

COURSE OUTLINE		
<b>TERM:</b> Fall 2024	<b>COURSE NO:</b> LAW 350	
<b>INSTRUCTOR:</b>	<b>COURSE TITLE:</b> The Law of Trusts	
<b>OFFICE:</b> <b>LOCAL:</b> <b>E-MAIL:</b> @capilanou.ca	<b>SECTION NO(S):</b>	<b>CREDITS:</b> 3.0
<b>OFFICE HOURS:</b>		
<b>COURSE WEBSITE:</b>		

Capilano University acknowledges with respect the Liłwat7úl (Lil'wat), xʷməθkʷəy̓əm (Musqueam), shíshálh (Sechelt), Skwxwú7mesh (Squamish), and Səlílwətaʔ/Selilwitulh (Tseil-Waututh) people on whose territories our campuses are located.

#### **COURSE FORMAT**

This course will be offered in a synchronous or asynchronous online format or a synchronous in-person format, four hours per week for a 15-week semester (or equivalent), including two weeks (or equivalent) for final exams. For either synchronous or asynchronous online format, the instructor will provide weekly readings, and students will complete exercises and discussions. Three of the four instructional hours will be completed with lectures, and a fourth hour will consist of at-home and online work supported through eLearn.

#### **COURSE PREREQUISITES**

LAW 101, LAW 110, and LAW 210

#### **CALENDAR DESCRIPTION**

This course will focus on the relationship which arises whenever a person (a trustee) is compelled in equity to hold property for the benefit of some other person or persons. Students will examine express trusts, trusts by operation of law, and statutory trusts. They will gain a thorough understanding of ongoing challenges regarding trusts, including creating a valid trust and how courts use equity to fashion remedies. Finally, students will learn about fiduciary relationships, fiduciary obligations and Indigenous peoples.

#### **REQUIRED TEXTS AND/OR RESOURCES**

M R Gillen and F Woodman, *The Law of Trusts: A Contextual Approach*, 4<sup>th</sup> ed (Emond Montgomery, 2021).

**COURSE STUDENT LEARNING OUTCOMES**

**On successful completion of this course, students will be able to do the following:**

1. Effectively describe and explain the principles of the law of trusts, their history, and the development of equity;
2. Analyze and apply statutory rules, legal principles, and domestic practices in the law of trusts, including:
  - (1) express trusts,
  - (2) purpose trusts,
  - (3) resulting trusts, and
  - (4) constructive trusts;
3. Understand modern uses of the trust, including:
  - (1) trusts and the environment;
  - (2) trusts in corporate and commercial law;
  - (3) equity, equality, and “family” relationships; and
  - (4) trusts in succession planning;
4. Understand the administration of trusts;
5. Analyze and apply the different remedies available in the law of trusts; and
6. Understand fiduciary relationships, including fiduciary obligations and Indigenous peoples.

**COURSE CONTENT**

<b>COURSE CONTENT</b>	
<b>WEEK</b>	<b>CONTENT</b>
<b>1</b>	<b>Introduction to Trusts</b> The law of trusts, the types of trusts, and important terminology.
<b>2</b>	<b>The Taxation of Trusts and Beneficiaries &amp; The History and Development of Equity</b> Taxation of trusts and beneficiaries. The meaning of equity and its historical development under the common law, including in Canada.
<b>3</b>	<b>The Express Trust</b> Express trust, including capacity, the three certainties, formalities, and the termination and variation of trusts.
<b>4</b>	<b>Purpose Trusts</b> Non-charitable and charitable purpose trusts.
<b>5</b>	<b>Administration of Trusts</b> Trustee’s obligations, powers, rights, and liability.
<b>6</b>	<b>A Comparison of Trusts to Other Legal Relationships</b> Trusts and other legal relationships (agency, contract, debt, bailment, and gifts).
<b>7</b>	<b>MID-TERM EXAM</b>

<b>COURSE CONTENT</b>	
<b>WEEK</b>	<b>CONTENT</b>
<b>8</b>	<b>Resulting Trusts</b> Categories of resulting trusts.
<b>9</b>	<b>The Constructive Trust</b> The Canadian theory of constructive trust and its response to wrongful conduct, unjust enrichment, and equitable fraud.
<b>10</b>	<b>Remedies</b> Trust remedies: personal and proprietary.
<b>11</b>	<b>Introduction to Trusts and The Environment &amp; Trusts In Corporate and Commercial Law</b> Public trust doctrine and the liability of trustees for environmental damage. Trusts in corporate and commercial settings.
<b>12</b>	<b>Equity, Equality, and “Family” Relationships &amp; Trusts In Succession Planning</b> Evolving perspectives of marriage and cohabitation. The evolution of equitable principles concerning family relationships. Trusts in succession planning.
<b>13</b>	<b>Fiduciary Relationships &amp; Fiduciary Obligations and Indigenous Peoples</b> Identifying fiduciary relationships, their scope, and the remedies for breach of fiduciary obligations, including Crown obligations to Indigenous peoples and Aboriginal title to land.
<b>14-15</b>	<b>FINAL EXAM PERIOD</b>

**EVALUATION PROFILE**

Mid-Term Exam	30-35%
Final Exam	30-35%
Group Discussions & Participation	5-10%
Assignments/Final Project	<u>25-30%</u>
<b>TOTAL</b>	<b>100%</b>

**Assignments/Final Project**

This course will either include assignments and/or a final project on a matter related to the law of trusts.

**Participation**

If a participation grade is provided, then it is allocated to the consistency, quality, and frequency of contributions to class discussions and class presentations. Consistency means attending every class and actively contributing to discussions on a regular basis. Quality means demonstrating respect for peers and their contributions, listening attentively during lectures and when other students speak, and participating in all activities with an open and inquisitive mind.

**Mid-Term and Final Exam**

There will be a mid-term exam in Week 7 covering Weeks 1-6 of the materials and a final exam covering Weeks 8-13 of the materials. The format of the exams will be determined by the instructor and may include a combination of true/false, multiple choice, matching, short answer, and essay questions. The final exam will be scheduled at a date to be determined by the Registrar's Office.

**GRADING PROFILE**

A+ = 90-100	B+ = 77-79	C+ = 67-69	D = 50-59
A = 85-89	B = 73-76	C = 63-66	F = 0-49
A- = 80-84	B- = 70-72	C- = 60-62	

**Incomplete Grades**

Grades of Incomplete "I" will not be assigned in this course.

**Late Assignments**

Homework assignments are due at the **start of class** on the due date unless otherwise advised by your instructor. Late assignments will only be accepted if prior approval for a late submission date has been given by the instructor.

**Missed Exams/Quizzes/Labs etc.**

Make-up exams, quizzes and/or tests are given at the instructor's discretion. They are generally given only in medical emergencies or severe personal crises. Some missed labs or other activities may not be able to be accommodated. Please consult with your instructor. \*Accommodations can be made to honour community needs and traditional practices.

**Attendance**

Students are expected to attend all classes and associated activities.

**English Usage**

Students are expected to proofread all written work for any grammatical, spelling and stylistic errors. Instructors may deduct marks for incorrect grammar and spelling in written assignments.

**Electronic Devices**

Students may use electronic devices during class for note-taking only.

**On-line Communication (email, eLearn, etc)**

Outside of the classroom, instructors will (if necessary) communicate with students using either their official Capilano University email or eLearn; please check both regularly. Official communication between Capilano University and students is delivered to students' Capilano University email addresses only.

**UNIVERSITY OPERATIONAL DETAILS****Tools for Success**

Many services are available to support student success for Capilano University students. A central navigation point for all services can be found at: <https://www.capilanou.ca/student-services/>

**Capilano University Security: download the [CapU Mobile Safety App](#)**

**Policy Statement (S2009-06)**

Capilano University has policies on Academic Appeals (including appeal of final grade), Student Conduct, Academic Integrity, Academic Probation and other educational issues. These and other policies are available on the University website.

**Academic Integrity (S2017-05)**

Any instance of academic dishonesty or breach of the standards of academic integrity is serious and students will be held accountable for their actions, whether acting alone or in a group. See policy and procedures S2017-05 Academic Integrity for more information: <https://www.capilanou.ca/about-capu/governance/policies/>

Violations of academic integrity, including dishonesty in assignments, examinations, or other academic performances, are prohibited and will be handled in accordance with the Student Academic Integrity Procedures.

**Academic dishonesty** is any act that breaches one or more of the principles of academic integrity. Acts of academic dishonesty may include but are not limited to the following types:

**Cheating:** Using or providing unauthorized aids, assistance or materials while preparing or completing assessments, or when completing practical work (in clinical, practicum, or lab settings), including but not limited to the following:

- Copying or attempting to copy the work of another during an assessment;
- Communicating work to another student during an examination;
- Using unauthorized aids, notes, or electronic devices or means during an examination;
- Unauthorized possession of an assessment or answer key; and/or,
- Submitting of a substantially similar assessment by two or more students, except in the case where such submission is specifically authorized by the instructor.

**Fraud:** Creation or use of falsified documents.

**Misuse or misrepresentation of sources:** Presenting source material in such a way as to distort its original purpose or implication(s); misattributing words, ideas, etc. to someone other than the original source; misrepresenting or manipulating research findings or data; and/or suppressing aspects of findings or data in order to present conclusions in a light other than the research, taken as a whole, would support.

**Plagiarism:** Presenting or submitting, as one's own work, the research, words, ideas, artistic imagery, arguments, calculations, illustrations, or diagrams of another person or persons without explicit or accurate citation or credit.

**Self-Plagiarism:** Submitting one's own work for credit in more than one course without the permission of the instructors, or re-submitting work, in whole or in part, for which credit has already been granted without permission of the instructors.

**Prohibited Conduct:** The following are examples of other conduct specifically prohibited:

- Taking unauthorized possession of the work of another student (for example, intercepting and removing such work from a photocopier or printer, or collecting the graded work of another student from a stack of papers);
- Falsifying one's own and/or other students' attendance in a course;
- Impersonating or allowing the impersonation of an individual;
- Modifying a graded assessment then submitting it for re-grading; or,
- Assisting or attempting to assist another person to commit any breach of academic integrity.

### **Sexual Violence and Misconduct**

All Members of the University Community have the right to work, teach and study in an environment that is free from all forms of sexual violence and misconduct. Policy B401 defines sexual assault as follows:

Sexual assault is any form of sexual contact that occurs without ongoing and freely given consent, including the threat of sexual contact without consent. Sexual assault can be committed by a stranger, someone known to the survivor or an intimate partner.

Safety and security at the University are a priority and any form of sexual violence and misconduct will not be tolerated or condoned. The University expects all Students and Members of the University Community to abide by all laws and University policies, including B.401 Sexual Violence and Misconduct Policy and B.401.1 Sexual Violence and Misconduct Procedure (found on Policy page <https://www.capilanou.ca/about-capu/governance/policies/>)

**Emergencies:** Students are expected to familiarise themselves with the emergency policies where appropriate and the emergency procedures posted on the wall of the classroom.