**Preliminary Course Outline[[1]](#footnote-1)**

|  |  |  |
| --- | --- | --- |
| **Course:** |  | **LAWS 4903C Judges and Courts** |
|  | CRN | 13711 |
| **Term:** |  | **Winter 2024** |
|  |  |  |
| **Prerequisites:** |  | LAWS 2908 and fourth-year Honours standing |
| **Class:** | **Day & Time:** | **Fridays 11.35AM – 2.25PM**  First Class: January 12, 2024  Last Class: April 10, 2024  No Class: February 23, 2024 (Reading Week) |
|  | **Room:** | **In-person weekly seminar (lecture and discussion)** *Please check Carleton Central for current Class Schedule* |
| **Instructor:** |  | **Professor Brettel Dawson** |
| **Contact:** | **Office Hrs:** | In-Person, pop into my office, Fridays 9.30AM -11.00AM  or, by appointment (by Zoom or phone) |
|  | **Telephone:** | Email me |
|  | **Email:** | **brettel.dawson@carleton.ca** |
|  |  |  |

**ADVANCED LEGAL TOPICS CALENDAR COURSE DESCRIPTION**

The topics of this course vary from year to year and are announced in advance of registration.

**COURSE DESCRIPTION**

Courts have been described as the “beating heart of the modern legal system not only … in determining disputes but also in circulating the vital elixir of normative order throughout that system.”[[2]](#footnote-2) In turn, judges are an “unmistakable symbol of our legal system.”[[3]](#footnote-3) What is it that do courts do? What is it that judges do? How do questions of diversity, accountability, and impartiality affect judges and courts in Canada? How do cases (trials and appeals) unfold? How do judges make decisions? How do specialized problem solving courts respond to social needs in the community? What issues do courts and judges face in meeting their functions in society?

**REQUIRED TEXTS**

Readings will be assigned by week. They will include scholarly writing, case decisions, and judicial documents. From time to time, audio-visual media sources will be assigned. Materials will be available via ARES/Brightspace and/or external links (URLS).

**A reading list will follow.**

**SUPPLEMENTARY TEXTS**

The following two books available online at Carleton Library will be referred to frequently:

Robert Sharpe, *Good Judgment: Making Judicial Decisions* (Toronto: University of Toronto Press, 2018) - 2 users at a time permitted.

Joe McIntyre, *The Judicial Function: Fundamental Principles of Contemporary Judging* (Singapore: Springer, 2019) – unlimited users.

**Note on Reading Assigned Material**

I’m very pleased that you have registered for this honours seminar. I expect you to do the readings before class, come to class prepared to engage with the topics, themes and guests and to interact respectfully with your peers, our guests, and me.

Please set aside **at least three hours** per week to read/review the materials. I’d like to encourage “patient academic reading” where you read through a complete text, take a break and come back to take notes on the research question(s) being addressed by the author(s), the important points, contentions, research findings. Learning to distill these things is an academic skill – simply highlighting a text is not particularly useful in your learning process.

**LEARNING OBJECTIVES**

At the end of this course, I hope that you will be better able to:

1. Outline the judicial function; connect courts and judicial decisions to this judicial function; and distinguish between the roles and processes of trial courts; and problem-solving courts.
2. Explain the role of judges when hearing cases in court and making decisions.
3. Explain how cases are heard and decided by judges in court cases and state how judges engage with (interpret, assess, construct, apply) law, evidence and social context.
4. Give an account of core system principles of judicial impartiality, judicial independence, and judicial ethics.
5. Critically assess the judicial function in relation to democracy and social change; and
6. Articulate the relevance (need for/benefits) of courts and judges in contemporary society.
7. Integrate common law (judicial decisions and court proceedings) into your conception of law; and
8. Engage robustly with judicial decisions in your legal studies research and as citizens.

**EVALUATION PLAN[[4]](#footnote-4)**

*Note: 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.*

All components (other than the presentation) must be successfully completed in order to get a passing grade. They must be completed as individual work and may not use more than 20% of any work prepared in another course.

Artificial Intelligence tools may be used only as authorized. See my Statement on Artificial Intelligence at the end of this Outline (page 10).

Work that is submitted late without an extension will receive **zero** marks. See later on extensions and Grace Days.

Note: You are required to attribute **all** sources used in your answer including artificial intelligence sources. You must be very careful when paraphrasing not to pass off paraphrased sources as your own work. This is a criterion for marking. Answers without citations (or where source is unclear or citations are deficient or misleading) or where your work appears to be directly copied from sources (even if tweaked by you), may lead to the following determinations by me: 1) Your work will be treated as presumptive plagiarism and your mark will be reduced proportionately, as far as **zero**, as it is not your work; and 2) Your paper may be sent to the Dean as an allegation of an **Academic Offence**.

|  |  |  |
| --- | --- | --- |
| **Evaluation** **Component** | **Marks** | **Due[[5]](#footnote-5)** |
| Post an Introduction and take quiz on this Outline | 2 | Brightspace by **January 20, 2024** |
| Class Participation | 8 | Attend, engage, contribute (best 8 weeks). I will maintain an Attendance  Register on Brightspace (Tools tab). |
| Presentation | 5 + 1 | Scheduled before or after Reading Week. (Sign up Week 2) |
| Assignment 1: Judicial Profile | 25 | **February 6, 2024** |
| Assignment 2: Court or Judging Issue or Innovation | 30 | **March 19, 2024** |
| Assignment 3: Reflections Paper | 25 | Scheduled take home examination; limited duration. |
| **Total** | **100** |  |

Preliminary Information on assignments and presentations follows.

**1) Assignment Component**

There will be three assignments. The first will be a profile of a judge built around themes identified in the assignment sheet. The second will be an analysis of an issue facing courts (and judges) built around themes identified in the assignment sheet. The third will be a reflections paper which will ask you to address identified themes using one or more course readings.

For the Judicial Profile and Court Issue, students will be encouraged to supplement a core written text with multi-media and PowerPoint.

Using artificial intelligence tools will be permissible but strictly limited. Students will need to append an overview of their research process with **and** without use of AI. See Statement on AI in Appendix 1.

**2) Presentation Component**

Students will present **once** during the course. You will have a choice of ‘presentation set’ (Judicial Profiles or Court Issues) which correspond to the assignment topics. Your presentation will flow from your assignment.

In each presentation week, a small group of students will present, dividing approximately 45 minutes between them. Some coordination and sharing of ideas will be required – via zoom sessions (organized by the students). You will be assessed individually (out of 4 marks) and, in addition, out of 1 mark based on effectiveness and coordination of the presentations on the day.

**REQUESTS FOR EXTENSIONS**

Please be in touch with me as soon as possible to discuss any difficulties you are having with completing elements of course evaluation.

You may use one “Grace Day” if needed, for each of Assignment 1 and 2. You must complete the self-declaration form (see below) but instead of a reason, simply state “Grace Day”. I will automatically approve.

The granting of extensions is determined by the instructor, who will confirm whether an extension is granted and the length of the extension. For requests for short-term extensions, please complete the form at the following link and submit it to the instructor prior to the assignment due date: <https://carleton.ca/registrar/wp-content/uploads/self-declaration.pdf>.

For more information regarding academic consideration for short-term incapacitation (illness, injury, or extraordinary circumstances beyond a student’s control), please visit the following link: <https://students.carleton.ca/course-outline/#academic-consideration-for-short-term-incapacitation>

Back up your work regularly. Computer problems will not be accepted as a reason for an extension.

**COURSE CALENDAR[[6]](#footnote-6)**

| **CLASS** | **DATES** | | **TOPIC (SHORT TITLE)** | **Additional Information to follow** | **Assignments[[7]](#footnote-7) & Presentations** |
| --- | --- | --- | --- | --- | --- |
| **1** | **JAN** | 12 | Introduction and Overview |  |  |
| **2** |  | 19 | Judging: Independence, Impartiality, Ethics, Accountability |  |  |
| **3** |  | 26 | Judges: Appointment and Diversity |  |  |
| **4** | **FEB** | 02 | Trials (incl. credibility assessment) |  | **ASSIGNMENT 1 DUE FEB 06** |
| **5** |  | 09 | Decision-Making Models: Formalism, Realism, Context |  | **J1[[8]](#footnote-8)** |
| **6** |  | 16 | Decision-Writing: “The Case” |  | **J2** |
| **READING WEEK: FEBRUARY 19-23, 2024** | | | | | |
| **7** | **MARCH** | 01 | Courts: In Theory and Practice |  | **J3** |
| **8** |  | 08 | Access to Justice |  |  |
| **9** |  | 15 | The Sexual Assault Trial (incl reasonable doubt) |  | **ASSIGNMENT 2 DUE MARCH 19** |
| **10** |  | 22 | Indigenous Communities, Courts and Justice Strategies |  | **C1** |
|  | No Class | 29 | Statutory Holiday University closed. |  |  |
| **11** | **APRIL** | 05 | Problem-Solving & Wellness Courts (Therapeutic Jurisprudence) |  | **C2** |
| **12** |  | 10 | Courts, Judges, Judging, Justice: A Reprise |  | **C3** |
|  |  | 10 | **LAST DAY OF TERM** |  |  |
|  | APRIL 13-15 | | **EXAMINATION PERIOD** | **TAKE HOME (DATE TBA)** | |

**APPENDIX 1**

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## STATEMENT ON ACADEMIC INTEGRITY AND BEST PRACTICES IN PREPARATION OF ACADEMIC WORK

**Professor Dawson**

I expect you to fully comply with the University’s Policy on Academic Integrity. All work must be original, completed individually for this course and without collaboration. You must provide full attribution of all sources using correct legal citation (using footnote and following the Canadian Guide to Legal Citation).

I insist upon correct use of paraphrasing, and attribution of all sources drawn upon in your work. Your work must be original (and your own). You may not copy material from sources even if you (even if change around some wording). You will lose marks if you do not follow these rules, and if pervasive, I may send your work to the Dean as an alleged academic offence.

Please review and take to heart relevant resources provided below to help you develop essential academic skills!

It is your responsibility to learn how to meet the university’s expectations and your obligations as a scholar in terms of using and referencing source materials.

However, you are not on your own. There are many available resources that can help in this learning process. I encourage you to take advantage of them.

Here are some suggestions (you may have to copy and paste these urls):

Consider completing the useful online workshop dealing with academic integrity offered by Carleton’s Centre for Student Academic Support (CSAS)– at this link:

[https://carleton.ca/csas/learning- support/learning-support-workshops/](https://carleton.ca/csas/learning-%20support/learning-support-workshops/)   
The Carleton Library has a video series on academic integrity. Here is a link to their video on citations: https://[www.youtube.com/watch?v=3q4FS4P11Us.](http://www.youtube.com/watch?v=3q4FS4P11Us)

The Library has a web page on academic integrity containing links to useful topics. It is available at <https://library.carleton.ca/guides/help/academic-integrity>.

Other helpful resources outside of Carleton are available on the internet, include the following:

The University of Waterloo’s web page on academic integrity has a section on referencing and research skills, including citing and paraphrasing. https://uwaterloo.ca/academic-integrity/integrity-students/referencing-and-research-skills.

The Purdue University online writing lab also has useful resources. You might find their “plagiarism overview” page to be especially relevant at the following link: https://owl.purdue.edu/owl/avoiding\_plagiarism/index.html.

Yale University’s Poorvu Center for Teaching and Learning has a website which discusses “using sources” and “understanding and avoiding plagiarism.” It is available at the following link: https://poorvucenter.yale.edu/using-sources.

## STATEMENT ON LEARNING, ASSIGNMENTS, AND ARTIFICIAL INTELLIGENCE

**Professor Dawson**

Advances in the capacity of artificial intelligence models to retrieve information and present academic analysis are moving at exponential speed. We are in a phase of high disruption for university assignments. Professors, including me, are engaged in a process of re-designing (and realigning) evaluation methods to assess relevant student knowledge and understanding. We are also trying to sort how to help you generate benefits from AI and minimize the risks that it poses in your academic work. There’s a quote that stands out for me in this regard, “used well, [artificial intelligence] tools can show students the wonders and responsibilities of acquiring and building powerful knowledge. It can assist rather than being in opposition to their learning.”[[9]](#footnote-9) In light of these thoughts, I do permit you to use AI in your work in this course, subject to my observations and requirements as set out below.

### Observations on AI

* You need to have a conceptual grasp of the topics you are exploring and effective search (prompt) strategies to use AI effectively and appropriately in academic work. It works best for topics you understand.
* You may find it useful to ask AI to **rephase** academic writing or concepts into ‘plain English’ so you can understand it a bit more easily (e.g, ask for definitions). But note: AI can change words and meanings that matter in quoted passages. There is no shortcut for learning!
* AI may help you study. Check out a new tutorial tool: [www.aitutorpro.ca](http://www.aitutorpro.ca) It looks great!
* You **may** (and likely already do) use something like Grammarly to check (proof) your writing.

When doing assignments:

* **Do not trust anything AI gives you**. If it gives you a number or fact, assume it is wrong unless you either know the answer or can check with another source. AI tools can and do fabricate (‘hallucinate’) in their responses.[[10]](#footnote-10)
* When doing assignments, you should read suggested articles before you head to AI to ask it to summarize, as AI will begin to shape your research path and understanding. The key is to try to remain ‘independent’ of what AI produces for you.
* AI may help you **broaden** your understanding of area relevant to your paper but this is only complementary to and not a substitute for researching scholarly sources/articles.[[11]](#footnote-11)
* AI is **not reliable as a research tool for sources**. Some tools like Bing and Perplexity AI, give a list of consulted sources. But, overall, it remains opaque to me how AI tools select/give sources. There is no guarantee that they are the best quality or most on point. They are certainly not comprehensive! For example, Perplexity.ai gives only a few sources for prompts and follow-ups if you are using free access. Even with a paid account and more sources, the opaqueness remains. Use the library (Omni tool) and traditional research methods to locate relevant scholarly sources for you work and ensure that you are using peer-reviewed sources.

### General Requirements on AI use**[[12]](#footnote-12)**

* Your actual, submitted work - or any part of it - **may not** be generated by AI even if you do some editing on the content.
* You are required in this course to include an **Appendix** in all written work which contains an account of your use of AI and also your research process without AI.
* If you want to rely on/build from/present aspects of **answers** as generated from AI you must **verify** by using traditional research methods. You must include a note in any work using AI about how you have done this verification. You are fully responsible for any errors or omissions in your work arising from the use of AI.
* When considering AI responses, you **must** ask the tool you are using for the **sources** it has used and follow-up what it gives you. AI still fabricates completely false citations to non-existent sources. I will likely know the field well enough to raise my eyebrows and catch you out if you put fake stuff into your work.
* You must **assess** the quality and relevance of sources being used by the AI you access. You should make a note in your work about how you have done this.

# DEPARTMENT OF LAW AND LEGAL STUDIES POLICIES AND REGULATIONS

Please review the following webpage to ensure that your practices meet our Department’s expectations, particularly regarding standard departmental protocols and academic integrity requirements: <https://carleton.ca/law/student-experience-resources/>.

## PLAGIARISM

The University Academic Integrity Policy defines plagiarism as “*presenting, whether intentionally or not, the ideas, expression of ideas or work of others as one’s own.”*This includes 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. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, artworks, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, material on the internet and/or conversations.

Examples of plagiarism include, but are not limited to:

* any submission prepared in whole or in part, by someone else, including the unauthorized use of generative AI tools (e.g., ChatGPT);
* using ideas or direct, verbatim quotations, paraphrased material, algorithms, formulae, scientific or mathematical concepts, or ideas without appropriate acknowledgment in any academic assignment;
* using another’s data or research findings without appropriate acknowledgement;
* submitting a computer program developed in whole or in part by someone else, with or without modifications, as one’s own; and
* failing to acknowledge sources through the use of proper citations when using another’s work and/or failing to use quotations marks.

Plagiarism is a serious offence that cannot be resolved directly by the course’s 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.

## STATEMENT ON STUDENT MENTAL HEALTH

As a University student you may experience a range of mental health challenges that significantly impact your academic success and overall well-being. If you need help, please speak to someone. There are numerous resources available both on- and off-campus to support you.

Emergency Resources (on and off campus):

* <https://carleton.ca/health/emergencies-and-crisis/emergency-numbers/>

Carleton Resources:

* Mental Health and Wellbeing: [https://carleton.ca/wellness](https://carleton.ca/wellness/)/
* Health & Counselling Services: <https://carleton.ca/health/>
* Paul Menton Centre: <https://carleton.ca/pmc/>
* Academic Advising Centre (AAC): <https://carleton.ca/academicadvising/>
* Centre for Student Academic Support (CSAS): <https://carleton.ca/csas/>
* Equity & Inclusivity Communities: <https://carleton.ca/equity/>

Off Campus Resources:

* Distress Centre of Ottawa and Region: (613) 238-3311 or TEXT: 343-306-5550, <https://www.dcottawa.on.ca/>
* Mental Health Crisis Service: (613) 722-6914, 1-866-996-0991, <http://www.crisisline.ca/>
* Empower Me: 1-844-741-6389, [https://students.carleton.ca/services/empower-me-counselling-services](https://students.carleton.ca/services/empower-me-counselling-services/)
* Good2Talk: 1-866-925-5454, <https://good2talk.ca/>
* The Walk-In Counselling Clinic: [https://walkincounselling.com](https://walkincounselling.com/)

## ACADEMIC ACCOMMODATIONS

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 about the accommodation policy, visit the [Equity and Inclusive Communities (EIC)](https://carleton.ca/equity/) website.

### 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, please go to: <https://carleton.ca/equity/focus/discrimination-harassment/religious-spiritual-observances/>

### 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. You can find the Paul Menton Centre online at: <https://carleton.ca/pmc/>

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).

Survivors of Sexual Violence

As a community, Carleton University is committed to maintaining a positive learning, working and living environment where sexual violence will not be tolerated, and where survivors are supported through academic accommodations as per Carleton’s Sexual Violence Policy. For more information about the services available at the university and to obtain information about sexual violence and/or support, visit: <https://carleton.ca/equity/sexual-assault-support-services>

### Accommodation for Student Activities

Carleton University recognizes the substantial benefits, both to the individual student and for the university, that result from a student participating in activities beyond the classroom experience. Reasonable accommodation must be provided to students who compete or perform at the national or international level. Please contact your instructor 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. Read more here: <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>.

For more information on academic accommodation, please visit: <https://students.carleton.ca/services/accommodation/>.

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| WINTER 2024 SESSIONAL DATES AND UNIVERSITY CLOSURES | |
| *Please find a full list of important academic dates on the calendar website:* [*https://calendar.carleton.ca/academicyear/*](https://calendar.carleton.ca/academicyear/) | |
| **January 8, 2024** | Winter term begins. |
| **January 19, 2024** | Last day for registration and course changes (including auditing) in full winter and late winter courses. |
| **January 31, 2024** | Last day to withdraw from full winter and the winter portion of fall/winter courses with a full fee adjustment. |
| **February 19, 2024** | Statutory holiday. University closed. |
| **February 19-23, 2024** | Winter break. No classes. |
| **March 15, 2024** | Last day for academic withdrawal from full winter, late winter, and fall/winter courses. |
| **March 27, 2024** | Last day for summative tests or examinations, or formative tests or examinations totaling more than 15% of the final grade, in full winter term or fall/winter undergraduate courses, before the official April final examination period (see examination regulations in the Academic Regulations of the University section of the Undergraduate Calendar/General Regulations of the Graduate Calendar). |
| **March 29, 2024** | Statutory holiday. University closed. |
| **April 10, 2024** | Winter term ends. |
|  | Last day of full winter, late winter and fall/winter term classes. |
|  | Classes follow a Friday schedule (full winter and later winter courses). |
|  | Last day for handing in term work and the last day that can be specified by a course instructor as a due date for term work for full winter term and late winter courses. |
|  | Last day for take home examinations to be assigned. |
| **April 13-25, 2024** | Final examinations in full winter, late winter and fall/winter term courses will be held. Examinations are normally held all seven days of the week. |
| **April 25, 2024** | All final take-home examinations are due on this day, with the exception of those conforming to the examination regulations in the Academic Regulations of the University section of the Undergraduate Calendar/General Regulations of the Graduate Calendar. |

1. Subject to change until finalized as the course begins. [↑](#footnote-ref-1)
2. Joe McIntyre, *The Judicial Function: Fundamental Principles of Contemporary Judging (*Singapore: Springer, 2019) at 295. [↑](#footnote-ref-2)
3. *Ibid* at 5. [↑](#footnote-ref-3)
4. Subject to change until Outline is finalized early in term. [↑](#footnote-ref-4)
5. Written assignments are due by 11.59PM on Brightspace [↑](#footnote-ref-5)
6. Subject to change. I am still working on the order of topics based on availability of some guests. [↑](#footnote-ref-6)
7. Due 11.59PM, submitted on Brightspace. [↑](#footnote-ref-7)
8. Student presentations. First Judicial Profiles before and after Reading Week); second series: Court or Judicial Issues (after Reading Week). [↑](#footnote-ref-8)
9. # See “ChatGPT is the push higher education needs to rethink assessment”, The Conversation, March 23, 2023, online at [ChatGPT Is The Push Higher Education Needs To Rethink Assessment - Stuff South Africa](https://stuff.co.za/2023/03/13/chatgpt-is-the-push-higher-education-needs/#:~:text=We%20believe%20ChatGPT%20could%20be%20a%20powerful%20impetus,intelligence%20tools%20like%20chatbots%20in%20the%20world%20today.).

   [↑](#footnote-ref-9)
10. An example: in response to an enquiry, directed to Perplexity on Canadian instances of supported decision-making, it informed me that there was a “2018 consensus” on the point. There was no such consensus! [↑](#footnote-ref-10)
11. E.g., Law Databases through Carleton Library and OMNI search tool. Google Scholar. See Law Research Guide at [Law | MacOdrum Library (carleton.ca)](https://library.carleton.ca/guides/subject/law). [↑](#footnote-ref-11)
12. These comments in the Outline apply to all submitted work in the course. Additional requirements related to AI may be specified in Assignments. [↑](#footnote-ref-12)