



# **Syllabus**

## **Contracts**

**(Revised April 2023)**

**Candidates are advised that the syllabus may be updated from time-to-time without prior notice.**

**Candidates are responsible for obtaining the most current syllabus available.**



# Contracts

## **COURSE SYLLABUS**

This is a course in the Canadian law of contract. Contract law is a foundational course in Canadian law school programs. An understanding of the issues surrounding contract formation, breach, and performance is essential to the understanding of much of commercial law, labour and employment law, real estate law, business law, and many other legal subjects. This syllabus is designed to give candidates sufficient exposure to the law of contract to grasp it and to apply it competently in the practice of law.

The function of the Contracts examination is to determine whether candidates have acquired a proficiency in the main doctrines of contract law that apply in Canada. Proficiency entails not only knowledge of the legal rules, but also an ability to apply the law to resolve practical problems.

This requires an ability to identify issues, to generalize from the assigned cases and materials, and an ability to explain why the outcome being advanced is correct. In other words, candidates are expected to do more than spot issues and regurgitate legal rules. Candidates are expected to solve legal problems.

The examination in this course includes problem-based questions that require candidates to analyze fact patterns, to apply the relevant law to the facts, and to reason to a conclusion. The examination may also contain multiple-choice questions and/or short-answer problems that require candidates to demonstrate their facility with contractual principles by critically evaluating the law, or by discriminating between sound and unsound arguments and propositions.



# **MATERIALS**

## **CASEBOOK (REQUIRED)**

S. Ben-Ishai and D. Percy, *Contracts: Cases and Commentaries*, 11<sup>th</sup> ed., (Toronto: Thomson Reuters, 2022). (For purchasing instructions see below.)

## **TEXTBOOK (STRONGLY RECOMMENDED)**

The following textbook is strongly recommended as an adjunct to the casebook. Cross-references to this textbook are provided in the reading list (below):

J.D. McCamus, *The Law of Contracts*, 3<sup>rd</sup> ed., (Toronto: Irwin Law, 2020). (For purchasing instructions see below.)

Other good textbooks on Canadian contract law:

A. Swan, J. Adamski, A. Na, *Canadian Contract Law*, 4<sup>th</sup> ed., (Toronto: Lexis-Nexis, 2018)

S. Waddams, *The Law of Contracts*, 6<sup>th</sup> ed., (Toronto: Canada Law Book, 2010)

# **ASSIGNED READINGS**

## **Casebook (Prescribed)**

The prescribed readings for the course are found in the assigned casebook, *Contracts: Cases and Commentaries*, 11<sup>th</sup> ed., edited by S. Ben-Ishai and D. Percy. Most of the casebook is required reading, but some parts have been excluded. The relevant page assignments are set out in the table on Page 5. (Candidates should read both the cases and the commentary in the assigned pages of the casebook.)



The principal function of the casebook is to provide edited versions of the cases that comprise the foundations of the common law of contracts in Canada. The casebook includes some text, and some notes and questions, but it is primarily designed to supply you with the judgments, which are the raw material of the common law. A casebook is not designed to provide an explanation or overview of the relevant area of law. For that you must consult a textbook.

### **Textbook (Strongly Recommended)**

It is strongly recommended that you consult a treatise or textbook in conjunction with your study of the cases. A textbook abstracts from the cases and explains the doctrines and principles that are established by and applied in those cases. Some students find it helpful to read the relevant sections of the textbook before reading the cases that correspond to those sections.

The text by J.D. McCamus, *The Law of Contracts*, 3<sup>rd</sup> ed. (Toronto: Irwin Law, 2020) is highly recommended, and in the table on Page 5 *cross-references are supplied from each topic to the relevant sections of the McCamus text.*

### **Examination is Based on Assigned Readings**

Knowledge of the prescribed readings is essential to passing the examination in this course. The examination will be based exclusively on these materials. Candidates who have acquired their knowledge of the law of contract from a course based on different materials are unlikely to be equipped to pass the examination in this course.

### **Acquiring the Books:**

The prescribed casebook in its current (11<sup>th</sup>) edition can be ordered through a university bookstore. It can also be borrowed from some university libraries, or through interlibrary loan. If you wish to purchase a copy from the publisher, please contact **Carol McGimpsey, Educational Sales Representative at Thomson Reuters**. Advise Carol that you are an NCA candidate studying for the Contracts exam. She will arrange your order. Her email address is: [carol.mcgimpsey@thomsonreuters.com](mailto:carol.mcgimpsey@thomsonreuters.com)

The textbook can be ordered online: <https://irwinlaw.com/product/the-law-of-contracts-3-e/>



<b>CB = Casebook: S. Ben-Ishai &amp; D. Percy, <i>Contracts: Cases and Commentaries</i>, 11<sup>th</sup> edition</b> <b>Textbook: J.D. McCamus, <i>The Law of Contracts</i>, 3<sup>rd</sup> edition</b>		
<b>Topic</b>	<b>Cases &amp; Commentary*</b>	<b>Textbook**</b>
Introduction	CB: 1-16	Chapter 1
Indigenous Peoples and Contracts	CB 20-24 CB: 29-39	-
Offer and Acceptance	CB: 39-146	Chapter 2
Certainty of Terms	CB: 147-169 CB: 180-186	Chapter 3
Enforcement of Promises	CB: 189-209 CB: 214-232 CB: 240-261 CB: 269-312	Chapter 6(B), Chapters 4, 7, 8
Privity of Contract	CB: 313-325 CB: 337-352	Chapter 9
Contingent Agreements	CB: 370-378	Chapter 17
Representations & Terms	CB: 383-413 CB: 437-462 CB: 468-494	Chapter 6(D), Chapter 10, 15, 16, 18
Interpretation	CB: 508-525	Chapter 19
Exclusion Clauses	CB: 558-596	Chapter 6(C), Chapter 20
Mistake	CB: 597-635 CB: 654-665	Chapter 13
Frustration	CB: 681-707 CB: 722-726	Chapter 14
Protecting Weaker Parties	CB: 760-782	Chapter 11
Illegality and Public Policy	CB: 791-794 CB: 812-825	Chapter 12
Remedies	CB: 833-1011	Chapters 22, 23, 24
<i>* Prescribed reading</i> <i>** Strongly Recommended.</i>		



## **Canadian Publishers**

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## **Online Resources**

The majority of case law and legislative resources needed by NCA students are available on CanLII, the free legal information resource funded by the Federation of Law Societies of Canada ([www.canlii.org](http://www.canlii.org)). That includes all decisions of the Supreme Court of Canada, and all federal, provincial, territorial and appellate courts.

Your registration fee also includes free access to the Quicklaw resources of Lexis Nexis. Your ID and password will be arranged and emailed to your email address on file a few weeks after the end of the exam registration period.

Sign in to Quicklaw via <http://www.lexisnexis.com/ca/legal>. The first time you sign in to Quicklaw you will be asked to change or personalize your password. Remember your User ID and password are personal, and should not be shared with anyone.



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