

Course Outline

COURSE:	LAWS 4801 - B
TERM:	Fall 2022
PREREQUISITES:	LAWS 2908 or PAPM 3000 and Fourth-Year Honours standing
CLASS:	Day & Time: Wednesday from 6:05PM until 8:55PM Room: Southam Hall 313 <i>This course will be offered in person.</i>
INSTRUCTOR:	Collin Fletcher
CONTACT:	Office: Zoom Office Hrs: By appointment Telephone: 613-806-3293 Email: collin.fletcher@carleton.ca

CALENDAR COURSE DESCRIPTION

Application of risk assessment and management in various legal arenas including insurance, liability and tort, litigation management, environmental protection, and sentencing and parole.

COURSE DESCRIPTION

Every party to a legal dispute is constantly analyzing and assessing the risk of their case. Whether they proceed to court, try to negotiate a settlement or opt not to move forward with their legal claim, the concept of risk informs each and every decision the parties make.

The course shall be an in-depth analysis into the risks associated with a variety of legal processes, including our traditional litigation system, alternative dispute resolution processes, administrative tribunals. We will analyze the concept of risk from a number of legal actors - the parties themselves, the lawyers who represent them and those who exist to facilitate an outcome (judges, mediators, and arbitrators). Lastly, we will view risk through the lens of multiple areas of law. What is at risk when we are sentencing criminals? How do we assess the risks in taking a complex and catastrophic motor vehicle accident to a trial? What should the parties to a mediation and arbitration understand about the risk in the process before they sign their mediation or arbitration agreements?

The legal system can be about principles of equity and justice. However, our legal system can also be a statement about the nature of the society we live in. Why do we punish certain types of behavior more harshly and why are we less lenient with other types of behavior?

REQUIRED TEXTS

All course readings will be accessible on CanLii or from other journal articles that will be linked on Brightspace.

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.

1. **Attendance & Participation (10%) - Ongoing**
2. **Case Presentation (20%) - Due October 26, 2022**
3. **Course Paper (40%) - Due November 30, 2022**
4. **Final Examination (30%) - Take Home Exam**

All components must be successfully completed in order to get a passing grade

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 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 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. Quantity of discussion does not necessarily mean 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.

Case Presentation (20%) - Due October 26, 2022

Students will be expected to provide an oral presentation on a case of their choice that deals with the subject of risk. The presentation will be limited to 5 minutes or less. 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. Students will be assessed on their presentation skills, the content of their summary and their ability to succinctly condense their case in 5 minutes. 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.

Course Paper (40%) -Due on November 30, 2022

Students will be required to submit a Course Paper.

The Course Paper will be on the subject of the student's choosing as it relates to Risk and the Legal Process. 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 are encouraged to think creatively and outside the box. In past years, the students who have a refined and interesting thesis statement often succeed.

During class, the students will discuss their essay topics and what they are proposing to write about. Students are encouraged to work collaboratively to assist each other in refining their written work. There will be no formal essay proposal, but students are encouraged to speak with the professor and other students in the course about what their essay is about.

The Course Paper cannot exceed twenty 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, sentence structure) used in the paper, and 5) the quantity and quality of the bibliography.

Final Exam (30%) – Take Home Exam

This final examination will be an open book examination with three long form essay questions. Students will be permitted to use their notes and the readings in their essays. No research outside of the readings, lectures and our class discussion is required for the final examination. The final examination will solely be based on the required texts, in-class lectures and discussion and any further materials distributed throughout the semester. The questions on the final examination will be taken from the in-class discussions held. There will be a final exam review class scheduled for the final lecture. Students will have the entirety of the exam period to finish this exam. Students will be required to email their professor their final exam when completed.

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

- SEPTEMBER 7 - Introduction to the Course
- SEPTEMBER 14 - The Concept of Risk in the Legal Process
- SEPTEMBER 21 - Risks in Litigation
- SEPTEMBER 28 - Risks in Mediation and the Negotiation of a Settlement
- OCTOBER 5 - Risks in Arbitration & Administrative Tribunal Processes
- OCTOBER 12 - Sentencing and Risk of Reoffending
- OCTOBER 19 - The Risk Associated with Terminating an Employee
- OCTOBER 26 - Reading Break no class
- NOVEMBER 2 - Tort Liability and the Voluntary Assumption of Risk
- NOVEMBER 9 - Child Protection and Risks to a Child
- NOVEMBER 16 - Professional Liability and Risk
- NOVEMBER 23 - Informed Consent and Advising on Risk
- NOVEMBER 30 - Mitigating Risks to Public Security
- DECEMBER 7 - Wrap Up Class

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/>.

COVID Update

It is important to remember that COVID is still present in Ottawa. The situation can change at any time and the risks of new variants and outbreaks are very real. There are [a number of actions you can take](#) to lower your risk and the risk you pose to those around you including being vaccinated, wearing a mask, staying home when you're sick, washing your hands and maintaining proper respiratory and cough etiquette.

Feeling sick? Remaining vigilant and not attending work or school when sick or with symptoms is critically important. If you feel ill or exhibit COVID-19 symptoms do not come to class or campus. If you feel ill or exhibit symptoms while on campus or in class, please leave campus immediately. In all situations, you must follow Carleton's [symptom reporting protocols](#).

Masks: Carleton has paused the [COVID-19 Mask Policy](#), but continues to strongly recommend masking when indoors, particularly if physical distancing cannot be maintained. It may become necessary to quickly reinstate the mask requirement if pandemic circumstances were to change.

Vaccines: Further, while proof of vaccination is no longer required as of May 1 to attend campus or in-person activity, it may become necessary for the University to bring back proof of vaccination requirements on short notice if the situation and public health advice changes. Students are strongly encouraged to get a full course of vaccination, including booster doses as soon as they are eligible, and submit their booster dose information in [cuScreen](#) as soon as possible. Please note that Carleton cannot guarantee that it will be able to offer virtual or hybrid learning options for those who are unable to attend the campus.

All members of the Carleton community are required to follow requirements and guidelines regarding health and safety which may change from time to time. For the most recent information about Carleton's COVID-19 response and health and safety requirements please see the [University's COVID-19 website](#) and review the [Frequently Asked Questions \(FAQs\)](#). Should you have additional questions after reviewing, please contact covidinfo@carleton.ca.