

**CARLETON UNIVERSITY  
DEPARTMENT OF LAW AND LEGAL STUDIES**

**Course Outline**

**COURSE:** LAWS 3405A Labour Law

**TERM:** Fall 2016

**PREREQUISITES:** 1.0 credit from LAWS 2003 [1.0] (no longer offered), LAWS 2005 [1.0] (no longer offered), LAWS 2201, LAWS 2202, LAWS 2501, LAWS 2502. Permission may be given to students in Business or Directed Interdisciplinary Studies who have completed BUSI 2601.

**CLASS:**           **Day & Time:** Monday and Wednesday: 10:05 A.M. – 11:30 A.M.  
                          **Room:** Please check with Carleton Central for current room location

**INSTRUCTOR:**                           **Michael Mac Neil**

**CONTACT:**                           **Office:** D589 Loeb  
  **Office Hrs:** Tuesday: 12:00 PM – 2:00 PM or by appointment.  
  Many issues can be dealt with before or after class, but if you want to set up a more formal appointment, contact me by email or by phone.

**Telephone:** 613-520-2600 x 3684

**Email:** [michael.macneil@carleton.ca](mailto:michael.macneil@carleton.ca) (best way to contact me!)

**Note:** Any email communication with me should come from your official Carleton email address (or through cuLearn) and have "LAWS3405" in the Subject line of the email. Unless these two conditions are met, there is a possibility that your email will end up in a junk folder, and may not be seen.

## STUDENTS REQUIRING ACADEMIC ACCOMMODATION

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:

**Pregnancy obligation:** write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details see the [Student Guide](#)

**Religious obligation:** write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details see the [Student Guide](#)

**Academic Accommodations for Students with Disabilities:** The Paul Menton Centre for Students with Disabilities (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact PMC at 613-520-6608 or [pmc@carleton.ca](mailto:pmc@carleton.ca) for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your Letter of Accommodation at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (if applicable). After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the [PMC website](#) for the deadline to request accommodations for the formally-scheduled exam (if applicable).

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### COURSE DESCRIPTION (from University Undergraduate Calendar)

Role of law in industrial relations; effect of law on collective bargaining relationships; recognition of bargaining agent; regulation of bargaining; administration of the collective agreement; methods of conflict resolution.

### COURSE OVERVIEW

This course explores how law regulates industrial relations in Canadian society. It will examine the legal regulation of employer-employee relations, attempting to identify some of the historical, economic and political influences. We will focus particularly on the legal regulation of collective worker activity. We will identify values that inform the legislative, judicial, administrative, arbitral, contractual and informal rules and norms through which law regulates. You will be expected to gain an understanding of the rights and responsibilities of various actors in the industrial relations system, and of the legal and institutional relationships among the actors.

The course concentrates on the labour law applicable to the private sector. The Ontario Labour Relations Act will be the main statute analyzed. You will be expected to acquire knowledge of legal rules

and to apply it to concrete problems. You should be able to assess policy implications of various rules and proposals. It will be important to gain an understanding of the relationship between labour law and the economic, political, and social conditions within which this legal system operates. Some of the questions to be considered include:

- Why do workers join unions?
- Why do many employers resist unions?
- How does law encourage, facilitate or impede unionization?
- What are the goals of labour law?
- What limits are there on employer resistance to unions?
- What rules govern collective bargaining?
- How does law deal with industrial conflict?
- How are disputes under collective agreements settled?
- How are disputes between a union and its members regulated by law?
- How does the Charter of Rights protect workers, if at all?
- How is labour law adapting to changing global economic conditions?

### **COURSE OBJECTIVES**

- Gain an understanding of the social, political, economic and historical context for the legal regulation of employer-employee relations in Canada;
- Obtain a sound knowledge of the Ontario Labour Relations Act;
- Learn about the role of legislatures, labour relations boards, arbitrators and courts in the labour law system;
- Become familiar with some of the scholarly literature about labour law in Canada;
- Develop the capacity to analyze legal policy choices in the labour relations context;
- Develop a capacity to engage in research of primary and secondary materials relating to Canadian labour law;
- Improve skills in applying legal rules to propose solutions to labour law conflicts;
- Enhance written communication skills;
- Improve teamwork skills by working in groups.

### **REQUIRED TEXTS**

Labour Law Casebook Group, *Labour and Employment Law: Cases, Material and Commentary* (8th ed.), (Toronto: Irwin Law, 2011) - Available at the University Bookstore.

In addition, you will be expected to closely read many provisions of the [Ontario Labour Relations Act](#). The statute is available online, and a list of specific sections that you will need to read for each class will be set out in a separate Schedule, to be made available on cuLearn.

Additional readings may be assigned throughout the term, and will primarily be available on the Internet with hypertext links posted on cuLearn. Some readings may be put on reserve in the McOdrum Library. Students are expected to read assigned material before coming to class. One of the main ways in which the questions set out above will be explored is through the use of discussion problems. You are expected to read these discussion problems in advance of class (they will be posted through cuLearn)

along with the assigned readings. Come to class prepared to work in groups on the solutions to these problems by applying the relevant materials. Reviewing these discussion problems may occupy the majority of class time, and class time will not be used to summarize the readings; you should do this for yourself as you think about answers to the discussion questions. Many of these discussion questions are drawn from old examinations, so developing the capacity to answer these in class will greatly enhance the likelihood of your being able to do well on the final exam.

In addition, analysis of the assigned material will take the form of other forms of classroom discussion in which everyone is expected to participate, supplemented by lecturing. Only by participation in class discussions combined with advanced preparation can you expect to obtain maximum benefits from the course.

### **cuLearn**

This course will make extensive use of the online cuLearn course management system. cuLearn provides a facility whereby a course website is maintained, allowing me to provide you with links to relevant readings, to post course notes, commentary, and assignments, to facilitate the electronic submission of assignments, and to provide you with access to your grades. It is absolutely essential that you regularly check the cuLearn site for the course. cuLearn is accessible through the Internet from off-campus or through the University's computer labs, using compatible web browsers. The URL for cuLearn is <http://cuLearn.carleton.ca>.

cuLearn can be accessed using your MyCarletonOne account, with the same ID and password.

### **EVALUATION**

Standing in a course is determined by the course instructor subject to the approval of the Department and of the Faculty Dean. This means that grades submitted by the instructor may be subject to revision. No grades are final until they have been approved by the Department and the Dean.

		<b>Due Date</b>
Group Project: Case Analysis	25%	October 17
Position Paper	35%	November 20
Final Exam	40%	To be Scheduled

In order to obtain a passing grade in this course, **all assignments must be submitted and the Final Exam must be written.**

- 1) A **case analysis** will be distributed in class on or before September 30<sup>th</sup> and is due at 4:30 PM on October 17<sup>th</sup>. You will be given a factual scenario, and asked to write a memorandum in which you analyze the applicable law. This will require that you do some research that goes beyond the assigned readings. Expected length: 2000-2500 words. This will be a **group assignment**. (25%)
- 2) You will be required to submit one **position paper**, in which you take the role of an advocate for either workers or an employer organization. The position paper will be directed to a legislative

committee examining the need to reform some aspect of our labour relations legislation. In the position paper, you will clearly identify the reform that you believe to be necessary and the reasons why it is necessary. This will be an **individual assignment**. Expected length: 2000-2500 words. Due Date: 4:30 PM on November 20<sup>th</sup>. (40%)

All these assignments must be submitted on the date and at the time stipulated. Failure to do so will result in the imposition of a penalty of one letter grade for each day the assignment is late.

### **Final Exam** (Contribution to Final Grade: 35%)

The final exam will be a two or three hour exam during the formally scheduled final examination period. More details as to the format will be discussed in class later in the term. Note that final exams are not returned to students. They are retained by the instructor. Contact me if you want to review it.

### **SCHEDULE** (Subject to Change; Detailed Reading Assignments Posted in WebCT)

Class 1	Sept 7	Introduction;
Class 2	Sept 12	Legal Regimes
Class 3	Sept 14	Empirical Overview
Class 4	Sept 19	Values and Assumptions; Collective Bargaining Policy
Class 5	Sept 21	The Charter: The Early Regime
Class 6	Sept 26	The Charter: The Modern Regime
Class 7	Sept 28	Who can Unionize?
Class 8	Oct 3	Managerial Employees
Class 9	Oct 5	Employers
	Oct 10	Thanksgiving Holiday – No Classes Scheduled
Class 10	Oct 12	Right to Join a Union; Unfair Labour Practices
Class 11	Oct 17	Employer Speech and Property Rights; Remedies
Class 12	Oct 19	Acquisition of Bargaining Rights; The Appropriate Bargaining Unit
	Oct 24,26	Fall Break – No Classes Scheduled
Class 13	Oct 31	Determining Employee Support; New Forms of Organizing
Class 14	Nov 2	Duty to Bargain
Class 15	Nov 7	Remedies; New Approaches
Class 16	Nov 9	Strikes and Their Legality
Class 17	Nov 14	Strikes and Courts; Employer Discipline
Class 18	Nov 16	Picketing
Class 19	Nov 21	Rights of Strikers; Alternatives to Strikes
Class 20	Nov 23	Collective Agreements, Arbitration and Management Rights
Class 21	Nov 28	Arbitration and Employee Discipline
Class 22	Nov 30	Assessing Arbitration Process
Class 23	Dec 5	Duty of Fair Representation
Class 24	Dec 7	Unions and their Members
Class 25	Dec 9	Review [ <u>Note: This Friday is treated as a Monday in University Schedule</u> ]

### **GENERAL GUIDELINES ON ASSIGNMENTS FOR THIS COURSE**

#### **Assignment Format**

Any written work submitted in this course **must** be word processed. The case analysis and position paper must be double-spaced, 12pt standard font (eg. Times New Roman, Arial or Calibri) with standard 1" margins. These two assignments must include a title page that has, as a minimum, your name and student number, the course code, the assignment title, and my name on it. Assignments should also include a bibliography unless otherwise instructed. Title pages, bibliographies and extensive footnotes are not counted in determining an assignment's page length. You may be asked to submit the assignment electronically in addition to or in place of submitting a paper copy. You will be provided with instructions on how to do so through cuLearn.

### **Late Policy**

Assignments that are due in class or through cuLearn are deemed late if not submitted by the times indicated. Late assignments will be penalized **one grade point per day or part of day** that they are late (i.e. B to B-, B- to C+, etc ). Late assignments are to be submitted through cuLearn, just like those submitted on time, otherwise noted.

### **LAW DEPARTMENT POLICY AND PROCEDURE STATEMENT**

The Law Department outlines its general policies regarding assignments in its [Policy and Procedure Statement](#) that is attached to this syllabus. You should be familiar with these regulations. If you require any clarification please ask me.

### **ACADEMIC INTEGRITY**

The University Senate defines plagiarism as "presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own." This can include:

- reproducing or paraphrasing portions of someone else's published or unpublished material, regardless of the source, and presenting these as one's own without proper citation or reference to the original source;
- submitting a take-home examination, essay, laboratory report or other assignment written, in whole or in part, by someone else;
- using ideas or direct, verbatim quotations, or paraphrased material, concepts, or ideas without appropriate acknowledgment in any academic assignment;
- using another's data or research findings;
- failing to acknowledge sources through the use of proper citations when using another's works and/or failing to use quotation marks;
- handing in "substantially the same piece of work for academic credit more than once without prior written permission of the course instructor in which the submission occurs."

Plagiarism is a serious offence which cannot be resolved directly with the course instructor. The Associate Dean of the Faculty conducts a rigorous investigation, including an interview with the student, when an instructor suspects a piece of work has been plagiarized. Penalties are not trivial. They can include a final grade of "F" for the course.

Please consult the complete [Academic Integrity Policy](http://carleton.ca/senate/wp-content/uploads/Academic-Integrity-Policy1.pdf) at <http://carleton.ca/senate/wp-content/uploads/Academic-Integrity-Policy1.pdf> . Extensive guides to academic integrity are available at <http://carleton.ca/studentaffairs/academic-integrity/>