

Course Outline

COURSE:	LAWS 3903 A – Selected Legal Topics: Dispute Resolution, Looking Back and Looking Ahead
TERM:	Fall 2008/09
PREREQUISITES:	Third-year standing
CLASS:	Day & Time: Wednesday 2:35-5:25 pm Room: 3165 ME – (Mackenzie Engineering)
INSTRUCTOR: (CONTRACT)	Derek Bianchi Melchin
CONTACT:	Office: C476 LA (Loeb) – Contract Instructors' Office Office Hrs: By appointment Email: Derek.bianchimelchin@mcgill.ca

"Students with disabilities requiring academic accommodations in this course must register with the Paul Menton Centre for Students with Disabilities for a formal evaluation of disability-related needs. Registered PMC students are required to contact the centre, 613-520-6608, every term to ensure that I receive your letter of accommodation, no later than two weeks before the first assignment is due or the first in-class test/midterm requiring accommodations. If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by November 7, 2008, for December examinations, and March 6, 2009, for April examinations." With regard to accommodations for religious obligations and pregnancy, please see http://www.carleton.ca/pmc/students/accom_policy.html

COURSE DESCRIPTION

This course will examine the spectrum of dispute resolution alternatives, in terms of their theoretical underpinnings, their impact, and their present and future development. These range from negotiation, to mediation, to various types of non-binding evaluative processes, including court-connected, community-based, and private programs. We will also examine new developments in dispute resolution, including internet-based dispute resolution processes; the contribution of religious and cultural factors to the resolution of disputes; as well as issues related to process design and evaluation.

Students taking this course should have a basic understanding of traditional and alternative dispute resolution processes and their role within the legal system. The course will involve lectures, class discussion, small group work, presentations, and case studies. Students will be expected to have read each week's required readings in advance of class and come prepared to offer informed and analytical interventions.

REQUIRED TEXTS

Macfarlane, Julie, ed. *Dispute Resolution: Readings and Case Studies*. 2nd ed. Toronto: Emond Montgomery, 2002.

The text for this course can be purchased at Octopus Books, located at 116 Third Avenue (just off Bank street in the Glebe). The price of the course text is \$90.00.

A number of articles will also be available on reserve for the class on November 19th.

EVALUATION

Participation and Reflective Journal	20%
Mid-Term Exam (October 29, in-class)	30%
Final Exam (date TBA)	50%

PARTICIPATION and REFLECTIVE JOURNAL

The aim of this course is to help you become familiar with a broad spectrum of dispute resolution processes currently available in North American society. However, this course also aims to help you learn to think critically about those processes. By the end of this course, you should be able to assess the applicability of different types of DR processes to different kinds of disputes and conflicts, as well as to discuss some of the more significant procedural, ethical, and legal questions and concerns that have been raised about each approach. For this reason, a section of each class will be devoted to discussions and informal group activities aimed at helping you develop skills for analyzing case studies of disputes and conflicts, and assessing the merits and limitations of different dispute resolution processes in different types of scenarios. In turn, these are the types of questions you will be asked to answer in both the mid-term and the final exams.

In order to help you prepare for both (i.e., both the in-class activities and the exams), you will be required to keep a journal in which you reflect on some aspect of each week's readings prior to coming to class. Each week, you will be asked to respond to a specific question related to that week's readings in preparation for the lecture (alternately, some weeks, you will be able to choose from a range of questions). These responses should be 1-2 pages, typed and double spaced. The responses will not be marked. However, at two points in the term (Oct. 15, and Dec. 3), all students are required to submit a **COMPLETE** journal—that is, your journal must include answers to **ALL** the questions asked up to that date. A complete journal will include four responses on the first collection date, and ten responses at the end of the term (one for each week, minus the introduction, conclusion, and mid-term classes).

Note that you will not be marked on whether or not you have the "right answer" to these assignments, but rather on the depth and quality of your critical engagement with the issues of the course. What is important is that these assignments help prepare you to thoughtfully engage in in-class discussions and activities, as well as to think critically about the issues raised by various DR processes on your exams. The journal assignments and small-group activities and discussions will also help me to better assess your commitment and participation in the course. Not everybody feels comfortable speaking up or answering questions in front of the whole group. Thus, the informal assignments, activities, and discussions offer different ways to participate more directly in the class, as well as ways for me to assess what you are putting into the course.

Because you are not given a mark on each assignment, you might think this means you can be lazy and write sloppy responses. Or, you might think that you can just write your assignments after class, rather than beforehand. I hope not, but if you do think this way, please consider this: the questions you will be asked for these weekly assignments will be similar to the types of questions you are likely to face on the exam. Also, these questions will be the basis for discussions and group activities in class. Thus, if you don't do the readings or the journal questions, you run the risk of a) not being prepared for the in-class discussions, and b) not being prepared for the exams. Doing these assignments will help you keep up to date as the course progresses, and will help you learn to make connections between the readings and the case studies we'll be looking at in class. They will also provide you with an informal source of feedback on how you are doing in the class, to help you check your progress and prepare for exams.

Please note that your participation and reflective journal are worth 20% of your final grade. The journal will be collected twice during the term. Failure to hand in a **COMPLETE** reflective journal will result in an automatic deduction of 5% of your final grade each time.

COURSE OUTLINE

Page numbers refer to *Dispute Resolution: Readings and Case Studies* (listed above).

You will note that this text contains selections from various articles and books on dispute resolution methods, in order to provide you with a broad range of perspectives on the subject. Additionally, each section of each chapter also contains a number of follow-up “notes and questions” that take up some of the issues raised by the authors whose texts appear in those sections. These notes often contain bibliographic suggestions for further reading, which you may or may not wish to follow up. However, they also contain important follow-up discussions or questions that have been raised by other authors about the views advocated in the readings, which we will be bringing up in class.

These notes and questions aim to help you make connections between the articles, or between the articles and the case studies included in the text. We will be taking up quite a few of these questions in class or in your journal assignments, so you are responsible for reading them—even though I admit that not all of them will be directly relevant to our class discussions. A good rule of thumb is to read **ALL** the notes and questions; to respond directly to the ones that are assigned in your journal; to devote some additional thought to any that raise issues or questions we might be likely to discuss in class; and to pass over those that seem less relevant—unless I mention them in class.

- | | |
|----------------|--|
| Sept 10 | Introduction |
| Sept 17 | The Development of Conflicts
<i>Dispute Resolution</i> , 1-68 |
| Sept 24 | Approaches to Dispute Resolution
<i>Dispute Resolution</i> , 68-108 |
| Oct 1 | Negotiation
<i>Dispute Resolution</i> , 109-44, 165-80, 239-51 |
| Oct 8 | Issues in Negotiation: Systemic Bias, Culture, Power, Ethics
<i>Dispute Resolution</i> , 180-84, 191-94, 204-22, 258-80 |
| Oct 15 | MID-TERM EXAM |
| Oct 22 | Mediation
<i>Dispute Resolution</i> , 281-91, 300-29, 396-403, 419-25, 432-40 |
| Oct 29 | Issues in Mediation: Neutrality, Power, Accountability, Ethics
<i>Dispute Resolution</i> , 442-50, 459-69, 482-510, 512-15 |
| Nov 5 | Evaluative and Hybrid Processes
<i>Dispute Resolution</i> , 557-614 |

Nov 12 Online Dispute Resolution

Dispute Resolution, 517-56

Nov 19 Religion, Culture, and Conflict Resolution

Gopin, Marc. "Religion, Violence, and Conflict Resolution." *Peace & Change* 22.1 (1997): 1-31.
Abu-Nimer, Mohammed. "Conflict Resolution in an Islamic Context: Some Conceptual Questions."
In *Peace and Conflict Resolution in Islam: Precept and Practice*. Eds. Abdul Aziz Said,
Nathan C. Funk, and Ayse S. Kadayifci. Lanham, MD: University Press of America, 2001.
123-41.

Abu-Nimer, Mohammed. *Nonviolence and Peace Building in Islam*. Gainesville, FL: University
Press of Florida, 2003. 91-109.

Assefa, Hizkias. "Coexistence and Reconciliation in the Northern Region of Ghana." In
reconciliation, Justice, and Coexistence: Theory and Practice. Lanham, MD: Lexington
Books, 2001. 165-86.

Nov 26 Designing and Evaluating Dispute Resolution Processes

Dispute Resolution, 709-16, 729-63, 773-90

Dec 3 Conclusions – Looking Back and Looking Ahead