

1: Fiduciary Duties

- Fiduciary law is one of the most significant contributions of Equity, particularly in respect of commercial transactions, but it remains an area of law fraught with controversy and uncertainty, as regards the identification of fiduciary relationships, and determination of fiduciary duties. It has been described as a 'concept in search of a principle'¹.
- Millet LJ in *Bristol & West Building Society v Mothewe* [1998]: "A fiduciary is someone who has undertaken to act for or on behalf of another in a particular matter in circumstances which give rise to a relationship of trust and confidence".
- "The distinguishing obligation of a fiduciary is the obligation of loyalty. A fiduciary must act in good faith; he must not make a profit out of his trust; he must not place himself in a position where his duty and his interest may conflict; he may not act for his own benefit or the benefit of a third person without the informed consent of his principal. This is not intended to be an exhaustive list, but... indicate the nature of fiduciary obligations. They are the defining characteristics of the fiduciary. As Dr. Finn pointed out in his classic work *Fiduciary Obligations* (1977 ed.p. 2), he is not subject to fiduciary obligations because he is a fiduciary; it is because he is subject to them that he is a fiduciary."
- Traditionally, a person is treated as a fiduciary because they are subject to fiduciary duties, and so it is vital to determine what those duties are and when they might be recognized as arising.
- The key obligation of a fiduciary is one of loyalty, in that the principal is entitled to the single-minded loyalty of the fiduciary. Beneath this are two fundamental duties: the so-called 'no conflict' and 'no profit' duties.
- There is no legal definition of when somebody can be considered to be a fiduciary. In determining whether a person is a fiduciary, it is first necessary to consider whether the relationship falls within one of the recognized categories of fiduciary relationships. If it does not, it is then necessary to examine the factual circumstances of the relationship to determine whether there are sufficient hallmarks of a fiduciary relationship to enable the court to conclude that the relationship is indeed fiduciary.

¹ Mason, 'Themes and prospects', in *Essays in Equity*, p. 246.

Textbook Insights What Is In Store For The College

Carolyn Dunn (PhD.)



Textbook Insights What Is In Store For The College:

A Textbook of HUMAN ANATOMY AND PHYSIOLOGY-II Dr. REPPALA ILIYAZ MAHAMMAD , Dr. HAJERA HAFEEZ, Mr. NITIN DAHIYA, Dr. KEERTHI PRIYA MEKALA , Dr. RUCHI TIWARI, 2025-06-16 Introducing the book Human Anatomy and Physiology II is something that fills me with an incredible amount of joy The content of this book has been meticulously crafted to adhere to the curriculum for Bachelor of Pharmacy students that have been outlined by the Pharmacy Council of India An effort has been made to investigate the topic using terminology that is as straightforward as possible in order to make it more simply digestible for pupils The book has a number of illustrations such as flowcharts and diagrams that make it simple for students to comprehend complex ideas It is the author's honest desire that both students and academicians would take something helpful away from reading this book **The Publishers Weekly** ,2009 **Textbooks on**

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