

Course Outline

COURSE: LAWS 2908D– Methodological Approaches in Legal Studies 1

TERM: Winter 2023

PREREQUISITES: LAWS 1001 and LAWS 1002

CLASS: **Day & Time:** Thursdays 18:05 – 19:25 PM
Room: Please check Carleton Central for current Class Schedule.

INSTRUCTOR: Collin Fletcher

CONTACT: **Office:** Zoom
Office Hrs: *By Appointment*
Telephone: 613-806-3293
Email: Collin.fletcher@carleton.ca

CALENDAR COURSE DESCRIPTION

Introduction to the legal research process and analysis of legal methodology; finding and analyzing primary and secondary legal sources. Students are strongly encouraged to take this course in the second year of their program.

COURSE DESCRIPTION

The Law Program at the Department of Law and Legal Studies at Carleton University is uniquely situated to provide students with a blend of academic theory regarding the study of law and the practical day-to-day practice of law. LAWS 2908D's intent is to be broad in scope and to give students a significant understanding of the theory of legal research and analysis, but also of the practical research and analysis skills that will help students understand the practice of law. The intent of the course is to demonstrate the multi-faceted nature of the law and the various different roles individuals can play in it - the legal system is diverse and multi-faceted and so are the actors within the system.

The intent of this course is to develop and refine students' legal research and analysis skills in a number of different contexts. As such, there will be three assignments throughout the semester that will work on the skills developed during the lectures and tutorials. The first will be a research proposal and annotated bibliography. The second will be a video-recorded case

presentation. The third will be the drafting of a brief legal factum. Each of these is three distinct tasks that legal academics, lawyers, paralegals, law clerks, etc. all will utilize in their day-to-day professional lives. Students will additionally have a 10% attendance and participation grade. The culmination of the course is a 30% take-home exam. The take-home exam will be a culmination of the skills and theories learned throughout the semester, tasking students with preparing an assignment that will draw on all the tutorials. Students will also have the opportunity to understand how and in what contexts they can utilize their legal research and analysis skills.

REQUIRED TEXTS

1. McGill Law Journal, Canadian Guide to Uniform Legal Citation, 9th ed (Toronto, Ontario: Thomson Reuters, 2018) [The McGill Guide]. The McGill Legal Guide is the predominately used legal citation method in Canada. The text is an essential reference for anyone conducting research concerning legal issues. You will use it as a resource in other courses as you progress in the law program. Several copies will be available in the University Bookstore.
2. Other required readings will include articles and cases. These will be available through a link on the Brightspace home page

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.

Evaluation Summary

- Attendance & Participation - 10% - ongoing
- Assignment #1 Research Proposal and Annotated Bibliography - 20% - February 3, 2023
- Assignment #2 Video Recorded Case Presentation - 20% - March 3, 2023
- Assignment #3 Legal Factum - 20% - April 3, 2023
- Final Exam – Take Home Exam - 30% - during regularly scheduled exam

Attendance & Participation

Students will be expected to attend every class. In addition to the student's attendance, the students are expected to read the required readings and discussion pieces in advance of the class. The expectation of students will be that when you attend class, you are prepared to identify and discuss the issues from these pieces. 5% of the grade will be for attendance and 5%

of the grade will be for active participation in and out of the class.

As participation is encouraged in this class, a flawless understanding of the text and materials is not required. A student's uncertainty on the subjects being discussed can itself be used to develop discussion in the class. Open-ended or probing questions are just as valid a form of participation as analysis.

Attendance will be taken in every class. Perfect attendance is not required. It is fine if a student misses several classes during the semester due to personal issues. If students are going to miss several classes, they should communicate with the professor in advance of these absences to discuss how to make up for their attendance and participation.

Participation is about constructive dialogue **inside and outside** of the classroom. Students' participation in the classroom will include answering and asking questions, sharing their own thoughts and critiques on subject matters, and relating the course material to their own experiences and lives. This is the primary way students will engage with the course. Students who do not feel comfortable engaging in participation in the classroom may engage outside of the classroom as well. Students may send me their own questions and critiques that they may not feel comfortable presenting to the class themselves by email. Students may also send additional readings and articles to me so I can distribute them amongst the class. Students may also make use of the professor's office hours to discuss subjects with the professor that can be brought up for future discussion. These instances of engaging outside of the confines of the classroom are just as valid forms of participation as those taking part in the classroom.

A necessary skill that students must obtain during their undergraduate degree is their oral advocacy skills. Students are encouraged to take risks and push themselves academically to speak in class.

The participation grade will be used to assess the quality of the student's engagement with the class. The quantity of discussion does not necessarily equate with the quality of discussion. A student who responds often to questions but fails to participate in a manner that creates discussion will not be graded as high as a student who participates less frequently but who consistently constructs a productive dialogue in the classroom.

Some of the topics that will be discussed are considered controversial and members of the class may have strongly held differences of opinion. This is the basis for a very robust discussion in the classroom. All discussions, however, should be respectful of others, of differently held views, and of the classroom space. The use of offensive terminology or personal attacks will not be tolerated in the classroom and will result in a reduced participation grade.

Assignment #1 Research Proposal and Annotated Bibliography (Due February 3, 2023)

Students will be required to submit a Course Paper and annotated bibliography.

The Course Paper will be on the subject of the student's choosing as it relates to any legal topic they wish to write about. Students are not required to get pre-approval for their research proposal and annotated bibliography. Students are encouraged to think creatively and outside the box. In past years, the students who have refined and interesting thesis statements often succeed. The Course Paper and Annotated bibliography will test your ability to craft persuasive, interesting, and thought-provoking legal, and academic writing.

The Course Paper proposal will consist of 20% of your final grade and is due on **February 3, 2023**. The proposal cannot exceed five pages, double-spaced, with a 12-sized Times New Roman font. The student is required to provide, at a bare minimum: a) the topic, b) the research question, c) the working thesis of your paper, d) proposed arguments in support of your thesis, and e) an annotated bibliography with at least 5 sources that you are planning to use for your paper. The annotated bibliography must provide a brief summary of the source and how it would be deployed in a final paper. Students will be expected to sufficiently explain their thesis, arguments, and purpose of the paper. Students will be assessed on their understanding of the topic in question, their engagement with the subject matter proposed, and their ability to briefly explain their proposed paper to the professor.

Assignment #2 Video Recorded Case Presentation (Due: March 3, 2023)

Students will be expected to provide an oral presentation on a case of their choice. Students are not required to pre-approve the case they will be presenting.

The presentation will be limited to 5 minutes or less. If a student exceeds the 5 minutes allotted, they will be docked one point out of the full twenty for every 30 seconds they go over. Students will be expected to pre-record their video and submit it on Brightspace. If students are unable to pre-record their video and submit it on Brightspace, they may schedule a time to give their presentation on a Zoom call. In the event that a student is unable to record their case presentation or present it on Zoom, alternative arrangements can be sought with the professor.

If a student is unable to either pre-record their presentation or present it on Zoom, they will be expected to communicate to their professor as early as possible. Students will be assessed on their presentation skills (10 points), the content of their summary (5 points), and the organization of their presentation (5 points). Students will be required to explain a) the facts of their case, b) the legal issues, c) the rules, d) the application of the rules, and e) the legal significance of the legal decision presented.

Assignment #3 Legal Factum - 20% (Due April 3, 2023)

Students will be required to submit an 8-page factum. Three weeks prior to the assignment is due, students will receive a fact pattern that will span approximately 2 pages. Students will be tasked with answering a question about an area of law. Students will be responsible for identifying the appropriate pieces of legislation. Students will also be asked to task with completing legal research to provide a justification for their conclusion.

Final Exam – Take Home Exam

There will be a take-home examination that takes place during the regularly scheduled examination period. The final examination will be based on the required texts, in-class lectures and discussions, and any further materials distributed throughout the semester. There will be a final exam review class scheduled for the final lecture.

LATE PENALTIES AND REQUESTS FOR EXTENSIONS

A deferred examination or essay assignment, following the same format, may be written upon application to/approval from the Registrar's Office.

Exams are not returned but may be reviewed with me upon request.

Essays will be returned during the exam schedule.

The Assignments (course paper proposal and the course paper) will be marked down one-half letter grade (eg. B to B-) for each day submitted after the due date without an authorized extension from me, subject to the discretion of the professor. Essays must be typed or word-processed and submitted by email. Handwritten papers, computer files, or email attachments will not be accepted. Please retain a photocopy or a secure file copy of the submitted essay. Essays will be submitted by way of an email. All assignments must be original. Prior approval of the instructor must be obtained if it is intended to submit work that has previously or concurrently been submitted for credit in this or another course. Please make careful note of regulations concerning academic integrity referred to above and related instructional offenses as described in the Undergraduate Calendar.

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 extensions lasting less than 7 days, 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>.

Extensions for longer than 7 days will normally not be granted. In those extraordinary cases where extensions lasting longer than 7 days are granted, the student will be required to provide additional information to justify the longer extension (up to a maximum of 14 days).

SCHEDULE

- **JANUARY 12 - INTRODUCTION & HOW AND WHY DO WE WRITE ABOUT THE LAW?**
 - J.E. Côte and D.J. MacGregor, Practical Legal Research
 - Joanne Struch, Tensions in a Class Space: An Exploration of the Academic Writing Class as a Site of Cognitive (In)justices

- **JANUARY 19 -EFFECTIVE LEGAL ACADEMIC RESEARCH & WRITING**
 - Daphne Barak-Erez, Writing Law: Reflections on Judicial Decisions and Academic Scholarship
 - University of Alberta Library, McGill Citation Style QuickGuide
 - The Right Honourable Beverley McLachlin, Legal Writing: Some Tools

- **JANUARY 26 -SECONDARY SOURCES, THE MEDIA, THE LAW**
 - Bora Laskin Law Library, Legal Research for the Public Researcher
 - Lauren Chancellor, Public Contempt and Compassion: Media Biases and Their Effect on Juror Impartiality and Wrongful Convictions
 - Anne Kingston, Jian Ghomeshi: How he got away with it

- **FEBRUARY 2 - HOW TO READ LEGISLATION**
 - Bora Laskin Law Library, Primary Sources of Law: Canadian Legislation
 - Government of Canada, Guide to fostering the readability of legislative texts
 - *Federal Child Support Guidelines*, SOR/97-175

- **FEBRUARY 9 - HOW TO READ CASES**
 - Bora Laskin Law Library, Noting Up - Cases
 - Bora Laskin Law Library, Primary Sources of Law: Canadian Case Law
 - *Crocker v. Sundance Northwest Resorts Ltd.*, [1988] 1 SCR, [1988] SCJ No 60 (QL)

- **FEBRUARY 16 - READING CASES AND LEGISLATION IN TANDEM – THE JOB OF A LAWYER**
 - *R v. Oakes*, [1986] 1 SCR 103, [1986] SCJ No 7 (QL)

- A Lawyer's Duty to the Court, Robert Cell and Caroline Abela
- A Lawyer's Duty to Ensure Access to Justice, William McDowell and Usman M. Sheikh
- **FEBRUARY 23 - FAMILY DAY/READING BREAK NO CLASSES**
- **MARCH 2 - PLEADINGS & RULES OF CIVIL PROCEDURE**
 - *Dhieux v. Potter*, 2013 ONSC 7881
 - *Olenga v. British Columbia*, 2015 BCSC 1050
 - *Childs v. Desormeaux*, 2006 SCC 18 (CanLII), [2006] 1 SCR 643
 - A Lawyer's Guide to Powerful Pleadings, Graham Smith
 - Family Law Court Application
 - Yatim Statement of Claim
- **MARCH 9 - MOTIONS & TRIALS – HOW DO JUDGES MAKE DECISIONS?**
 - 4 Rules for Writing a Great Factum, Carolyn Leach
 - *Schuiteboer v. Carleton University*, 2022 ONSC 1009
 - *Schuiteboer v. Carleton University*, 2021 ONSC 4233
 - *Rifai v. Green*, 2014 ONSC 1377
 - *Fernandes v. Carleton University and BCE Inc.*, 2015 ONSC 5319
- **MARCH 16 - LEGAL RESEARCH AND ANALYSIS FROM OTHER PERSPECTIVES**
 - *Law Society of Ontario v. Zareian Jahromi*, 2020 ONLSTH 136
 - *Sirota v. Sirota*, 2019 ONSC 3188
 - Lawyers' Monopoly? Think Again: The Reality of Non-Lawyer Legal Service Provision in Canada, Lisa Trabucco
 - Law Clerk Program Standard, Ministry of Training, Colleges and Universities
- **MARCH 23 - DRAFTING FROM OTHER PERSPECTIVES**
 - *Hemingway v. Desire2Learn Incorporated*, 2008 CanLII 47476 (ON SC)
 - *McGrath v. Joy*, 2020 ONSC 745
 - *Best v. Canada (Citizenship and Immigration)*, 2014 FC 214 (CanLII)
- **MARCH 30 - ALTERNATIVE DISPUTE RESOLUTION PROCESSES, MCGILL WRAP-UP & CONTINUED EDUCATION & PROFESSIONAL TRAINING**
 - H.W. Arthurs, The Future of Law School: Three Visions and a Prediction
 - A Negotiating Ethics Study, Marjorie L. Benson
 - Arbitration in Ontario - A Primer, Milton A. Davis
- **APRIL 6 - WRAP-UP CLASS**

Winter 2023 Sessional Dates and University Closures	
<i>Please find a full list of important academic dates on the calendar website:</i> https://calendar.carleton.ca/academicyear/	
January 9, 2023	Winter term begins.
January 20, 2023	Last day for registration and course changes (including auditing) in full winter and late winter courses.
February 20, 2023	Statutory holiday. University closed.
February 20-24, 2023	Winter break. No classes.
March 15, 2023	Last day for academic withdrawal from full winter, late winter, and fall/winter courses.
April 7, 2023	Statutory holiday. University closed.
April 12, 2023	Winter term ends. Last day of full winter, late winter, and fall/winter classes.
April 15-27, 2023	Final examinations in full winter, late winter, and fall/winter courses will be held. Examinations are normally held all seven days of the week.
April 27, 2023	All final take-home examinations are due on this day.

University and Departmental Policies

DEPARTMENT 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

Plagiarism is presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own. Plagiarism 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, art works, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, and material on the Internet. Plagiarism is a serious offence. More information on the University's Academic Integrity Policy can be found at: <https://carleton.ca/registrar/academic-integrity/>.

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 accommodation regarding a formally-scheduled final exam, you must complete the [Pregnancy Accommodation Form](#).

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 [click here](#).

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 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).

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/>