



UNIVERSITY OF SASKATCHEWAN

College of Law

2017

ORIENTATION SCHEDULE AND MATERIALS

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ORIENTATION SCHEDULE 2017

Day 1: Tuesday, September 5, 2017

9:00-10:00	First Year Registration (Coffee – Native Law Centre (NLC)) LSA Memberships/Lockers	Dentons Student Lounge Room 30, McDougall Gauley Moot Court Room
10:00-10:45	Welcome <ul style="list-style-type: none"> • Opening Prayer, Cultural Advisor Maria Campbell • Welcoming Remarks, Dean Martin Phillipson • Introduction of College of Law Faculty • Welcome from Law Students' Association, Lindsey Knibbs • Welcome from Indigenous Law Students' Association, Andrew Showalter 	Room 150, MLT Lecture Theatre
10:45-11:00	Break – muffins	Outside Room 150
11:00-12:15	Small Group Talking Circles	Rooms 78, 74, 64, 150, 135, 130, 120, 211 NLC Boardroom & Ceremonial Room
12:15-1:30	Welcome and Reunion BBQ Lunch Sponsored by MLT Aikins and Hosted by the Law Students' Association First and Upper Year Students, College and NLC Faculty and Staff, graduate students	Dentons Student Lounge
1:30-2:30	College Resources <ul style="list-style-type: none"> • Administrative Matters - Associate Dean Doug Surtees • Academic Success – Associate Dean Doug Surtees • Career Services - Terri Karpish • Access to Justice – Brea Lowenberger • Library Services and Introductory of Library Staff – Greg Wurzer • Ethics and Conduct Guidelines – Professor Sarah Buhler 	Room 150, MLT Lecture Theatre
2:30-3:45	Law Students' Association Orientation & Sibling Match	Room 150, MLT Lecture Theatre

ORIENTATION SCHEDULE 2017

Day 2: Wednesday, September 6, 2017

10:30-11:30	<p>Introduction to Legal Studies Series: Lecture 1</p> <p>Professor Sarah Burningham Statutory Law and the Administrative State</p>	Room 150, MLT Lecture Theatre
11:30-1:00	<p>LSA Pancake Brunch Sponsored by Norton Rose Fulbright Canada LLP</p>	Dentons Student Lounge
1:00-2:15	<p>Introduction to Case Briefing – Section 1</p> <ul style="list-style-type: none"> • Professor Karinne Coombes – Section TA • Professor Leah Howie & Andy Chiang – Section PA <p>Indigenous Legal Traditions and Aboriginal Rights</p> <ul style="list-style-type: none"> • Larry Chartrand, Director, Native Law Centre 	Rooms 30, 64 Room 150
2:15-3:45	<p>Introduction to Case Briefing – Section 2</p> <ul style="list-style-type: none"> • Professor Karinne Coombes – Section TB • Professor Leah Howie & Andy Chiang – Section PB <p>Indigenous Legal Traditions and Aboriginal Rights</p> <ul style="list-style-type: none"> • Larry Chartrand, Director, Native Law Centre 	Rooms 64, 74 Room 150
3:45-4:15	<p>Coffee Break</p>	NLC
4:15-5:00	<p>Introduction to Legal Studies Series: Lecture 2</p> <p>Professor Ron Cuming The History of the Common Law</p>	Room 150, MLT Lecture Theatre

ORIENTATION SCHEDULE 2017

Follow-up Lecture/Event

Wednesday, September 13, 2017

10:00-11:15	Life After Law School The Honourable Donald H. Layh Justice of the Court of Queen's Bench <i>(Pizza Lunch - Sponsored by Norton Rose Fulbright Canada LLP)</i>	Room 150, MLT Lecture Theatre
11:30-12:15	Informal Discussion on the Law Profession, Personal Experiences followed by Q&A Jaclyn Hesje-Platis Norton Rose Fulbright Canada LLP, Calgary	
Date/Time TBD	External Moot Information Session <i>(Watch for Notices)</i>	

A Learning Charter

FOR THE UNIVERSITY OF SASKATCHEWAN?

Approved by University Council on June 17, 2010

The University of Saskatchewan Learning Charter is intended to define aspirations about the learning experience that the University aims to provide, and the roles to be played in realizing these aspirations by students, instructors and the institution. The overarching goal of the Learning Charter is to optimize the learning experience of every student.¹

The Learning Charter consists of three main parts: (1) our vision for learning; (2) the core learning goals to which the University of Saskatchewan aspires for its graduates; and (3) the roles which students, instructors, and the institution need to play in achieving our learning vision and goals.

In so doing, the Learning Charter serves as an integrative framework for linking aims, values, and principles surrounding teaching and learning to behaviours that will

optimize student learning and discovery. The Learning Charter serves as an educational tool for communicating goals, commitments, and responsibilities to each of the learning partners, and as a tool for organizing, evaluating, and further developing policies that affect teaching and learning.

The Learning Charter is grounded in the values and principles enunciated in the “Teaching and Learning Foundational Document,”² and is informed by the “The University of Saskatchewan Mission Statement,”³ “Guidelines for Academic Conduct”⁴, the “Standard of Student Conduct in Non-Academic Matters”⁵ and the “University of Saskatchewan Strategic Directions”⁶ document, as well as other relevant policies and documents.

Our Learning Vision

Our vision sees the University of Saskatchewan as a unique community of learning and discovery, where people can embark on a process of development through which they grow, create, and learn, in a context characterized by *diversity*—of academic programs, of ways of knowing and learning, and of its members. This diversity provides opportunities for learners to achieve their unique learning goals in ways most relevant to them, in a setting in which learning is seen as a multi-faceted process through which people can learn experientially; independently; in laboratory or clinical settings; through collaboration and teams; through research and inquiry; through debate and engagement with instructors, mentors, and other learners; and through community service.

The University is proud of its sense of place as a public institution with a long history of mutual engagement with the community, but also recognizes that learning is not confined to any particular location, and may take place on campus, in the community, or through distributed learning. Among the learning outcomes we visualize are intellectual growth, clarified values, independence, social responsibility, and the recognition of diversity as an overarching concept that reflects a philosophy of equitable participation and an appreciation of the contributions of all people.



Core Learning Goals

The University of Saskatchewan offers a diversity of academic and professional programs that is matched by few other institutions of learning. Our students undertake programs of many different types and durations, and students in different programs will differ in the specific learning outcomes

they achieve. However, while specific learning outcomes will vary, there is a set of core learning goals to which we aspire for all graduates, to the extent feasible and appropriate within each program of studies. These are of five main types: *Discovery, Knowledge, Integrity, Skills, and Citizenship.*



ALL GRADUATES OF THE UNIVERSITY OF SASKATCHEWAN WILL:

DISCOVERY GOALS

- Apply critical and creative thinking to problems, including analysis, synthesis, and evaluation.
- Be adept at learning in various ways, including independently, experientially, and in teams.
- Possess intellectual flexibility, ability to manage change, and a zest for life-long learning.

KNOWLEDGE GOALS

- Have a comprehensive knowledge of their subject area, discipline, or profession.
- Understand how their subject area may intersect with related disciplines.
- Utilize and apply their knowledge with judgement and prudence.

INTEGRITY GOALS

- Exercise intellectual integrity and ethical behaviour.
- Recognize and think through moral and ethical issues in a variety of contexts.
- Recognize the limits to their knowledge and act accordingly.

SKILLS GOALS

- Communicate clearly, substantively, and persuasively.
- Be able to locate and use information effectively, ethically, and legally.
- Be technologically literate, and able to apply appropriate skills of research and inquiry.

CITIZENSHIP GOALS

- Value diversity and the positive contributions this brings to society.
- Share their knowledge and exercise leadership.
- Contribute to society, locally, nationally, or globally.



Commitments & Responsibilities



Achieving the learning vision and goals to which we aspire requires the active commitment of students, instructors, and the institution, and depends on each party fulfilling its role in the learning partnership embodied by the University of Saskatchewan. As we identify the commitments and responsibilities of each partner, we recognize that each member of the university community may participate in one, two, or even three of these roles. For example, a graduate student may teach a class and also serve on a university committee, or a technician may instruct on the operation of lab equipment and also take a university class. The commitments and responsibilities we identify are best conceived as attaching to each member of the university community as they serve their student, instructor, or institutional roles.

Students

While all three roles are important, the role of the learner is most fundamental to the learning partnership. No learning can take place without active engagement by the learner in the learning process—to being open to, and learning from, the multitude of learning opportunities available at the University, both inside and outside of courses, and both on and off campus. To optimize their learning experiences, students need to make the following commitments and fulfil the corresponding responsibilities. These commitments can be summarized as *Learn Actively*, *Think Broadly*, *Act Ethically*, and *Engage Respectfully*.

STUDENT COMMITMENT 1: *Learn Actively.*

Actively engage in the learning process.

Honouring this commitment requires that students be willing to learn independently, experientially, and collaboratively with other students, as appropriate to their learning objectives; to engage in self-evaluation and reflection; and to take personal responsibility for their learning. Students should seek out and take advantage of learning opportunities beyond those found in their formal courses. Within the course context, students will maximize their learning if they prepare for their courses, engage in course activities, submit assigned work as scheduled, accept constructive feedback on their learning, and provide constructive feedback on their learning experience.

STUDENT COMMITMENT 2: *Think Broadly.*

Thoughtfully consider, on the basis of evidence, a diversity of theories, ideas, beliefs, and approaches to problems and solutions.

Honouring this commitment requires that students consider viewpoints other than their own, actively try to understand the range of ideas and beliefs pertinent to any given issue, and consider the relevant evidence for various theories and beliefs. It requires the courage to challenge accepted wisdom, and the willingness to critically appraise possible approaches and methods for solving problems and resolving issues.

STUDENT COMMITMENT 3: *Act Ethically.*

Undertake all university work in accordance with principles of academic integrity.

Honouring this commitment requires that students understand key principles of academic integrity, and adhere to the standards set out by the University of Saskatchewan covering academic misconduct⁷. Students need to understand what constitutes academic dishonesty⁸, and be sure that any academic work they undertake or submit does not violate principles of academic integrity, and that any research undertaken is congruent with ethical principles, as these principles apply to their subject area, discipline or profession.



STUDENT COMMITMENT 4: *Engage Respectfully.*

Engage in a respectful way with members of the university community and its partners.

Honouring this commitment requires that, as they engage in learning activities, students conduct themselves in a respectful way with other members of the university community, including other students, instructors, and staff. Behaviour that may constitute harassment, bullying, or discrimination must be strictly avoided. Students need to comply with university expectations for student conduct.⁹ None of this, however, is to be construed as restricting the freedom of students to raise controversial issues or views within the context of open and healthy dialogue.

Instructors

While commitment by the learner is fundamental to the learning process, the active commitment of those members of the university community responsible for providing learning opportunities is crucial to optimizing the student learning experience. To do so, university instructors (including faculty, sessional lecturers, graduate teaching assistants, and other instructors) need to make the following commitments and fulfil the corresponding responsibilities. Instructor commitments can be summarized as *Exemplify Learning, Teach Effectively, Assess Fairly, and Solicit Feedback.*

INSTRUCTOR COMMITMENT 1: *Exemplify Learning.*

Embody learning behaviours expected of students.

Honouring this commitment requires that instructors demonstrate the learning behaviours expected of students. That is, instructors should create a learning context which values and facilitates active learning, should demonstrate broad thinking, should act according to ethical principles, and should create a learning environment where all participants can engage respectfully. All participants need to be encouraged to try to understand and acknowledge points of view that may diverge from their own. Instructors must strive to present sensitive topics in a fair and balanced manner. This should not be construed, however, as restricting the ability to raise controversial issues, nor serve to undermine academic freedom. Whether issues are controversial

or not, instructors should encourage and foster open and healthy dialogue. Within the teaching context, instructors also need to convey respect for members of the university community and its partners.

Maintain an appropriate instructor-student relationship.

Honouring this commitment requires that instructors maintain a professional relationship with students under their supervision, and avoid conflicts of interest that may be posed by dual or multiple relationships with students. Where potential conflicts may exist, these should be disclosed to the appropriate academic official.

INSTRUCTOR COMMITMENT 2: *Teach Effectively.*

Ensure content proficiency.

Honouring this commitment requires that university instructors maintain a high level of subject matter knowledge, and ensure that course content is current, accurate, relevant to course objectives, representative of the body of knowledge covered in the course, and appropriate to the position of the course within the program of studies in which it is embedded.

Ensure pedagogical effectiveness.

Honouring this commitment requires that university instructors be aware of the range of instructional methods or strategies appropriate to conveying the course content, and that they select and utilize methods of instruction that are effective in helping students achieve the learning objectives of the course. Where graduate teaching assistants play a role in instructing a course, the instructor must ensure that they are provided with the proper guidance and supervision to allow them to fulfil their responsibilities effectively.

INSTRUCTOR COMMITMENT 3: *Assess Fairly.*

Communicate and uphold clear academic expectations and standards.

Honouring this commitment requires that instructors provide a clear indication of what is expected of students in the course, and what students can do to be successful in achieving the learning objectives of the course. This includes providing a course outline at the beginning of the course¹⁰ that provides information on course objectives, course activities, course requirements, methods of student assessment, and weighting of assessment criteria. The instructor will take appropriate action in response to any concerns about academic dishonesty.¹¹

Perform fair and relevant assessment of student learning.

Honouring this commitment requires that instructors ensure that assessments of student learning are transparent, applied consistently, and congruent with course objectives. Students should be provided with prompt and constructive feedback on their learning progress at regular intervals throughout the course. When individuals other than the instructor play a role in the grading of assignments and examinations, the instructor must provide careful supervision of this process.

INSTRUCTOR COMMITMENT 4: *Solicit Feedback.*

Provide opportunities for student feedback.

Honouring this commitment requires that instructors provide students with the opportunity to give candid feedback on their learning experience, without concerns of possible repercussions. Instructors will consider this feedback and strive to improve the student learning experience.¹²

Solicit other feedback on their teaching effectiveness.

Honouring this commitment requires that instructors solicit feedback on their teaching effectiveness from a variety of sources, and to continually seek ways and means of improving teaching effectiveness and the student learning experience.

The Institution

The University as an institution serves as a catalyst and context for learning and scholarship. It brings together learners and other members of the educational community in an environment conducive to learning and discovery. The institution plays a critical role in ensuring the quality and quantity of learning opportunities available to students, and in providing the teaching and learning resources that will optimize the student learning experience. To fulfil its institutional role, the University of Saskatchewan (including its academic, administrative, and support units, as well as its governance bodies) needs to make the following commitments. These can be summarized as *Provide Opportunities, Ensure Quality, Build Environment, and Support Learning.*

INSTITUTIONAL COMMITMENT 1: *Provide Opportunities.*

Offer high quality programs for learning and discovery.

Honouring this commitment requires that the University develop and ground programs and curricula in ways that are socially relevant, adaptive, and responsive, and that will facilitate engagement with the relevant community. It requires that the University provides resources and activities to allow students to develop their interests beyond the experiences provided by their courses. It requires that programs and curricula be evaluated against the Learning Vision and Learning Goals identified in this Learning Charter, and be reviewed and adapted on an ongoing basis. It requires that every program be provided with the critical mass of teaching resources (particularly faculty resources) necessary to assure quality of program execution.

Foster learning partnerships.

Honouring this commitment requires that the University recognize that the student learning experience can be enhanced by appropriate interactions with various learning partners outside the university, and that the University strive to both facilitate these interactions and ensure that they occur in a way beneficial to all parties.

INSTITUTIONAL COMMITMENT 2: *Ensure Quality.*

Ensure qualified instructors and effective instruction.

Honouring this commitment requires that the University ensure that all instructors possess both content and pedagogical competence for any course they are assigned to teach, and that instructors understand and accept their commitments and responsibilities as identified in this Learning Charter. It requires that the University provide opportunities for instructors to enhance their teaching skills, and considers teaching performance an important factor within all hiring and review processes. Where graduate teaching assistants and other university staff participate in instruction, the University will ensure that guidance and supervision is provided such that they can effectively perform their roles. The institution will ensure that staff providing learning support are well qualified, and will ensure the quality of services provided by support staff.



Promote research-enhanced learning.

Honouring this commitment requires that the University encourage fruitful and synergistic interaction between the research, scholarly and artistic work being conducted at this institution and the learning experience of the student. It requires that the University embrace the teacher-scholar model, under which most university instructors engage in both dissemination of knowledge and creation of new knowledge. It requires that students be given opportunities—appropriate to the nature of their programs—to learn (and to create new knowledge) through research and discovery.

INSTITUTIONAL COMMITMENT 3: Build Environment.

Provide a safe, secure, and inclusive environment.

Honouring this commitment requires that the University provide a safe, secure and inclusive environment for all members of the university community. It requires that all members feel welcome and valued, and that administrative systems are designed and operated to minimize stress and avoid frustration.

Provide appropriate learning resources, facilities, and technology.

Honouring this commitment requires that the University provide appropriate classroom, research, and study environments for students; access to informational resources; and appropriate teaching and research technology to support teaching, learning, and student discovery within a context that supports both on-campus and distributed learning. This also requires that class sizes be set commensurately with the pedagogy that best fits their course content and learning objectives.

¹ The University of Saskatchewan Learning Charter was approved by University Council on June 17, 2010

² *The Teaching and Learning Foundational document can be found online at:*
http://www.usask.ca/ip/inst_planning/docs/TLFD_Council_Approved_Version_December_2008.pdf

³ *The University of Saskatchewan Mission Statement can be found online at:*
http://www.usask.ca/university_secretary/policies/contents/uofs_missionstat.php

⁴ *The Council Guidelines for Academic Conduct can be found online at:*
http://www.usask.ca/university_secretary/council/reports_forms/reports/guide_conduct.php

⁵ *The Senate Standard of Conduct in Non-Academic Matters can be found online at:*
http://www.usask.ca/university_secretary/honesty/StudentNon-AcademicMisconduct.pdf

⁶ *The Strategic Directions can be found online at:*
http://www.usask.ca/ip/inst_planning/strategic_directions/index.php

⁷ *The "University of Saskatchewan Regulations on Student Academic Misconduct," available online at:*
www.usask.ca/university_secretary/honesty/StudentAcademicMisconduct.pdf

INSTITUTIONAL COMMITMENT 4: Support Learning.

Support students.

Honouring this commitment requires that the University help students to select programs appropriate to their particular abilities and preparation. Where better preparation is required, the University will counsel students on how they might obtain this preparation. The University will ensure that students understand their commitments and responsibilities—as identified in this Learning Charter—as a guide to how they can best achieve success in their learning pursuits. Honouring this commitment also requires that the University provide appropriate academic and other supports to students who experience various challenges to their learning, including challenges of a cultural, social, psychological, or physical nature.

Support instructors.

Honouring this commitment requires that the University provide opportunities to instructors to maintain and improve the quality of their teaching. Course assignments need to be commensurate with the content and pedagogical needs of each teaching assignment and consideration of the full spectrum of responsibilities of each instructor. Instructors need to be supported with teaching and laboratory assistants and other support staff as appropriate to their teaching assignments.

⁸ *A detailed description of what constitutes academic dishonesty can be found in Section 2 of the above document.*

⁹ *The "Expectations for Student Conduct" are outlined in Section III of the "Standard of Student Conduct in Non-Academic Matters," available online at:*
http://www.usask.ca/university_secretary/honesty/StudentNon-AcademicMisconduct.pdf

¹⁰ *The requirement to provide a course outline to students, and other regulations regarding the conduct of examinations, are detailed in the University of Saskatchewan Examination Regulations*
http://www.usask.ca/university_secretary/council/Examination_regulations.php

¹¹ *The Council Guidelines for Academic Conduct can be found online at:*
http://www.usask.ca/university_secretary/council/reports_forms/reports/guide_conduct.php

¹² *For more information on teaching evaluation, including frameworks for student and peer teaching evaluation, see the Teaching and Learning Committee website*
http://www.usask.ca/university_secretary/council/committees/teaching_learning/index.php

III

UNIVERSITY GUIDELINES FOR ACADEMIC HONESTY

Note: The following material partially reproduces the more extensive information at the University of Saskatchewan website. www.usask.ca/honesty.

Academic Misconduct Defined

The following matters constitute academic misconduct:

- (a) Providing false or misleading information or documentation to gain admission to the university or any university program;
- (b) Theft of lecture notes, research work, computer files, or other academic or research materials prepared by another student or an instructor or staff member;
- (c) Using work done in one course in fulfilment of any requirement of another course unless approval is obtained from the instructor by whom the material is being evaluated;
- (d) Presenting the work of someone else as one's own;
- (e) The supply of materials prepared by the student to another student for use by that student as the work or materials of that student;
- (f) Alteration or falsification of records, computer files, or any document relating to a student's academic performance;
- (g) Violation of the university's research integrity policy,
- (h) Fabrication or invention of sources;
- (i) Failure to observe any stated rule with regard to the procedure used in an examination (or an activity undertaken for academic credit) where such a failure could result in the student gaining relatively greater credit;
- (j) Altering answers on a returned examination;
- (k) When prohibited, removing an examination from the examination room;
- (l) Seeking to acquire or acquiring prior knowledge of the contents of any examination question or paper with the intention of gaining an unfair advantage;
- (m) Possessing or using notes or other sources of information or devices not permitted by the course instructor in an examination;

- (n) Consulting or seeking the assistance of others when writing a "take home" examination unless permitted by the course instructor;
- (o) Providing false or misleading information with the intent to avoid or delay writing an examination or fulfilling any other academic requirement;
- (p) Failing to observe the terms of any agreement not to disclose the contents of an examination;
- (q) Misrepresenting or conspiring with another person to misrepresent the identity of a student writing an examination or engaging in any other form of assessment;
- (r) Knowingly doing anything designed to interfere with the opportunities of another person to have his or her contribution fully recognized or to participate in the academic program;
- (s) Preventing others from fair and equal access to University facilities or resources, including library resources ;
- (t) Using or attempting to use personal relationships, bribes, threats or other illegal conduct to gain unearned grades or academic advantages;
- (u) Knowingly assisting another person engaged in actions that amount to academic misconduct;
- (v) **Plagiarism:** the presentation of the work or idea of another in such a way as to give others the impression that it is the work or idea of the presenter.

Adequate attribution is required. What is essential is that another person have no doubt which words or research results are the student's and which are drawn from other sources. Full explicit acknowledgement of the source of the material is required.

Examples of plagiarism are:

- (i) The use of material received or purchased from another person or prepared by any person other than the individual claiming to be the author. [It is not plagiarism to use work developed in the context of a group exercise (and described as such in the text) if the mode and extent of the use does not deviate from that which is specifically authorized].
- (ii) The verbatim use of oral or written material without adequate attribution.
- (iii) The paraphrasing of oral or written material of other persons without adequate attribution

- (w) Unprofessional conduct or behaviours that occur in academic or clinical settings or other work placements, or that are related to the student's area of professional practice.

IV

The Legal Profession's Expectations

LAW SOCIETY OF SASKATCHEWAN CODE OF PROFESSIONAL CONDUCT

PREFACE

The Rule of Law is a cornerstone of the Constitution and Canadian society. Lawyers are essential participants in a justice system that advances the Rule of Law. They represent the interests of their clients, are members of a profession and are officers of the Court. They enjoy a unique and privileged position in society. Lawyers have a professional and ethical responsibility to serve their clients, the profession and the judicial system in terms that protect and promote their clients and the public interest.

The responsibility and authority to regulate lawyers has been delegated by government to the Law Society of Saskatchewan. This power must be exercised at all times in the public interest.

The Legal Profession Act, 1990, codifies this duty at Section 3.1:

3.1 In the exercise of its powers and the discharge of its responsibilities, it is the duty of the society, at all times:

- (a) to act in the public interest;
- (b) to regulate the profession and to govern the members in accordance with this Act and the rules; and
- (c) to protect the public by assuring the integrity, knowledge, skill, proficiency and competence of members.

The Law Society of Saskatchewan discharges this duty by defining and enforcing the standards of professional competency and conduct, including ethical conduct, expected of all lawyers.

PROVISIONS OF THE CODE OF PROFESSIONAL CONDUCT

1.01 INTEGRITY

1.01 (1) A lawyer has a duty to carry on the practice of law and discharge all responsibilities to clients, tribunals, the public and other members of the profession honourably and with integrity.

Competence

2.01 (2) A lawyer must perform all legal services undertaken on a client's behalf to the standard of a competent lawyer.

Advocacy

4.01 (1) When acting as an advocate, a lawyer must represent the client resolutely and honourably within the limits of the law, while treating the tribunal with candour, fairness, courtesy, and respect.

A lawyer has a special responsibility to respect the requirements of human rights laws in force in Canada, its provinces and territories and, specifically, to honour the obligations enumerated in human rights laws.

Courtesy and Good Faith

6.02 (1) A lawyer must be courteous and civil and act in good faith with all persons with whom the lawyer has dealings in the course of his or her practice

Communications

6.02 (4) A lawyer must not, in the course of a professional practice, send correspondence or otherwise communicate to a client, another lawyer or any other person in a manner that is abusive, offensive, or otherwise inconsistent with the proper tone of a professional communication from a lawyer.

Undertakings and Trust Conditions

6.02 (11) A lawyer must not give an undertaking that cannot be fulfilled and must fulfill every undertaking given and honour every trust condition once accepted.

5.03 HARASSMENT AND DISCRIMINATION

5.03 (1) The principles of human rights laws and related case law apply to the interpretation of this rule.

5.03 (2) A term used in this rule that is defined in human rights legislation has the same meaning as in the legislation.

5.03 (3) A lawyer must not sexually harass any person.

5.03 (4) A lawyer must not engage in any other form of harassment of any person.

5.03 (5) A lawyer must not discriminate against any person.

LAW SOCIETY OF SASKATCHEWAN RULE 150

Application for Admission as a Student-at-Law

150. A person applying for admission as a student-at-law must:
(a) be of good character;

Application for Admission as a Student at Law

...

5. Have you (a) been suspended, disqualified, censured or had any disciplinary action instituted against yourself, as a member of any profession or as a university law student?

V

INTRODUCTION TO CASE BRIEFING

Wackett v. Calder

(1965), 51 D.L.R. (2d) 598

British Columbia Court of Appeal

Arthur Wackett Plaintiff (Respondent)

v.

Clarence W. Calder Defendant (Appellant)

Honourable Mr. Justice Davey, Honourable Mr. Justice Maclean, Honourable Mr. Justice Bull

Davey, J.A. :---I would allow the appeal and dismiss the action for the reasons given by my brother Bull.

Maclean, J.A. (dissenting):---The defendant appeals a judgment for damages for an assault following an encounter between the plaintiff and defendant in a beer parlour at Dawson Creek, B.C.

The facts have been found by the learned trial Judge as follows:

The most accurate account of what occurred outside the hotel is to be found in the evidence of the Defendant and of his brother, Raymond Calder, both of whom were truthful witnesses. The Plaintiff testified untruthfully on so many occasions as to the events that occurred earlier that afternoon and during the evening in question that it is impossible to give any credence to his evidence except where it is corroborated by other credible evidence. Having arrived outside, the Plaintiff re-iterated his insulting remarks and invited the Defendant to engage in a fight. He endeavoured, without much success, to strike both the Defendant and his brother. He lurched at them and with his fists pounded them in a rather futile way upon their chests, doing no harm whatever. On one occasion when the Plaintiff struck at the Defendant, the Defendant hit the Plaintiff in the face with his fist, knocking the Plaintiff to the ground. The Plaintiff got up and went for the Defendant again. The Defendant hit him again and that time the Plaintiff 'didn't get up so fast'. The Defendant then returned to the beer parlour, leaving the Plaintiff still wanting to fight.

The learned Judge then went on to find that the force used by the defendant was excessive under the circumstances, and finally he concluded:

The anger of the Defendant is easily understood, but it is the policy of the law to discourage violence. Challenges to fight are accepted at some considerable peril, at law. It

must have been apparent to the Defendant soon after he went outside that the Plaintiff's challenge to fight was alcoholic-induced bravado and that, by reason of his intoxication, he was incapable of anything but talk and wild swinging. The Defendant could and should have terminated the whole unpleasant episode by returning into the hotel, leaving the authorities to deal with the Plaintiff. Instead he delivered two blows to the face of the Plaintiff with considerable force - sufficient to knock him down and break a well-protected bone in the cheek. While it is not clear how the Plaintiff's wrist got broken, I think it is probable that he must have fallen upon it during the fight.

In my view there is implicit in this judgment a finding that the defendant was not entitled to rely on self-defence - he could have walked away and avoided "the unpleasant episode by returning to the hotel", and secondly, that even if he was entitled to use force to defend himself, he used "excessive force under the circumstances".

I take it that in coming to the latter conclusion the learned Judge was aware of the long line of cases which enunciate the principle that a defendant or accused person when attacked is not required to "measure with complete nicety" the force necessary to repel the attack or apprehended attack: *Rex v. Ogal*, [1928] 2 W.W.R. 465.

In my view the learned Judge's conclusions are supported by the evidence and I would not venture to disturb his judgment.

I would dismiss the appeal.

Bull, J.A.: ---This is an appeal from a judgment of Munroe, J. wherein the plaintiff (respondent) was awarded damages for an assault on his person inflicted by the appellant.

The facts as found by the learned trial Judge are shortly that the defendant appellant, who was sitting with friends in a beer parlour at Dawson Creek, was approached and annoyed by the respondent, who was intoxicated and in a belligerent mood. By the use of foul and insulting remarks made in the presence of ladies, the respondent provoked a quarrel with the appellant, who accepted an invitation to go outside with the respondent. The appellant said he went outside so as to end the unpleasant situation inside the premises. The learned trial Judge found that the most accurate statement of what occurred outside was that given by the appellant and his brother, who were truthful witnesses, which he found the respondent was not.

Outside the premises the intoxicated respondent reiterated his insulting remarks and again wanted the appellant to fight. He attempted, without much success, to strike the appellant and his brother and lurch at them and pounded them on their chests, but doing no damage. The respondent then struck at the appellant, who had apparently taken no physical action up to this time but had merely been insisting on apologies for the remarks made. However, on this occasion of being lightly struck, the appellant struck back, whereupon the respondent fell in a sitting position to the ground. The respondent got up and came at and hit the appellant again just as the latter was turning away to go back with his brother into the beer parlour. Thereupon, the appellant, turning, struck the respondent again in the face, knocking him to the ground. The respondent got up, but not "so fast", and the appellant went back into the premises and joined

his friends. One of the two blows inflicted by the appellant broke the respondent's right molar bone, (or cheekbone). Also the respondent suffered a fractured right wrist, which the learned trial Judge thought probably was broken when he fell during the fight, and not by any blow struck.

The learned trial Judge found that the respondent was the aggressor throughout, had assaulted the appellant by beating him on the chest before the appellant had laid a hand on him, and that the two blows struck by the appellant were struck under provocation and in self-defence. The learned trial Judge then said the only issue was as to whether or not the appellant used more force than was reasonably necessary to repel the assault made upon him, and found that under the circumstances the force used by the appellant was excessive. In coming to this conclusion that excessive force was used, the learned trial Judge stated, firstly, that the appellant should have known that the respondent due to intoxication was incapable of anything but "talk and wild swinging", and, secondly, that the appellant could and should have walked away into the hotel thus terminating the episode.

It is clear that what constitutes excessive force beyond what was reasonably necessary under all circumstances depends in each case upon its own facts, and is a matter for the trial Judge, the findings of whom an appellate court should not lightly question. However, with the greatest deference, it seems apparent that the finding of excessive force was based on conclusions and inferences from evidence which did not wholly support them. Although there was evidence that the respondent was clearly intoxicated, there was no evidence that he was physically incapacitated or unduly uncoordinated, or in any way incapable of doing serious physical damage to others. He was a man of middle age weighing some 192 pounds and the evidence was clear that he was not staggering, but was in a belligerent and obviously dangerous mood. Again, the learned trial Judge, in giving his views as to what the appellant might have done to end the dispute, seems to have overlooked the evidence of both the appellant and his brother, both of whom he found truthful witnesses, that they were turning away to re-enter the hotel when the respondent attacked and struck the appellant the second time and, received, in turn, the appellant's second blow. It seemed clear that it was this second blow which was the most serious and caused the injury to the defendant's face.

As the learned trial Judge weighed the force used on conclusions which were, in part at least, unsupported by the evidence, an appellate court is justified in reassessing the evidence directed to this issue and is, I submit with deference, in as good a position as the trial Judge so to do.

The only question here was whether the two blows by the appellant were more than reasonably necessary under all the attendant circumstances, and no question of the use of disproportionate force is involved. The appellant was entitled to reject force with force and, under the authorities, not being bound to take a passive defence, is entitled to return blow for blow. He could act in the light of the apparent urgency of the situation, but he could not trespass beyond the reasonable limits thereof. However, it has been long held that an attacked person defending himself and confronted with a provoking situation is not held down to measure with exactitude or nicety the weight or power of his blows.

In this case there is no evidence whatsoever that the two blows given by appellant were vicious. That one at least was forceful is obvious, but the combined effect of both were not sufficient to render the intoxicated respondent "hors de combat". The first blow was

insufficient to stop the respondent's attack on the appellant, and, in my respectful opinion, the second more forceful blow was well justified to put an end to the episode.

Accordingly, on the facts as found by the learned trial Judge, excluding only his conclusions as to the quantum or measure of force used, I would allow the appeal and order the action dismissed.

Appeal allowed.

Preparation for Lectures on Case Briefing

Try to answer the following questions while reading *Wackett v. Calder*, a decision of the British Columbia Court of Appeal:

1. Who are the parties to this action?
2. What happened in the lower court?
3. Who is appealing, and on what grounds?
4. What are the facts? Can you summarize them in a few sentences?
5. What was the *issue* before the court? In other words, what question did the court have to answer to decide the case?
6. What *rule(s)* did the court apply?
7. How did the majority of the court *apply* the rule? In other words, what was the court's reasoning?
8. Why does the dissenting justice disagree with the majority?
9. What is the holding (the court's decision)?
10. What public policy considerations support or do not support the rule(s) applied