible for adhering to the University of Saskatchewan's Academic Conduct Policy.

**Laptop policy:** No open laptops in class please. The laptop is distracting to everyone in this kind of learning environment, but please bring it with you, as we will set time aside to review what we have done and you can then use it. Thank you for your understanding.

### **Law 498.3 JUSTICE INNOVATION: DEAN'S FORUM ON DISPUTE RESOLUTION AND ACCESS TO JUSTICE**

(2017-2018 B. Lowenberger)

It is our intent to offer - for a fifth year - the experiential course below. The course is typically offered in Term 2 for six upper-year students on an application basis. Further details and the application deadline will be announced during the fall term. It is a unique opportunity for a small group of students to develop justice policy alongside leading members of the legal profession.

### **JUSTICE INNOVATION: DEAN'S FORUM ON DISPUTE RESOLUTION AND ACCESS TO JUSTICE**

Nation-wide conversations about Access to Justice continue to play out, with the recent Cromwell Report\* an important touchstone. The first five meetings of the Dean's Forum on Dispute Resolution and Access to Justice were held in September, 2013, March 2014, March, 2015, and February 2016, and March 2017: a gathering of a couple dozen leaders in the Saskatchewan legal and justice community. During the last four years, a small group of students participated in the Dean's Forum project for course credit. They conducted research on the Forum's themes, prepared and presented policy discussion papers, helped design the consultative/planning process, and participated fully in the Forum event. A summary of the Dean's Forum initiative is published on the College of Law website: <<http://law.usask.ca/deansforum>>. A video by previous Dean's Forum students is published on YouTube: <<https://www.youtube.com/watch?v=sbJY9gQb6wU>>.

The project will continue, with a sixth Forum planned for 2018. The general themes for this year's Forum are currently being finalized, and will be assigned near the end of the fall term.

Prior demonstrated leadership in dispute resolution and access to justice initiatives, as well as prior academic performance will be factors in the selection of students for the course. The course will be scheduled based on the successful candidates' availability.

If you have any questions about previous years' projects, or the direction of this year's, please do not hesitate to contact Dean's Forum course instructor, Director of CREATE Justice, and Access to Justice Coordinator, Brea Lowenberger (at [b.lowenberger@usask.ca](mailto:b.lowenberger@usask.ca)).

\*The Cromwell Report can be found at <<<http://www.cfcj-fcjc.org/collaborations>>>.

**Law 498.3 (s. 23) FIRST NATIONS ECONOMIC DEVELOPMENT 1(2S-1R)**

(2017-2018 Favel)

**Calendar Description:** The seminar examines the evolution of First Nations economic development. There will be a brief overview of historical economic activities by First Nations, a review of government legislation and policy that impacted First Nations economies and a review of legal developments including First Nations-led legislative initiatives that have created the environment for renewed economic development activities by First Nations.

**Prerequisites/Co-requisites: None**

**Purpose and Orientation:** This seminar is designed to equip students with the knowledge of the evolution of First Nations economic development. To understand the successes, challenges and opportunities of current economic development by First Nations requires an overview of the historical economic development activities carried out by First Nations. It also requires an examination of how government policy and legislation adversely affected First Nations abilities to participate in the economy both before and after Treaty making. Lastly, the successes and opportunities for current and future economic development can be attributed to a resurgence in cultural and traditional activities, recent case law and First Nations-led legislative developments along with appropriate business structures. The seminar will provide the student with a well-rounded comprehension of economic development issues and the legislative and legal regime in which First Nations operate.

**Course Materials:** Materials will be available online.

**Teaching and Assessment:** The primary teaching method is by lecture along with discussions and questions. Assessment will be 75% written paper, 15% for class participation and 10% for short presentations in class.

**Law 498.3 (s. 37) CANADIAN ENVIRONMENTAL REGULATION 2(2S-1R)**

(2017-2018 J. Busch)

**Calendar Description:** This seminar course will look at the Canadian environmental regulatory framework. Students will look at federal and provincial environmental laws and how those laws fit together.

Students will look at the Canadian Environmental Assessment Act, Canadian Environmental Protection Act, Species At Risk Act, Migratory Birds Convention Act, Fisheries Act, The Environment Management Protection Act, The Environment Assessment Act and possibly others. We will examine provincial, federal and indigenous jurisdiction over the environment. We will look at ownership over natural resources and the authority to make decisions about how those resources are developed. Students will become familiar with environmental assessment processes.

A large portion of the course will be spent on how environmental regulation and assessment is used by the Crown as the vehicle by which to fulfill its duty to consult indigenous people and how the duty to consult fits within the environmental regulatory framework.

**Prerequisite/Co-requisite: NONE**

**Evaluation:**

- **10% Participation:** measured by attendance and contribution to class discussion
- **10% Presentation:** a 4-5 page written submission, provided in advance to the class, (single-spaced, 12pt font, Arial or Times New Roman, 1-inch margins) with respect to a mock EA process. Students will be asked to make a short presentation of their submission to the class and respond to questions.
- **80% Major Paper** (35-40 pages)

**Required Course Materials:** Readings will be assigned from materials available online and/or on reserve in the Law Library.

**Instruction:** Combination of discussion, lecture and student led presentations to encourage discussion and debate.

**Law 498.3 SPECIAL TOPICS: INFORMATION AND PRIVACY LAW**

**1(3L)**

(2017-2018 von Tigerstrom)

**Calendar Description:** This course examines the law relating to collection, use, and disclosure of information in the public and private sectors in Canada.

**Prerequisites/Co-requisites: NONE**

**Purpose and Orientation:** This course is designed to allow students to gain a foundational understanding of the legislation and principles that govern collection, use, and disclosure of information in Canada. The core of the course consists of an examination of federal and selected provincial/territorial legislation dealing with collection, use, and disclosure of information in both the public and private sectors (i.e.: access to information and privacy statutes that apply to government and public bodies; private sector information and privacy statutes that apply to commercial activities). It will also include an examination of the various causes of action that could be pursued by a person aggrieved by a disclosure or misuse of information. A selection of specific topics will also be considered, such as privacy issues in the workplace, whistleblowers

and public disclosure, anti-spam legislation, and regulation of information technology and social media, taking into account students' interests and current issues.

In addition to addressing an area that is relevant to a broad range of areas of practice, this course provides an opportunity for students to gain experience in working with legislation, including statutory interpretation and understanding relationships among statutes and between statutes and the common law. Other important objectives include understanding and critical analysis of relevant theoretical concepts and policy questions, and further development of skills of legal analysis and communication.

**Required Course Materials:** Readings will be assigned from materials available online and/or on reserve in the Law Library.

**Teaching and Assessment:** The course will be taught using a combination of lecture and class discussion. Assessment will be by way of one or more assignments and an open book final examination.

**Minor papers allowed: 5**

### **Law 498.3 ENTERTAINMENT LAW**

**1(3L)**

(2017-2018 Patrick)

**Calendar Description:** This course provides an overview of the key areas relevant to entertainment law, including: artist rights, copyright infringement, fair dealing, negotiation, trade-marks in entertainment, talent and guild agreements, collective bargaining, publicity rights, defamation, entertainment contracts, and emerging entertainment law issues in the digital age. The course will provide examples from film, television, music, visual art, live performance and other areas. Some classes may involve guest speakers. Students will have an opportunity to consider and discuss both practical and theoretical issues regarding entertainment law.

**Prerequisites/Co-requisites:** NONE

**Detailed Description:** Entertainment law encompasses many different areas of law. A central objective of this course is to provide students with an understanding of the legal aspects of entertainment businesses and the related role of lawyers. Students will critically evaluate entertainment law through understanding developments in case law, governing legislation, and policy related issues. Students will explore what it takes to get a “*deal done*” in the music, film, television, book publishing, and live stage industries. This course will provide students with a sound working knowledge of the legal aspects of negotiating with “the talent”, the collective bargaining process, artist rights, Indigenous artist rights, the implications of guild agreements, the role of negotiation in entertainment law, and new challenges in the digital/social media age.

**Course materials:** All primary course materials are available in electronic format, and will be posted on the course website. Additional web-based resources will be available through CanLII or otherwise available online.

**Teaching and Assessment:** Most topics will be covered through a mixed method of lectures, questioning, and the examination of the law through its application to in class factual scenarios and discussions. The evaluation component of this course includes:

- 1 Written Assignment (worth 30% of final grade), and
- 1 Final Exam (70% of final grade).

The *Written Assignment* can count towards the student's minor writing assignment. Students intending on using the *Written Assignment* as their minor paper requirement - must indicate this to the instructor at the commencement of the course.

**Minor Papers:** no limit

## **Law 498.3 BANKING, PAYMENT & TRANSFER SYSTEMS**

**2(3L)**

(2017-2018 Bangsund)

**Calendar Description:** The course explores the law governing a variety of payment and transfer systems including those furnished under the statutory regimes of the federal *Bills of Exchange Act* (BEA) (which pertains to the transfer of payment rights in bills of exchange, promissory notes and cheques) and the provincial *Securities Transfer Act* (STA) (which pertains to the transfer of rights in financial assets including share certificates, bearer bonds, and electronically held securities). Beyond these two statutes, students will learn about the basic features of the bank-customer relationship along with numerous modern payment systems and mechanisms (e.g. PayPal, Bitcoin, Interac, Credit Card), gaining familiarity with the general infrastructure and processes underlying such systems and mechanisms.

**Prerequisites/Co-requisites: NONE**

### **Detailed Description:**

The first part of the course introduces the relationship between a depository bank and its customer, and focuses on the deposit account as an indispensable item of commerce and unique form of personal property in the modern age. The depository bank's right of set-off, against its customer's deposit account, is a key form of payment mechanism for depository institutions. A basic review of Canada's clearing and settlement systems, for funds transfers, will also be undertaken either in this first part, or alternatively, as part of the fourth part mandatory research component (discussed below).

The law of negotiable instruments, set out in the BEA, is examined in the second part of the course.

A Victorian statute, the BEA represents a late nineteenth century codification of the common law and the law merchant as it then existed. While modern electronic payment systems have displaced negotiable instruments in most consumer transactions, negotiable instruments continue to be used in a variety of commercial contexts.

The third part of the course focuses on the STA, a modern provincial statute which governs the transfer of both tangible and intangible financial assets. The law governing payment and transfer systems has evolved to keep pace with modern technological advances. For negotiable financial assets with a tangible existence (like certificated securities), the STA substantially replicates the traditional approach of the BEA. The STA, however, has significantly broader application and scope since it also applies to intangible financial assets held through an indirect holding system. The STA, which took force in Saskatchewan (and numerous other provinces) in 2007, largely emulates UCC Article 8, and aims, among other things, at creating substantial uniformity across the highly integrated international financial markets.

The fourth part of the course focuses on a variety of modern payment systems and mechanisms. In this respect, students will undertake a mandatory independent research project which will culminate in the preparation and submission of a brief paper (between 500 and 1,000 words).

**Course Materials:** All primary course materials are available in electronic format, and will be posted on the course website. Students will not be required to purchase any textbooks, but certain key texts will be placed on reserve at the library.

**Teaching and Assessment:** The instructor will use various pedagogical techniques. Most areas are covered by lectures and presentations, then reviewed through an application of the law to various factual scenarios (i.e. problem sets). Students have two options for formal evaluation:

Option A.

Mandatory Independent Research Paper = 10%

Final Examination = 90%

Option B.

Mandatory Independent Research Paper = 10%

Final Examination = 60%

Additional Minor Research Paper = 30%\*

\*Students who choose Option B must submit a written proposal and have their minor research paper topic approved, in writing, on or before a specified date early in the semester. Failing this approval, they are deemed to elect Option A. Five students may elect to write the additional minor research paper. Students electing to complete a minor research paper must state their intention within the first month of the term and have the nature and topic of the paper approved by the instructor. These students are required to write the entire final examination for the remainder of their final grade. Students not electing to write a minor paper will write the final open book examination for 100% of their final grade.

**Minor Papers Allowed: 5**

## **Law 498.3 (s. 21) SPECIAL TOPICS: PRISON LAW & HUMAN RIGHTS**

**1(2S-1R)**

(2017-2018 Gough/Blenkinsop)

**Objectives:** This seminar course is designed to orient future lawyers to key issues related to incarceration and the correctional and criminal justice systems. As part of this course, you will read and analyze legislation, some case law, reports as well as supplementary research materials that allow us to think critically about the ethical and other constraints upon counsel trying to assist prisoners, the specific barriers confronted by Indigenous women, women with disabling mental health issues, as well as legal and other reforms that are possible in this area.

**Method of evaluation:** \**Participation:* 60%, consisting of two reading summary and reflection assignments to be completed by 8pm the evening before class) worth 10% each, and leadership of the class discussion pertaining to your summary and reflection, for an additional 10% each; for a total of 40% of your mark. 20% of the participation mark will be based upon your attendance, preparation for, and participation in, class.

For each of the 2 hours you sign up for, you will be responsible for emailing to the class a document containing reflective insights, critical remarks, and/or challenging questions that struck you while contemplating the assigned readings for that date.

You should set your sights on preparing collaborative and cooperative presentations, while also provoking deeper thinking among your classmates, as well as linking prior readings and contemplating the broader goal of this course. Your summary and reflection might highlight significant insights gleaned from the readings; they might take the form of a critique; they might propose new arguments or strategies for lawyers; or they might point to additional sources and questions that should be interrogated.

Each of your presentations will be assessed for: (i) originality of insight; (ii) quality of written prose (including spelling and editing); (iii) ability to integrate and link readings and ideas; (iv) overall persuasiveness, style and precision; and (v) demonstration of collaboration and cooperative efforts by each group of presenters; (vi) ability to demonstrate knowledge of relevant federal and provincial law and policy; (vii) originality of presentation and identification of potential advocacy strategies; (viii) overall effectiveness of class presentations.

\**Final Exam:* 40% Draft Advocacy Plans with/for Prisoners; Presentation of Materials to Prisoners

## **Law 498.3 CONSTRUCTION LAW**

**1(2S-1R)**

(2017-2018 Epp)

**Calendar Description:** This course is intended to provide students with a general introduction to construction law in Canada. Building on basic concepts learned in contract and tort law, students

will gain an understanding as to how contracts for work are awarded; what construction contracts look like, including which clauses are typically the source of litigation; how performance of the work is secured by owners; what rights, obligations and remedies parties can access through *The Builders' Lien Act*, in contract or in tort; and how to use arbitration effectively to resolve construction disputes.

**Prerequisites/Co-requisites: Contracts 201.6 and Tort Law 212.6**

**Purpose and Orientation:** Construction law is a significant practice area in Saskatchewan and beyond. The principles taught in this course will be relevant nationally. Upon completion of this course the student will be able to:

- Describe and apply legal principles, including the common law and statutory rules, which govern construction law.
- Describe how construction contracts are awarded, and the process by which performance of work is secured.
- Describe how to effectively use the arbitration process to resolve construction disputes.
- Apply construction law concepts, including those contained in *The Builders' Lien Act*, contract law and tort law, to appropriately resolve common construction law issues as well as develop a basic understanding of how to analyze and respond to the types of legal documents commonly filed in legal proceedings relating to construction disputes.

**Course Materials:** The primary textbook will be *Saskatchewan Builders' Lien Manual* (2<sup>nd</sup> Ed.) by Brent Gough and Colin Hirshfeld. In addition, the instructor will provide additional readings and cases including publically available tender documents, construction documents, contracts and court application materials.

**Teaching and Assessment:**

**Student Evaluation:** Group Assignment: 20% (optional) students will be asked to prepare a focused option letter/legal memorandum responding to a novel construction law fact pattern or court application.

**Take home final exam:** 80-100%: Students will be expected to prepare a legal factum or memorandum, which will require an analysis and evaluation of court materials, including affidavits and pleadings. Students will also be expected to answer questions requiring them to apply course concepts to construction law fact patterns.

**Law 498.3 USE OF FORCE AND ARMED CONFLICT**

**1 (3L)**

(2017-2018 Coombes)

**Calendar Description:** This course will examine two distinct, but related, bodies of international law: (i) *jus ad bellum* (the law regulating the use of force) and (ii) *jus in bello* (the law of armed conflict, which is also known as international humanitarian law). Students will be introduced to the sources and fundamental principles of the law in these two areas, as well as current challenges and controversies, such

as the application of the law to non-state actors (e.g., terrorist organizations, and private military and security companies), and new technology and means of conflict (e.g., drones and cyber warfare). The first part of the course will address the unilateral and collective use of force by states, including the prohibition of the use of force and the obligation to settle disputes peacefully; generally accepted and controversial exceptions to the general prohibition (e.g., force authorized by the UN Security Council self-defense, humanitarian intervention, and the protection of nationals abroad); and the role of the United Nations and regional organizations, including the respect to the deployment of peacekeeping operations. The second part of the course will provide an overview of select areas of law of armed conflict, including the classification of armed conflict; permissible means and methods of warfare; and rules regarding the rights and privileges of combatants, prisoners of war, and civilians.

**Student Evaluation:** Optional minor paper worth 50%. Final exam worth 50% if minor paper written, otherwise worth 100%.

Minor Papers Allowed: 90

## **Law 498.3 ADVANCED SECURED TRANSACTIONS SEMINAR**

**2(2S-1R)**

(2017-2018 Cuming – Term 2)

**Purpose and Orientation:** In this seminar, students are given the opportunity to explore in depth features of personal property security law and real property security law that are not addressed or only superficially addressed in first level courses in these areas.

**Prerequisites:** Secured Transactions 303.3 and Secured Transactions II 307.3

**Learning Objectives:** The goal of the seminar is to give students who have a background in secured transactions law the opportunity to engage in research that focuses on areas that are of particular interest to them. The benefit of their research will be made available to other seminar participants.

### **Logistics And Assessment:**

During the first three seminar meetings, specific areas of secured transactions law will be presented and discussed including: fixtures and accessions, chattel paper financing, accounts financing, conflict of laws, marshalling, taking, novation, etc.

Each participant will select a topic and inform the instructor. When a selection is not made, a paper topic will be assigned by the instructor.

Each presenter will submit a paper outline to the instructor at least two weeks prior to the presentation date and provide it to every member of the class a discussion outline one week before the presentation date.

Each member of the class will prepare a summary overview of each paper. This will entail identification of the central theme of each paper and the important legal and economic issues it addresses. The summary overviews of a paper will be due one week after the paper is presented.

Grades for the seminar will be allocated as follows:

25 - Discussion Outline

10 - Presentation to Seminar

45 - Research (as displayed in the paper)

20 – Summary Overview of presented papers.

All papers qualify for the major paper requirement of the College.

The following are examples of the areas addressed in the seminar papers:

THE IMPLICATIONS OF THE SECURITIES TRANSFER ACT AND AMENDMENTS TO THE PPSA

THE INTERFACE BETWEEN TAXATION LAW (INCLUDING EXCISE TAX LAW AND PAYROLL TAX LAW) AND SECURED FINANCING LAW

THE CONCEPTUAL AND FUNCTIONAL PARALLELS AND DIFFERENCES BETWEEN THE PPSA AND THE SECURED FINANCING SYSTEM OF THE QUEBEC CIVIL CODE

THE USE AND LIMITS OF EQUITABLE (AND OTHER) TRACING AND FOLLOWING PRINCIPLES TO EARMARK PROCEEDS

A COMPARISON OF THE CONFLICT OF LAWS PROVISIONS OF THE PPSA (EXISTING AND PROPOSED) AND THOSE OF ARTICLE 9 OF THE US UNIFORM COMMERCIAL CODE

SECURED FINANCING OF ABORIGINAL ENTERPRISES: THE PROBLEMS AND THE SOLUTIONS

SECURITIZATION UNDER THE PPSA AND ARTICLE 9 OF THE UCC

SECURITIZATION OF LAND MORTGAGES

MORTGAGE FRAUD AND INDEFEASIBILITY UNDER THE LAND TITLES ACT