

DRC 4390- The law of Obligations

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Course Objectives:

The objective of the course is to provide students with a functional understanding of the rules governing the creation of general binding agreements (obligations) and their enforcement in the Civil Law of Quebec and in continental European private law systems.

Course Content:

The current Civil Code is quite simply codified caselaw.

It has been modified for local content. It started as a codification project that “adopted” the Roman approach, which was to create a first set of general rules applicable for all agreements, for all and any “meetings of the minds”, and only then, to create a second set, additional and specific rules, depending on the specific context. All these agreements, from sales, to leases, from powers of attorney to employment, all are called: “Contracts”, and all are a type of Obligation.

This course will examine basic civil law fundamentals: the person, patrimonial property, the body corporate, real and personal rights, various types of obligations; formation of binding agreements; grounds for annulment; implied obligations flowing from contracts. The class will then move on to specific forms of contracts such as Sales contracts and other types of enforceable contracts, contract interpretation, annulment and restitution, breach of contract, default and damages. Other particular contracts will also be reviewed such as Leases, Professional services and Mandate.

Teaching Methods:

Socratic method - lecture given by the professor with discussion of issues such as parallels with the common law and practise issues.

Evaluation:

Online.

Mid-term exam (2 hours) counting for 40% and final exam (3 hours) for 60%.

Mandatory course material:

- **The Quebec Civil Code**, S.Q. 1991, c. 64, as amended and related statutes,
- **Quebec Contract Law**, by S. Grammond, A Debruche & Y Campagnolo, (Montreal, Wilson & Lafleur, latest version).
ISBN : 978-2-89689-531-1

OUTLINE AND SCHEDULE

Course 1 -

General Intro: the law of binding agreements and other obligations.

History and Sources of Quebec Contract Law.

Definition of Obligations and of Contracts.

The Contract as a type of Obligation.

(Readings: pages 1 to 19 of text book)

Course 2 -

General rules, the Freedom to contract,

Classification of types of agreements, of types of Contracts –

Obligations outside of contract

(Readings: pages 20 to 44).

Course 3 -

FUNDAMENTAL BASICS OF ALL BINDING AGREEMENTS
RULES OF CONTRACT FORMATION (formation of binding agreement).

Rule 1 – MUTUAL CONSENT

Offer- counter offers and acceptance

Means of communications

Rule 2 – ABSENCE OF MISTAKES AND OTHER FACTORS THAT ANNUL OR CANCEL CONSENT:

Mistake - Fraud-misrepresentations – Threats - Lesion: undue economic harm.

(Readings : pages 45 to 55, 68-73)

Course 4 –

Rule 3 - CAPACITY OF THE PARTIES

“Absence of capacity”: minors, emancipated minors, adults, protected adults.

Capacity of body corporates, joint ventures, municipalities and other governments, unincorporated groups.

Rule 4 - OBJECT – (title of deed)

Rule 5 - CAUSE or PURPOSE (Lawful purpose)

(pages 75-101)

Course 5 -

Rule 6 - FORM OF AGREEMENTS: Obligatory form or absence of form (Verbal).

NULLITY OF CONTRACTS - Restitution

Rules of evidence related to contracts: how to prove the existence of a contract?

Overview of the law and rules of evidence

Course No. 6 - EXAM – Mid-term

Course No. 7 –

The content and interpretation of contracts- Express Terms. Implied Terms.

Implied Obligations Based on the Nature/type of Contract or on usage (pages 107 - 127)

Amendments to contracts.

“Privity of Contract in Quebec”- Binding nature of contracts (who is actually bound?)

The Effect of Contracts on Third Parties

Course No. 8 -

AUTUMN Break

Course No. 9 –

Proper performance of Contract: the “Voluntary method”.
Payment. Tendering payments and Deposit.
The “Coerced Method” of Contract Performance: The Legal Remedies to breach of contract.
Notices of default.
Assessment of Damages-Punitive damages

(149-171)

Course No. 10 -

Particular contract modifications: Assignments. Subrogation. Solidarity. Novation.
Fulfillment of obligations – Various forms of “Extinction” of obligations.
Compensation, Confusion and Release.
Doctrine of Risk.
Extinctive Prescription (Limitation periods)

Course No. 11 -

Case study
Liability outside of contract:
Legal liability and Limitations of Liability.
Limitations of liability and waivers,
“Automatic” liability.

Course No. 12 –

A few “Mentioned” Contracts:

- “Sales agreements”: Sales contracts in particular- warranties.
- Mandate-Agency
- Lease agreements

(254-299)

Course No 13-

Legislated Modified Obligations:
 “Good Samaritan Exemption”,
 No-Fault Car Accident liability,
 No-Fault of the Employer for injuries at work.
Review of semester – exam preparation.

FINAL EXAM: Date to be determined