

## Course Outline

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<b>COURSE:</b>	<b>LAWS 3006 A– Mediation</b>
<b>TERM:</b>	<b>Fall 2021</b>
<b>PREREQUISITES:</b>	<b>LAWS 1001 and LAWS 1002 and (1.0) credit in LAWS at the 2000 level or 0.5 credit in LAWS at the 2000 level and BUSI 2601</b>
<b>CLASS:</b>	<b>Day &amp; Time: Thursday from 6:05PM until 8:55PM</b>
	<b>Room: In person. Please check Carleton Central for current Class Schedule.</b>
<b>INSTRUCTOR:</b>	Collin Fletcher
<b>CONTACT:</b>	<b>Office: Zoom</b>
	<b>Office Hrs: Monday from 12:00 to 1:00PM and Wednesday from 6 until 7PM.</b>
	<b>Telephone: 613-806-3293</b>
	<b>Email: Collin.fletcher@carleton.ca</b>

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### CALENDAR COURSE DESCRIPTION

Theory and practice of mediation; historical roots and influences; contrasts with formal litigation and other dispute resolution processes; issues of social and legal control; critiques, including feminist, Marxist and critical race theory; issues of power, gender, race and class; application to contemporary issues and disputes.

### COURSE DESCRIPTION

Mediation is a multidisciplinary area of study. One could learn about mediation in a gender studies, business and psychology course. In this course, we will examine the subject of mediation in the context of the law. Mediation as an alternative to our traditional court has gained popularity and attention in the last several decades. Mediation, like many forms of alternative dispute resolution, has the potential to transform our views on justice and how our legal system operates. This course will examine the history of conflict and the legal system and the factors that led to the rise of mediation and alternative dispute resolution. The course will also examine the mediation process from a number of different perspectives, looking at important issues such as emotion and justice, culture and diversity and the roles of the parties,

the lawyer and the mediator in a legal mediation. While this course will present a positive view of mediation and the potential it presents to the Canadian legal system, we will examine the limitations and flaws of mediation. Who stands to benefit from justice becoming privatized?

The class strives to blend together theoretical concepts and ideas, along with the practical understanding of what a mediation of a legal issue involves. The course format is seminar style, with a heavy emphasis on class discussions and students' participation based on your readings of the papers and the academic views being discussed. You are expected to participate actively in class discussions. The professor will call on students during the class for their input - whether it is to respond to a question posed, offer critiques on a position put forward or to put forth their own topics for discussion. Students should attend class prepared for each class, as the professor will call students on students to answer questions.

### **REQUIRED TEXTS**

Readings will be placed on Brightspace or links will be provided in the course outline. Some sources may be accessed through the Carleton library website.

### **EVALUATION**

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

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.

1. Attendance and Participation (20%) - Ongoing
2. Course Paper Proposal (10%) – October 14, 2021
3. Course Paper (30%) – December 2, 2021
4. Final Examination (40%) – Take Home Examination

All assignments must be typed or word-processed and submitted by email on the date specified in the syllabus. Assignments will not be accepted by email. Always retain a copy of the submitted work. In the event of loss, theft, destruction, dispute over authorship, or any other eventuality, it will be your responsibility to provide a copy of your work. Keeping earlier drafts of your work and other materials is strongly encouraged.

### **Attendance & Participation (20%)**

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. 10% of the grade will be for attendance and 10% 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 every class. A perfect attendance is not required. It is fine if a student misses one class during the semester due to personal issues.

Participation is about a 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 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. Quantity of discussion does not necessarily mean 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 highly 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 discussion, 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.

### **Course Paper Proposal (10%) & Course Paper (30%)**

Students will be required to submit a Course Paper and a proposal for that paper.

The Course Paper will be on the subject of the student's choosing as it relates to Mediation. Students may write on any of the subjects covered in the readings and lectures OR may research a topic not covered during the lectures. Students may change their topic after receiving feedback from the course paper proposal. Students are encouraged to think creatively and outside the box. In past years, the students who have a refined and interest thesis statement often succeed.

The Course Paper proposal will consist of 10% of your final grade and is due on **October 14, 2021**. The proposal cannot exceed two pages, double spaced, with a 12-sized Time News Roman font. The student is required to provide, at 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) a proposed bibliography with at least 5 sources that you are planning to use for your 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. Students will receive constructive feedback on their proposals to assist them in the writing of their Course Paper.

The Course Paper will consist of 30% of your final grade and will be due on **December 2<sup>nd</sup>, 2021**. The Course Paper cannot exceed fifteen pages, double spaced with a 12-sized Time News Roman font. There is no minimum page requirement for the Course Paper. The Course Paper will be assessed for the student's: 1) understanding of subject matter, 2) the strength of their argument, 3) the organization and coherence of the essay and its arguments, 4) the writing style (spelling, grammar, and sentence structure) used in the paper, and 5) the quantity and quality of the bibliography.

### **Final Examination**

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 discussion 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**

**All components must be completed in order to get a passing grade--Failure to complete any portion of the required course assessment will result in a final grade of F.**

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.

Late assignments will be marked down one-half letter grade (eg. B to B-) for each day submitted after the due date without 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 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 offences 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**

1. **SEPTEMBER 9 - INTRODUCTION**
2. **SEPTEMBER 16 - CONFLICT, LITIGATION & THE RISE OF MEDIATION**
3. **SEPTEMBER 23 - NEGOTIATION, NEGOTIATION THEORY & TYPES OF NEGOTIATIONS**
4. **SEPTEMBER 30 – WHAT IS MEDIATION?**
5. **OCTOBER 7 - EMOTION, JUSTICE AND MEDIATION**
6. **OCTOBER 14 - THE PARTIES, THE LAWYER'S & THE MEDIATOR'S ROLE IN MEDIATION – PAPER PROPOSAL DUE**
7. **OCTOBER 21 – DIVERSITY AND POWER IMBALANCES IN MEDIATION**
8. **OCTOBER 28 - READING BREAK NO REGULARLY SCHEDULED CLASSES**
9. **NOVEMBER 4 - LABOUR DISPUTES/EMPLOYMENT LITIGATION AND MEDIATION**
10. **NOVEMBER 11 - CIVIL LITIGATION & MEDIATION**

11. NOVEMBER 18 - FAMILY LAW & MEDIATION
  12. NOVEMBER 24 - CHILD PROTECTION MEDIATIONS
  13. DECEMBER 2 - RESTORATIVE JUSTICE MEDIATION – FINAL PAPER DUE
  14. DECEMBER 9 – EXAM REVIEW
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### **COVID-19 PREVENTION MEASURES**

All members of the Carleton community are required to follow COVID-19 prevention measures and all mandatory public health requirements (e.g. wearing a mask, physical distancing, hand hygiene, respiratory and cough etiquette) and [mandatory self-screening](#) prior to coming to campus daily.

If you feel ill or exhibit COVID-19 symptoms while on campus or in class, please leave campus immediately, self-isolate, and complete the mandatory [symptom reporting tool](#). For purposes of contact tracing, attendance will be taken in all classes and labs. Participants can check in using posted QR codes through the cuScreen platform where provided. Students who do not have a smartphone will be required to complete a paper process as indicated on the [COVID-19 website](#).

All members of the Carleton community are required to follow guidelines regarding safe movement and seating on campus (e.g. directional arrows, designated entrances and exits, designated seats that maintain physical distancing). In order to avoid congestion, allow all previous occupants to fully vacate a classroom before entering. No food or drinks are permitted in any classrooms or labs.

For the most recent information about Carleton's COVID-19 response and required measures, please see the [University's COVID-19 webpage](#) and review the [Frequently Asked Questions \(FAQs\)](#). Should you have additional questions after reviewing, please contact [covidinfo@carleton.ca](mailto:covidinfo@carleton.ca)

Please note that failure to comply with University policies and mandatory public health requirements, and endangering the safety of others are considered misconduct under the [Student Rights and Responsibilities Policy](#). Failure to comply with Carleton's COVID-19 procedures may lead to supplementary action involving Campus Safety and/or Student Affairs.

### **ACADEMIC ACCOMMODATIONS**

#### **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 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](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).

### **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 will be provided to students who compete or perform at the national or international level. 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: <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>

### **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/>.

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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/>.

### **Department Policy**

The Department of Law and Legal Studies operates in association with certain policies and procedures. Please review these documents to ensure that your practices meet our Department's expectations: <https://carleton.ca/law/student-experience-resources/>.