

Course Outline

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| COURSE: | LAWS 4904 A - Advanced Legal Topics: Collective Agreement & Arbitration Law |
| TERM: | Winter 2010-11 |
| PREREQUISITES: | Fourth-year honours standing in Law with a law GPA of 9.00 or better or permission of the Supervisor of Undergraduate Studies, and written acceptance by a faculty member |
| CLASS: | Day & Time: Fridays 11:35 am - 2:25 pm Room: Please check with Carleton Central for current room location |
| INSTRUCTOR: (CONTRACT) | Nick E. Milanovic |
| CONTACT: | Office: C476 LA Office Hrs: By Appointment Telephone: (613) 520-3690 (Department of Law Office) Email: WebCT only |

"Students with disabilities requiring academic accommodations in this course must contact a coordinator at the Paul Menton Centre for Students with Disabilities to complete the necessary Letters of Accommodation. After registering with the PMC, make an appointment to meet and discuss your needs with me in order to make the necessary arrangements as early in the term as possible, but no later than two weeks before the first assignment is due or the first test requiring accommodations. For further information, please see: http://www.carleton.ca/pmc/students/accom_policy.html . If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by **November 15, 2010 for Fall exams and March 12, 2011 for Winter exams**. For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: www.carleton.ca/equity

COURSE DESCRIPTION

Over 4.3 million Canadians are affected by a collective agreement in their employment relationships but many know little about the means by which these rights are implemented at work. Grievance arbitration is the mechanism that provides for the enforcement of the collective agreement in unionized workplaces.

It is the collective agreement that governs the ongoing relationship between the employer and the union, and the grievance arbitrator resolves legal disputes concerning the proper interpretation, application or administration of the "labour contract" in the workplace.

This course examines some of the most important areas of arbitral jurisprudence and the main areas of interface between the arbitral and the general legal process. It critically evaluates the manner in which the law comes to grips with recurrent problems arising from the enforcement of the collective agreements at grievance arbitration. Topics include discharge and discipline, seniority, management right and human rights, remedial powers of arbitrators, evidentiary issues and the impact of employment-related statutes on unionized workplaces.

Each seminar the class, with the instructor's assistance, will examine a hypothetical workplace conflict and together answer a series of questions concerning the dispute. In this way, students will study real life problems in unionized employment and evaluate the adequacy of the law's response to the challenges facing workers, unions and employers in the contemporary workplace. Students will be required to participate in class discussion, complete assignments and help present a mock arbitration hearing to an "arbitrator" and have that person issue a final and binding decision on the matter.

REQUIRED TEXTS

There are no required texts in this course. Hypothetical problems will be posted on WebCT and students will be required to read and answer the relevant questions by independently researching (see example of some useful source listed below) the questions posed in order to prepare for the upcoming discussion of the topics each week in class. However, students are strongly advised to obtain a Quicklaw account (free to Carleton law students) in order to assist with their research of assignments in this course. As well, to the extent possible, the instructor will have materials placed on reserve in order to assist students with research. These materials will also promote a critique of the law researched each week. The instructor reserves the right to assign additional mandatory readings in this course which will be placed on the reserve reading list of the library.

SUPPLEMENTARY SOURCES

1. Canadian Labour Law Library, Canada Law Book (on line).
2. Labour Arbitration Xpress, LexisNexis Canada, 2006. Available on Quicklaw as Labour Arbitration Xpress Summaries(LAX).
3. Canadian Labour Arbitration (4th ed.), Brown & Beatty, Canada Law Book, (2006).
4. Leading Cases on Labour Arbitration, M. Mitchnick and B. Etherington, Lancaster House (2002).
5. Labour Arbitration Cases, Canada Law Book (LAC).
6. Canadian Labour Arbitration Summaries, Canada Law Book. (CLAS).
7. Collective Agreement Arbitration in Canada (3rd ed.), E.E. Palmer and B.M. Palmer, Butterworths (1991).
8. Labour Arbitration Yearbook, Kaplan, Sack & Gunderson, Lancaster House (1991 to...).
9. Evidence and Procedure in Canadian Labour Arbitration, (2nd ed.). M.R. Gorsky, S.J. Usprich, G.S. Brandt, Carswell, (1991).
10. A Practical Guide to Labour Arbitration Procedure(2nd ed.), J.F.W. Weatherill, Canada Law Book, (1998).
11. The Law of Evidence in Canada (2nd ed.), J. Sopinka, S.N. Lederman, A.W. Bryant, Butterworths Canada Ltd., 1999.
12. Labour Arbitration and All That (3rd ed.), John P. Sanderson, Canada Law Book, (1994).
13. Contract Clauses Collective Agreement Language in Canada, J.Sack & E. Poskanzer, Lancaster House, (1996).
14. "The Collective Agreement and Arbitration" in Labour & Employment Law: Cases Materials and Commentary (7th ed.) Labour Law Casebook Group Irwin Law (2004).

EVALUATION**(All components must be completed in order to get a passing grade)**

Written assignments will require students to resolve a problem connected to a workplace dispute and a mock arbitration will oblige students to work in groups to present a case in a simulated hearing before an “arbitrator”. The details of these assignments and the mock arbitration will be announced in class.

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| 1. Assignment 1 worth 20% | 3. Mock Arbitration worth 20% |
| 2. Assignment 2 worth 20% | 4. Participation worth 40% |

SCHEDULE

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| January 7 | Introduction & Video Presentation |
| January 14 | Procedural Issues (Discharge & Discipline) Grievance A, Questions 1 to 4 |
| January 21 | Procedural Issues (Discharge & Discipline) Grievance B, Questions 5, 6 Grievance C, Questions 7- 13 |
| January 28 | Procedural Issues (Discharge & Discipline) Grievance D, Question 14 to 18 |
| February 4 | Procedural Issues (Seniority Issues) Grievance A, Questions 1 to 9 |
| February 11 | Seniority and Human Rights - Exercise ASSIGNMENT #1 DUE BY February 11 |
| February 18 | Mock Arbitration & Pre-Arbitration Work Groups |
| February 25 | Reading Week – No Class |
| March 4 | Use of Extrinsic Evidence, Estoppel and Mistake Questions 1(a), (b), (c), (d), (e), 2(a), (b), (c) |
| March 11 | Discharge and Discipline Case Studies - Exercise |
| March 18 | Seniority Case Studies – Exercise ASSIGNMENT #2 DUE BY March 18 |
| March 25 | Pre-Arbitration Assignment Meeting #1,2,3 |
| April 1 | Mock Arbitration Assignment Presentation #1, 2 & 3 |

The Instructor would like to acknowledge that this course is based upon a class originally developed and presented by D.D. Carter.