

COMMERCIAL AND CONSUMER LAW – LAW 314

COURSE DESCRIPTION & OUTLINE

SPRING 2010

Instructor: Raji Mangat

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Course website: (*URL to follow*)

Classes: Mondays & Wednesdays, 9:00 am - 10:30 am

Credit value: 1.5 units

I. Course Description & Objectives

This course focuses on the commercial and consumer law relating to the sale of goods and services, including an examination of the *Sale of Goods Act* and the *Business Practices and Consumer Protection Act*. Students are also introduced to the *Vienna Convention on the International Sale of Goods* and commercial arbitration.

Objectives:

- Learn fundamental legal principles applying to sales transactions;
- Learn how to identify and address common types of commercial risk;
- Become familiar with the legal framework for consumer protection;
- Learn fundamental legal principles applying to domestic and international commercial arbitration.

The teaching method will be instructor and student presentations, class discussions and problem solving exercises where applicable.

II. Course Materials

Course materials primarily consist of pertinent legislative provisions, regulations and case law, and will occasionally include articles and handouts.

There is no course pack or required textbook for this course. Students are responsible for obtaining and reading the required materials in advance of each class (as specified on the course schedule.) Students are especially encouraged to access primary materials electronically.

Copies of non-primary source materials will be made available from the library on course reserve, on the course website and/or distributed to the class listserv.

In addition, several sales law texts will be available on course reserve for student reference.

III. Evaluation

There are two evaluation options.

Option 1:

25% 1500-word paper on a commercial or consumer transaction in which the student analyzes the contractual issues involved in the transaction. For example, the student could analyze legal issues arising from the sale of goods on eBay, how the risk of delay is addressed in shipping or construction contracts, or analyze the legal issues arising in a typical consumer transaction. Students may also write a short research paper on a particular topic of commercial or consumer law policy or theory.

Each student is required to present his or her paper in a short (10 minute) class presentation. Students are required to email an abstract of their paper (1-2 paragraphs) to the class listserv by noon the day before the class in which they will present their paper.

The paper is worth 20% and the presentation, 5%.

75% Open book take home final examination.

Option 2:

45% 3000-word legal research paper on a topic chosen by the student in consultation with the instructor.

Each student is required to present the paper to the class in a short (15-20 minute) class presentation. Students are required to email a two to four page outline of their papers to the class listserv by noon the day before the class in which they will present their paper.

The paper is worth 40% and the presentation, 5%.

55% Open book take home final examination.

* Appendix 1 lists a number of topics that students have written on in previous years.

Paper & Presentation Requirements

Option 1

Students must provide the instructor with a topic for their short paper or memo in writing (email is fine) and sign up for a class presentation date by the beginning of class on **Monday, February 1, 2010**.

Presentations will begin on **Monday, February 22, 2010**. Students who have not signed up for a presentation time slot by February 1, will be assigned a time slot at random. Failure to present on the assigned date will result in a loss of 2.5% on the student's final mark.

Due Date: The paper will be **due within one week following the date of the presentation in both hard copy and by email**. Failure to provide the paper on time will result in a loss of 2.5% per day late on the student's final mark for the course.

All citations must conform to the *Canadian Guide to Uniform Legal Citation* (6th ed.) and be properly footnoted. Word count must be noted on the title page of the paper.

Option 2

Students must provide the instructor a two-page outline of the paper topic by the beginning of class on **Monday, February 8, 2010**. Failure to provide the outline on time will result in a loss of 2.5% per day on the student's final mark for the course. The outline must describe the paper topic in detail and provide a bibliography of sources that the student has consulted or plans to consult.

Due Date: The paper must be submitted to the instructor **by 4 pm on Friday, April 9, 2010** (the last day of classes for the term) **in both hard copy and by email**. (Hard copy may follow on Monday, April 12). Failure to submit the paper electronically by the deadline will result in a loss of 2.5% per day on the student's final mark unless the instructor has granted an extension.

All citations must conform to the *Canadian Guide to Uniform Legal Citation* (6th ed.) and be properly footnoted. Word count must be noted on the title page of the paper.

Paper Grading

Papers under both options will be graded on the following basis:

1. **Content:** the depth of the student's research – 40%
2. **Knowledge & thoughts:** critical analysis, original thought, argument and insight – 40%

3. **Style:** organization, writing, format and presentation – 20%

Exam

The exam will be distributed on Friday, April 9, 2010 at noon and is due at 4pm on Wednesday, April 14, 2010. The exam will consist of a combination of short answer questions and longer problem style questions in response to which students will be required to analyze a fact pattern, identify issues, state and apply the law with supporting statutory and case authority. Students may also be required to respond in essay format to a policy question. The exam should take no longer than 8 hours to complete.

Grading System

The table below shows the official grading system used by the instructor in arriving at final assessments of student performance.

Passing Grades	Grade Point Value	Percentage Value	Description	Comments
A+	9	90-100%	Exceptional	Grades in this range are normally achieved by a minority of students. These grades indicate a student who is self-initiating, exceeds expectation, and has an insightful grasp of subject matter.
A	8	85-89%	Outstanding	
A-	7	80-84%	Excellent	
B+	6	75-79%	Very good	Grades in this range are normally achieved by the largest number of students. These grades indicate a good grasp of subject matter or an excellent grasp in one area balanced with a satisfactory grasp in the other area.
B	5	70-74%	Good	
B-	4	65-69%	Solid	
C+	3	60-64%	Satisfactory	These grades indicate a satisfactory performance and knowledge of subject matter.
C	2	55-59%	Minimally Satisfactory	
D	1	50-54%	Marginal	A student receiving this grade demonstrates a superficial grasp of the subject matter.
F	0	49% and below	Unsatisfactory	

IV. University regulations, expectations and accommodation

Students should obtain and review all regulations and policies contained in the University of Victoria Calendar, 2009-2010 (the Calendar) (available online at <http://web.uvic.ca/calendar2009>) both generally and specifically for the Faculty of Law. The Calendar's Undergraduate Academic Regulations set out the University's expectations about attendance and assignments. The Calendar also includes the Faculty of Law's Academic Regulations. Students must comply with all applicable university and Faculty policies and regulations.

Classroom Climate

An inclusive, respectful, and diverse classroom environment is crucial to our work in this course. The instructor and the students must endeavor to be respectful in our language and the manner in which we conduct discussions and group work to ensure that all class members feel welcomed and equally able to contribute to, and participate in, the course. For your reference, you may wish to consult the University's Policy on Human Rights, Equity and Fairness and the Discrimination and Harassment Policy (available online at <http://www.uvic.ca:8080/universitysecretary/policies/browse/classification/#HumanResources>).

In particular, Section 5.1 of the Policy on Human Rights, Equity and Fairness provided that "All members of the university community are responsible for promoting a supportive and inclusive learning and working environment and for dealing specifically and fairly with each other." I expect all aspects of the course to be conducted with this commitment firmly in mind. If you have any concerns about the climate of the class, please feel free to contact me or the Associate Dean.

Academic Integrity

As part of the academic community of both the Faculty of Law and the University as a whole, academic integrity is centrally important in the work of faculty and students. All student work in this course must adhere to the University's Policy on Academic Integrity. The policy is available online at <http://web.uvic.ca/calendar2009/FACS/UnIn/UARe/PoAcI.html>.

In particular, please note that the policy on plagiarism is as follows:

"A student commits plagiarism when he or she:

- submits the work of another person as original work
- gives inadequate attribution to an author or creator whose work is incorporated into the student's work, including failing to indicate clearly (through accepted practices within the discipline, such as footnotes, internal references and the crediting of all verbatim passages through indentations of longer passages or the use of quotation marks) the inclusion of another individual's work
- paraphrases material from a source without sufficient acknowledgement as described above

Students who are in doubt as to what constitutes plagiarism in a particular instance should consult their course instructor.

The University reserves the right to use plagiarism detection software programs to detect plagiarism in essays, term papers and other assignments."

Students with a Disability

If you have any type of disability, there are support systems, resources, and accommodation actions available to you. If you wish to access any of these supports, resources or accommodations, I encourage you to contact the Associate Dean or the

Resource Centre for Students with a Disability (<http://rcsd.uvic.ca>) and I would be more than happy to work with you to ensure your success in this course.

Accommodation of Religious Observances

The University of Victoria and the Faculty of Law have policies guaranteeing accommodation for those students who are unable to participate in a class or an aspect of the course owing to a religious holiday (<http://www.uvic.ca/universitysecretary/policies/browse/classification>). If you will be missing a class, know that you will be unable to complete an assignment or exam, or otherwise require accommodation on account of a religious holiday, please speak with me (or the Associate Dean) and I will be pleased to work out some satisfactory form of accommodation.

V. Double-sided Printing Encouraged

Members of the university community have a personal responsibility for the way their conduct impacts the environment. To that end, students are encouraged to print all reports and other documents, whenever possible, on both sides of the paper (University of Victoria Operational Policy 6485, Waste Management, Section 2.8.1).

Appendix 1

Examples of paper topics from previous years

- Stolen Art
- Comparative study of risk of loss
- Consumer protection and international corporations
- Comparative study of consumer law in Canada and the Netherlands
- Regulation of virtual assets in online gaming
- Warranties of quality in arts sales
- Consumer arbitration on online auction sites
- Ticket scalping
- Mail-order brides
- Comparative study on manufacturer's liability between B.C. and Quebec
- Genetically modified foods labeling
- Contractual right to storage of information
- Expiration of consumer gift cards
- "Gifts" from retailers to consumers: covered by the SGA?
- Risk allocation in mobile self-storage contracts
- Right to reject goods in consumer context
- Contracts for the breeding of animals
- Consumer protection in the context of trans fats
- Development of the "good faith requirement" in common law
- Consumer protection issues relating to pay-per-view television programming