

Course Outline

COURSE:	LAWS 4402A – Employment Dispute Resolution
TERM:	WINTER 2022
PREREQUISITES:	LAWS Fourth Year Honours standing and LAWS 2908, 0.5 credit from LAWS 3006, LAWS 3401, LAWS 3405
CLASS:	Day & Time: Fridays 8:35am-11:25pm (3hrs) Room: Tory Building, Room 447
INSTRUCTOR:	Dr Ania Zbyszewska
CONTACT:	Office: Loeb C475 Office Hrs: Fridays 12-1pm (office) or by appointment (zoom) Email: ania.zbyszewska@carleton.ca

CALENDAR COURSE DESCRIPTION

Theory and practice of dispute resolution in employment relations; analysis of such techniques as negotiation, grievance and interest arbitration, mediation, investigation and litigation applied to a range of employment disputes such as collective agreements, termination of employment, discrimination, harassment and occupational health and safety.

COURSE DESCRIPTION

Employment is a social, economic and legal institution in which workers are subordinated to the will of employers, who seek to transform the labour power of workers into useful products and services in order to generate profits. The relationship is extremely important to workers, providing not only economic benefits, but also fulfilling social and psychological needs. It is also a place with significant potential for conflict, whether it is over the terms and conditions of the employment relationship, the exercise of managerial power, interpersonal conflicts among workers or conflicts with outsiders such as customers or suppliers of goods and services to the employer. The resolution of these conflicts is of vital interest to workers, to employers and to the public interest. This course will explore a variety of themes related to workplace conflict, both on an individual and collective level. It will examine how we understand conflict, how we bargain to resolve it, and how we try to reduce some of the worst consequences of conflict. We will look at how individual and collective grievances are resolved, some of the problems with collective bargaining, the use of grievance arbitration, and the channeling of disputes through statutory tribunals. Several approaches are used as we study these issues including extensive reviews of research literature on employment dispute resolution and the use of simulations to help us understand the complexity of workplace conflict.

REQUIRED TEXTS

Roger Fisher, William L. Ury, Bruce Patton, *Getting to Yes* (Available in print and digital formats on the Carleton University Bookstore website, and on most online platforms where books can be purchased).

Other essential weekly readings and materials (with links) will be posted on Brightspace.

DELIVERY AND APPROACH

This is a seminar style course in which students take significant responsibility for the learning environment. The course is delivered through **in person** weekly sessions held during the designated time (Fridays, starting at 8:35am), and attendance in these sessions is mandatory. If you cannot attend on a regular basis, this may not be a course that is appropriate for you at this time. You will be expected to prepare in advance for class, actively engage in discussions, and fully participate in group work and simulations which will take place during our sessions. While some class time will be allocated to preparation for simulations, you will be also expected to spend time outside of class hours – alone or with your groups - to prepare.

As an instructor, I will play the role of facilitator, setting out some learning goals and helping you through structured questions and occasionally filling in gaps. You, in turn, are expected to read assigned material *before* coming to class, so that you can fully engage in the discussion on each week's materials. Part of the learning strategy in this course relies on experiential learning/simulations-type group exercises, and a key part of your learning will be through your reflection on what is happening in class, and relating the class discussions and simulations to assigned readings. Everyone is expected to participate on a regular basis, and attendance in synchronous sessions is very important. Only by participation in class discussions combined with advanced preparation can you expect to obtain full benefits from the course, and successfully complete your assignments.

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.

Participation 15%

Presentation (Group Work and Evaluation) 10%

Bargaining Simulation (Group Work; Individual Evaluation) 20%

Arbitration Simulation (Group Work and Evaluation) 20%

Evaluation of Dispute Resolution Process (Individual Work and Evaluation) 35%

Participation

(Throughout the term)

The participation grade will be based on a combination of attendance and active contribution to classroom activities, including classroom discussion and sharing your reflections on readings in the online class forum (on Brightspace). You are asked to post to the class Brightspace forum at least four times during the term, by 5pm on Thursday (prior to our Friday session). Your forum post should engage with a selected reading/article; it should briefly set out: 1) two key points from the reading and 2) a question for class discussion (200-250 words).

Presentations

(In class, during session 3, January 28)

The group presentations will relate to key ideas about bargaining arising from your reading of *Getting to Yes*. These presentations will be made in class/online. Please note that these presentations come very early in term, and you will have to read *Getting to Yes* (or at the very least the chapters that your group is responsible for) within the first two weeks of term.

Bargaining Simulation

(In class, February 4; Critique/Reflection Due February 11, Brightspace)

In class bargaining simulation in groups on February 5; each student must subsequently submit a **1500-word** critique of the bargaining process drawing on *Getting to Yes*, and other scholarly and professional literature about bargaining and on your own reflections based on the bargaining simulation. As part of the critique/reflection, you will be expected to provide a brief description of the challenges posed by the bargaining, and how you met them. It is important to comment on how the principles espoused in *Getting to Yes* and in other literature may have helped or hindered you in the bargaining process. Although you have worked as part of a group for the simulation, the assessment for this component of the course is based on your individual submission of the critique/reflection.

Arbitration Simulation

(In class, group presentation, either March 11 or March 18; submission of written briefs one week after in class simulation, so on March 18 or March 25, Brightspace.)

Groups assigned to present an arbitration simulation acting either as representative of union, employer or playing the role of arbitration panel. Groups must submit written briefs or final decisions as appropriate. More details will be provided once term begins.

Evaluation of Particular Dispute Resolution Processes

(Due April 12)

A study of specific dispute resolution processes used by an actual employer or statutory tribunal; you must describe and, more importantly, *evaluate* these particular processes used in a Canadian workplace or used by a Canadian statutory tribunal to resolve workplace related disputes. You are

required to present the analysis in a traditional **written essay of about 3000 words**, due on the last day of term, **April 12 (submission to Brightspace)**. More details will be provided once term begins.

LATENESS POLICY AND REQUESTS FOR EXTENSIONS

Unless you obtain an extension, all late assignments will be subject to a late penalty of 5% per each day after the deadline. 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).

WEEKLY SCHEDULE

Session 1/ January 14	Introduction
Session 2/ January 21	Approaches to Bargaining
Session 3 /January 28	Bargaining to Resolve Conflict (group presentations)
Session 4/ February 4	Collective Bargaining Stimulation (group exercise)
Session 5/February 11	Critiques of Bargaining
Session 6/ February 18	Collective Agreement Arbitration I
<i>Week of Feb 22</i>	<i>No Class/Reading Break</i>
Session 7/ March 4	Collective Agreement Arbitration II
Session 8/ March 11	Arbitration Simulation (group exercise)
Session 9/ March 18	Arbitration Simulation (group exercise)
Session 10/ March 25	Conceptualizing Conflicts
Session 11/ April 1	Designing Dispute Resolution Systems for Organizations
Session 12/April 8	Alternative Dispute Resolution

University and Departmental Policies

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/>.

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/>.

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

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

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 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>

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