

Contractual Obligations, Professor Rosalie Jukier

- C Thibierge-Guelfucci, « Libres propos sur la transformation du droit des contrats » (1997) Rev trim dr civ 357.
- Ian R Macneil,

		<p>78, 290-98.</p> <ul style="list-style-type: none"> - <i>CUQ v Construction Simard Beaudry</i>, 1987 RJQ 2020 (CA). - UN Convention for the International Sale of Goods, Art. 19 - Uniform Commercial Code, Art. 2-207 (old) and Arts. 2-206 & 2-207 (new) - UNIDROIT Principles of International Commercial Contracts, Arts. 2.1.11 and 2.1.22 - Principles of European Contract Law, Arts. 2.208 and 2.209 - Article 1393 CCQ
11. Friday, October 12	Backing Out—Revocation and Protection of Reliance	<ul style="list-style-type: none"> - <i>Entores v Miles Far East Corporation</i>, 1955 2 QB 327 (CA). - Article 1387 CCQ - <i>Errington v Errington and another</i>, 1952 1 KB 290. - <i>Dawson v Helicopter Exploration Co</i>, 1955 SCR 868.
12. Monday, October 15 (Room 102) (Make-Up)	Agreements to Agree	<ul style="list-style-type: none"> - <i>Cere v Neely</i>, 1980 CS 1160. - <i>Walford v Miles</i> (1992) 2 AC 128. - <i>Empress Towers v Bank of Nova Scotia</i>, [1991] 73 DLR (4th) 400 (BCCA). - <i>Brewer v Chrysler Canada Ltd</i>, 1977 3 WWR 69 (Alta SC). - Articles 1396 – 1397 CCQ
13. Wednesday, October 17	Offer and Acceptance as a Surrogate Debate	<ul style="list-style-type: none"> - <i>Pharmaceutical Society of Great Britain v Boots Cash Chemists, Ltd</i>, 1953 1 QB 401 (CA). - <i>Thornton v Shoe Lane Parking Ltd</i>, 1971 2 QB 163 (CA). - SAMPLE PROBLEM: <i>Ifergan v Québec (Société des loteries)</i>.
14. Friday, October 19	What Else Besides Consent?	<ul style="list-style-type: none"> - AWB Simpson, “The Doctrine of Consideration – Introduction”, in <i>A History of the Common Law of Contract: The Rise of the Action of Assumpsit</i> (1975), at 602-03.
15. Wednesday, October 24	The Concept and Purpose of Consideration	<ul style="list-style-type: none"> - <i>White (Executor) v William Bluett</i> (1853), 23 LJ Ex 36. - <i>Hamer v Sidway</i> (1891), 124 NY 538 (CA). - <i>Stott v Meritt Investment Corp</i> (1988), 63 OR (2d) 545 (CA).

- LL Fuller, "Consideration a

		- <i>Riopel c Agence de revenu du Canada</i> , 2011 QCCA 954 (presently on appeal to SCC, to be heard November 2012).
22. Wednesday, November 21	Incorporation of Terms	- Articles 1425-1432, 2863-2864 CCQ - <i>McCutcheon v David MacBrayne, Ltd</i> , [1964] 1 All ER 430 (HL). - <i>British Crane Hire Corporation Ltd v Ipswich Plant Hire Ltd</i> , [1975] QB 303 (CA). - SAMPLE PROBLEM: <i>Thomas Witter Ltd v TBP Industries Ltd</i>
23. Friday, November 23	Implied Obligations Generally	- <i>Ouellet v 3092-3122 Québec Inc</i> , [2000] RJQ 1889 (CQ). - <i>A (M) v Stations de la Vallée de St-Sauveur Inc</i> , 2010 QCCA 1509.
24. Wednesday, November 28	Implied Obligations and the Obligation of Good Faith	- Articles 6, 7, 1375, 1434 CCQ - <i>BCN v Soucisse</i> , [1981] 2 SCR 339. - <i>Houle v CNB</i> , [1990] 3 RCS 122. - <i>Provigo distribution v Supermarché ARG</i> , [1998] RJQ 47 (CA).
25. Friday, November 30	Implied Obligations and the Obligation of Good Faith (cont'd)	- <i>McKinlay Motors Ltd v Honda Canada Inc</i> , [1989] 46 BLR 62 (Nfld SC). - <i>Gateway Realty v Arton Holdings</i> (1991), 106 NSR (2d) 180. - <i>RBC Dominion Securities v Merrill Lynch Canada</i> , 2008 SCC 54. - <i>Martel v Canada</i> , [2000] 2 SCR 860. - <i>Transamerica Life Canada Inc c ING Canada Inc</i> , [2004] 68 OR 457 (CA).
26. TBA (During Exam Period)	Review	

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Winter 2013—Reading and Class Schedule

Date	Topic	Readings
A. Introduction		
1. Tuesday, January 8	Social Control of Contracts	<ul style="list-style-type: none"> - Jacques Ghestin, "L'utile et le juste dans les contrats", Archives de philosophie du droit, t 26, Sirey, 1981. - PS Atiyah, "Contract and Fair Exchange" (1985) 35 UTLJ 1. - Lloyds Bundy Bank Ltd v Bundy [1975] QB 326 (CA).
B. Traditional Tools		
i. Procedural Fairness Tools		
2. Thursday, January 10	Social Control of Contracts (cont'd) & Capacity	See previous readings <ul style="list-style-type: none"> - CL c ML, [2006] QCCS 2673. - Fyckes v Chisholm [1911] 19 OWR 977, 3 OWN 21.

		Highways) [2010] 1 SCR 69.
12. Thursday, February 14	Arbitration Clauses	<ul style="list-style-type: none"> - Dell Computer Corp v Union des consommateurs [2007] 2 SCR 801 (supra volume 1). - Geneviève Saumier, "Consumer Arbitration in the Evolving Canadian Landscape" (2009) 113:4 Penn St L Rev 1203. - Seidel v TELUS Communications, Inc [2011] 1 SCR 531. - Comb v PayPal, Inc (2002) 218 F Supp 2d 1165.
C. Changed Circumstances (Frustration, Force Majeure, Imprévision)		
13. Tuesday, February 19	Futility	<ul style="list-style-type: none"> - Krell v Henry, [1903] KB 740 (CA). - Amalgamated Investment and Property v John Walker & Sons Ltd [1976] 3 All ER 509 (CA).
14. Thursday, February 21	Impossibility/ Force Majeure & Impracticability/ Hardship	<ul style="list-style-type: none"> - HR Sainsbury Ltd v Street [1970] 3 All ER 1126. - Otis Elevator Co Ltd v A Viglione & Bros Inc, [1980-09-000316-786] (CA). - Canada Starch Company Ltd v Gill & Duffus (Canada) Ltd Dec 1983, 500-05-001746-823, CS-JE 88, aff'd CA-JE 90-1617. - SAMPLE PROBLEM: Newfoundland (Attorney General) v Churchill Falls (Labrador) Corp. - Alcoa v Essex Group (1980) 499 F Supp 53 (Penn SC). - WF Ebke & BM Steinhauer, "Doctrine of Good Faith in German Contract Law" in Jack Beatson & Daniel Friedmann, eds, Good Faith and Fault in Contract Law (Oxford: Clarendon Press; New York: Oxford University Press, 1995) 171 at 171-72; 180-90.
D. Breach and Remedies		
15. Friday, February 22 Make up class 12:30 – 2:00 Moot Court	Breach: Intensity of Obligations/ Termination	<ul style="list-style-type: none"> - Cehave NV v Bremeer Handelgesellschaft, [1975] 3 All ER 739. - Pierre-Gabriel Jobin with the collaboration of Nathalie Vézina, Baudouin et Jobin : Les obligations 6th ed (Cowansville, Que: Yvon Blais, 2005) at paras. 33-39. - A (M) v Stations de la Vallée de St-Sauveur, 2010 QCCA 1509.
16. Tuesday, February 26	Specific Performance	<ul style="list-style-type: none"> - Warner Bros Pictures v Nelson [1937] 1 KB 209. - Co-operative Insurance Society Ltd v Argyll Stores (Holdings) Ltd [1998] AC 1, [1997] 2 WLR 898 (HL). - Construction Belcourt Ltée v Golden Griddle Pancake House Ltd [1988] RJQ 716 (CS).

READING WEEK

17. Tuesday, March 12	Specific Performance (cont'd)	See previous readings
18. Thursday, March 14	Remoteness of Damage	<ul style="list-style-type: none"> - Hadley v Baxendale [1854] 9 Exch 341. - Victoria Laundry v Newman Industries Ltd [1949] 2 KB 528. - Koufos v C Czarnikow (The Heron, II) [1969] 1 AC 350. - Transfield Shipping v Merator (The Achilleas) [2008] UKHL 48. - Ciment Québec inc c Stellaire Construction [2002] JE 1106.
19. Tuesday, March 19	Mitigation & Cost of Cure vs. Diminution in Value	<ul style="list-style-type: none"> - Payzu, Limited v Saunders [1919] 2 KB 581. - JL Maute, "Peevyhouse v Garland Coal & Mining Co Revisited: The Ballad of Willie and Lucille" (1995) 89 NW L Rev 1341. - Ruxley Electronics v Forsyth [1995] 3 All ER 268.
20. Thursday, March 21	Cost of Cure vs. Diminution in Value (cont'd)	<ul style="list-style-type: none"> - SAMPLE PROBLEM: Tabcorp Holdings Ltd v Bowen Investments Pty Ltd
21. Tuesday, March 26	Non-Pecuniary Damages	<ul style="list-style-type: none"> - Jarvis v Swan Tours [1973] QB 233. - Fidler v Sun Life du Canada, compagnie d'assurance [2006] CSC 30.
22. Thursday, March 28	Punitive Damages	<ul style="list-style-type: none"> - Honda Canada Inc v Keays [2008] SCC 39. - Brault & Martineau Inc c Riendeau [2010] QCCA 366. - Richard v Time [2012] SCC 8.
23. Tuesday, April 2	Disgorgement & Penalty Clauses & Wrapping Up Remedies	<ul style="list-style-type: none"> - Attorney-General v Blake [2000] UKHL 45. - HF Clarke Ltd v Thermidaire Corporation Ltd [1976] 1 SCR 319. - CJ Goetz & RE Scott, "Liquidated Damages, Penalties, and the Just Compensation Principle: Some Notes on an Enforcement Model and a Theory of Efficient Breach" (1977) 77 Colum L Rev 554 at 554-58, 567-68, 572-76. - 151276 Canada inc c Verville [1994] RJQ 2950 (CS).
E. Privity/ Relativity of Contract		
24. Thursday, April 4	Contracts & Third Parties	<ul style="list-style-type: none"> - Beswick v Beswick [1966] 3 All ER 1 (CA).

		<ul style="list-style-type: none"> - Beswick v Beswick [1968] AC 58 (HL). - New Zealand Shipping Co Ltd v AM Satterthwaite & Co [1975] AC 154. - London Drugs Inc v Kuehne & Nagel International, Ltd [1992] 3 SCR 299. - Contracts (Rights of Third Parties) Act 1999 Chapter c 31
F. Wrapping Up		
25. Tuesday, April 9	Concluding Thoughts	<ul style="list-style-type: none"> - IR McNeil, "Wither Contracts" (1969) 21 J Leg Ed 403. - Robert Lloyd, "Making Contracts Relevant: Thirteen Lessons for the First-Year Contracts Course" 36 Ariz St LJ 257.
26. Thursday, April 11 or TBD	Review	