

**DEPARTMENT OF LAW AND LEGAL STUDIES**

**Winter 2023**

Professor Brettel Dawson

**FINAL COURSE OUTLINE<sup>1</sup>**

As of January 16, 2023.

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<b>COURSE:</b>	<b>LAWS 4903C Special Topic Judges and Courts</b>
<b>TERM:</b>	CRN 13667 <b>Winter 2023</b>
<b>PREREQUISITES:</b>	Fourth year standing
<b>CLASS:</b>	<b>Delivery Mode</b> <b>IN PERSON</b>
<b>Day &amp; Time</b>	Class time: Wednesdays: 11.35AM -2.25PM Location: <b>SA 409</b>  First Class: January 11, 2023 Last Class: April 12, 2023 No Class (Reading Week): February 22, 2023  Note: Some sessions may include video content to be viewed ahead of seminar. Some guests may join class by zoom.
<b>INSTRUCTOR:</b>	<b>Professor T Brettel Dawson Loeb D587</b>
<b>CONTACT:</b>	<b>Office Hrs</b> Online Tuesday 9.30AM – 10.30AM  <b>Telephone:</b> n/a <b>Email:</b> <a href="mailto:Brettel.dawson@carleton.ca">Brettel.dawson@carleton.ca</a> I will normally reply within 24 hours on weekdays.

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**COURSE DESCRIPTION**

Courts are 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.”<sup>2</sup> In turn, judges are an “unmistakable symbol of our legal system.” What is it that do courts do?<sup>3</sup> What is it that judges do? How do cases (trials and appeals) unfold? How do judges make decisions? What

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<sup>1</sup> Subject to correction and change until the end of the first week of classes.

<sup>2</sup> J. McIntyre, *The Judicial Function: Fundamental Principles of Contemporary Judging* (Singapore: Springer, 2019) at 295.

<sup>3</sup> *Ibid* at 5.

are the central tenets of the judicial role? How do questions of diversity, accountability, and impartiality affect judges and courts in Canada?

### **LEARNING OBJECTIVES/OUTCOMES**

At the end of this course, students will be better able to:

1. Outline the court structure (jurisdictions) in Canada (including the roles and scope of one or more specialized courts); and connect courts to the judicial function.
2. Explain the role of judges when hearing cases in court and making decisions.
3. Outline the stages (inputs) in cases are heard and decided by judges and explain how judges engage with (interpret, construct, apply) law, facts and social context in cases.
4. Give an account of judicial impartiality and the associated principle of judicial independence.
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.

In order to:

7. Better Integrate common law (judicial decisions and court proceedings) into their conception of law; and
8. Engage robustly with judicial decisions in their legal studies research and as citizens.

### **MATERIALS (READINGS AND LINKS)**

As this is an Honours seminar, I expect you to do the readings before class, come to class prepared to engage with the topics and themes, and to interact respectfully with your peers and me, your professor.

Readings include articles and book chapters. From time to time, audio-visual media sources will be assigned. Detailed reading assignments will be set out in the Weekly Schedule. Materials will be available via ARES/Brightspace or external links (URLS).

Please set aside **at least three hours** per week to read/review the materials.

The following two books will be referred to frequently:

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

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

### **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.

### **SUMMARY**

*Additional details and due dates are in the Appendix.*

Participation Activities [20 marks, broken down as follows]

- [2 marks]: Post a personal Introduction and complete a “Warm-up” Quiz on Brightspace.
- [12 marks] Class attendance/participation: (Attendance and active participation (best 8 classes).<sup>4</sup> Comprised of attendance, speaking in class, participating in activities.
- [6 marks] Formulate TWO discussion question(s) on one of the assigned readings or cases for your week (submit to Professor on Monday by email. After feedback/finalization post to Brightspace DQ section for your week; facilitate class **discussion** of your question(s) in Class. Eight classes designated (see Appendix for more information]).

**You will have a chance to let me know which date you prefer in W2 after which I will assign by (almost) random draw.**

Please let me know by end of the first week, if there is a particular week where you would like to be assigned (or on which you will not be available).

Quizzes [30 marks, broken down as follows]

- Six Reading and Review Quizzes.

This activity is meant to your foster timely reading of course materials. Questions will address core readings and related course content for a two-week period. Keep up to date with core readings for each week to help prepare you for each quiz. Each quiz will be open for a limited time (outside of class time) – and with limited time duration once you start (tbc). I anticipate that each quiz will contain approximately questions for each class/week covered. Each quiz will be unique to you. Obviously, no collaboration is permitted.

*If you cannot complete the quiz during the designated period, you must contact the Professor (self-declaration form to be completed). I will schedule a make-up date for you.*

Research: [50 marks]

Paper on a topic related to courts or judging. *You will find detailed information on requirements and citation in the Appendix.*

- [Pass/Fail] Abstract Research Paper (250 words – about one (1)page)
- [10 marks] Outline: Research Paper (1000 words - about four (4) pages)
- [40 marks] Final Research Paper: (3750 words - about fifteen (15) pages)

*You must complete all research components to receive a passing grade in the course.*

**SEE THE TABLE APPENDED WHICH PROVIDES AN OVERVIEW OF THESE EVALUATION COMPONENTS INCLUDING DUE DATES.**

Work that is not completed by due date, or as modified by approved extension, will receive **ZERO** marks.

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<sup>4</sup> Not including discussion question/facilitation week.

I expect you to fully comply with the University's Policy on Academic Integrity (appended). All work must be original, completed individually and without collaboration; with provide full attribution of all sources using correct legal citation (**footnotes only**).

Please note: 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 will send your work to the Dean pursuant to the Academic Integrity Policy.

Please look through relevant resources in Appendix 2 for useful resources to help you develop these essential academic skills!

Be sure to regularly back up your work in progress to USB, cloud service (or even by emailing to yourself). A computer crash is stressful and time consuming. Extensions will not be granted for computer problems.

## **EXTENSIONS**

The granting of extensions is determined by the course instructor, who will confirm whether an extension is granted and the length of the extension.

*You may use up to three 'grace days' over the semester (requested by completing the self-declaration form) to give yourself a little more time to complete your work. No reason need be given.*

To request an extension including grace day(s), you must complete and email me as soon as possible. Use the Self-Declaration Form at this link: <https://carleton.ca/registrar/wp-content/uploads/self-declaration.pdf>. This form must be signed by you.

Note: Medical notes are not normally required for extensions of less than one week. They do not in any case replace or supersede the requirement to complete and sign the Self-Declaration (Extension Request) Form. Extensions for longer than 7 days will normally not be granted. In extraordinary cases where extensions lasting longer than 7 days are requested, you will be required to provide additional information to justify the longer extension (up to a maximum of 14 days).

## **COURSE SCHEDULE: TOPICS AND READINGS**

At the first offering as a Special Topics course, the schedule/readings will respond to our progress through the course. Information will be kept up to date on our Brightspace Site.

The planned progression and topics are:

1. Introduction and Overview (concepts and themes we will explore; images and impressions of judges and courts)
2. Judges in a Democracy: The Idea of Courts, The Role of Judges
3. The Trial Court (with a judicial guest)
4. Part 1 The Trial and the Evidence: Facts, Relevance, Credibility, Reasonable Doubt, Sufficiency and Judicial Narrative
5. Part 2 Continued
6. Judicial Impartiality, Judicial Independence, Judicial Appointment and Diversity

<b>Feb 20-24</b>	<b>READING WEEK - NO CLASS</b>
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7. The Sexual Assault Trial (with judicial guest)
8. Judicial Accountability (Sexual Assault) Ethics, Complaints, Judicial Education
9. Women Judges
10. The Treaty Trial: Indigenous Narratives and Canadian Courts (with judicial guest).
11. Specialized (Sentencing) Courts: Wellness Courts (Nova Scotia); Indigenous Courts (British Columbia) (with judicial guests).
12. Reprise: The Idea of Courts; The Role of Judges (with a judicial guest).

A detailed complete Schedule will be posted as soon as possible on Brightspace. See also individual modules for each class.

**A detailed master schedule is being developed. Readings for each class are indicated on modules in Brightspace.**

**The next pages contain additional details on due dates and requirements of evaluation and an updated Chart tracking activities and due dates.**

**Thereafter you will find Appendices:**

1. **On Academic Integrity; and**
2. **University and Departmental Policies that apply to this course.**

## DETAILED INFORMATION ON COURSE EVALUATION ELEMENTS

### 1. Discussion Questions and Facilitation

Each week assigned students will be responsible for each preparing TWO Discussion Questions to animate a discussion on ONE of the core readings (student picks which one to base discussion questions on) for the week. Students do not need to collaborate or coordinate on their questions. Student facilitators use their questions to facilitate class discussion of the material of the Week. I will provide overall coordination during the Class. We will endeavor to cover at least one question from each student.

**Questions need to be emailed to me at [brettel.dawson@carleton.ca](mailto:brettel.dawson@carleton.ca) by 5.00PM on Monday and after feedback, post final DQs on the Brightspace DQ Module in relevant class/week on Tuesday before 5.00PM before Class.**

To give you an idea of what I am looking for, your questions might be based on:

- a close reading of the assigned reading (selects a specific challenging or intriguing passage from one of the readings and offers a series of probes to unpack, trouble, engage, elaborate upon, etc. that author's point.)
- a thematic question that probes how a reading contributes to the broad lines of inquiry about judges and courts being considered in the course.
- a connection between a reading and a matter related to courts and judging than has currently been 'in the news'.

You'll need to provide some explanatory text to situate your discussion questions. Expect to write about 7 or 8 sentences and make specific reference to readings (or cases, documents listed for the Class/Week).

### 2. Research Abstract

**[Pass/Fail] Research Abstract:** Select your research topic (correlated with themes, topics in the course); write an abstract (pitch) identifying the subject you are interested in researching and the academic question(s) to be taken up; briefly state the kind of sources (material) to be researched including any parameters (such as date range, country of interest etc); (tentatively) how you might approach/analyze the research question(s) including theory/conceptual lens. Include a statement of what makes this research topic interesting to you. One page is enough, maximum is 350 words. Include at least one anticipated source. If you Fail, you must revise and resubmit prior to the due date for the Research Outline.

Submit on Brightspace

Note: I plan to provide a long-list of potential topics. I anticipate that one of the Class Topics might be the basis of your research topic.

### 3. Research Outline

**[10%] Research Outline:** building from your abstract and further consideration (feedback) write an outline of your essay which includes draft title, statement of the research question (and related, sub-questions), and elaborate on your focus, research sources and theoretical/conceptual approach). Your Outline should then provide a 'table of contents' for the

sections of your essay noting the purpose of each section insofar as it assists you to answer your research question. Include a select bibliography of anticipated 'top 3' sources, in correct legal citation style. Submit on Brightspace and keep working on your research!

#### 4. Research Essay

[40%]

Due: on or before April 12, 2023. About 12 pages [no more than 3250 words]. Material more than 3250 words will not be marked.

Submit to the Research Essay Assignment on **Brightspace**. Submit in WORD or as a PDF. Do not submit in Pages or other word processor!

Prepare your paper in standard format (normal margins, double-spaced, font 12pt (Arial, Calibri or Times New Roman); with indented paragraphs (or space between paragraphs).

Include a cover page with your title (make it informative – linked to your central claim in the paper; give your name and student number.

Adopt and follow the McGill Guide to Canadian Legal Citation throughout your paper and use footnotes. See further: <https://library.carleton.ca/guides/help/legal-citation>.

Quotes over 50 words are to be enclosed in quotation marks, and be single-spaced and indented.

Be certain to attribute all your sources for quotes and any paraphrasing (see Appendix 2 for more assistance on academic integrity. If you copy from an uncited source or write significant portions of your essay without attribution, that part of your Essay may be given no marks.

You may use first person (In this essay I will....). However, first person always requires support from materials (I "think" or "consider" has to be supported from the literature).

Include a bibliography. I'll be anticipating around 10 relevant sources that are used in your paper (not just a list of relevant literature in the field). Use the Library Omni search to locate sources (you will find more than you end up using. Part of researching is sifting through lots of hits to get to the gold for your work). Don't do a Google search (and be careful with Google Scholar as a source). The References Section after each chapter in the McIntyre book may be useful.

**LAWS 4903C Winter 2023 UPDATED JANUARY 16**  
**Evaluation Chart - Active Weeks/ Due Dates**

Week	Class Participation	Student DQs/Facilitation	Quiz <sup>5</sup>	Research
1	Jan 11			
2	Jan 18	<input checked="" type="checkbox"/>		
3	Jan 25		<input checked="" type="checkbox"/> Weeks 2 & 3 Due January 28	
4	Feb 01	<input checked="" type="checkbox"/>		
5	Feb 08	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Weeks 4 & 5 Due February 11	
6	Feb 15	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Week 6 Due February 17 [3 marks]	
-	-			
7	March 1			<input checked="" type="checkbox"/> Abstract Due March 4 11.59PM
8	March 8	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Weeks 7 & 8 Due March 11	
9	March 15	<input checked="" type="checkbox"/>		
10	March 22	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Weeks 9 & 10 Due March 25	<input checked="" type="checkbox"/> Outline Due March 27 11.59PM
11	March 29		<input checked="" type="checkbox"/> Week 11 Due April 1 [3 marks]	
12	April 5	<input checked="" type="checkbox"/>		
-	April 12			<input checked="" type="checkbox"/> Essay Due April 12 11.59PM
<b>TOTAL MARKS</b>	12 marks (Best 8) Plus1 Intro	6 marks (Once) Sign Up	30 marks Plus 1 Outline Quiz	50 marks

<sup>5</sup> Six marks unless otherwise noted. Due by 11.59PM on date indicated. Opened/Available 36 hours before. Readings covered will be identified ahead of time.



## APPENDIX 1: ACADEMIC INTEGRITY

### WHAT IS PLAGIARISM AND HOW TO AVOID IT....

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 academic offence.

More information on the University's **Academic Integrity Policy** can be found at:

<https://carleton.ca/registrar/academic-integrity/>

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.

### RESOURCES ON PREPARATION OF ACADEMIC WORK BEST PRACTICES ACADEMIC INTEGRITY

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:

Consider completing the useful online workshop dealing with academic integrity – at this link: <https://carleton.ca/csas/learning-support/learning-support-workshops/>. It is offered by Carleton's Centre for Student Academic Support (CSAS).

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>.

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](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>.

## APPENDIX 2: UNIVERSITY AND DEPARTMENTAL POLICIES AND INFORMATION

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### UNIVERSITY POLICIES

#### Resources in Support of Student Mental Health

**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/>
- 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/>
- Good2Talk: 1-866-925-5454, <https://good2talk.ca/>
- The Walk-In Counselling Clinic: <https://walkincounselling.com>

## Statement on Pandemic Measures

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 should follow Carleton's [symptom reporting protocols](#).

**Masks:** Masks are no longer mandatory in university buildings and facilities. However, we continue to recommend masking when indoors, particularly if physical distancing cannot be maintained. We are aware that personal preferences regarding optional mask use will vary greatly, and we ask that we all show consideration and care for each other during this transition.

**Vaccines:** While proof of vaccination is no longer required to access campus or participate in in-person Carleton activities, 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](mailto:covidinfo@carleton.ca).

## 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/>.

## 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](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 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/>.

## Winter 2023 Sessional Dates and University Closures

*Please find a full list of important academic dates on the calendar website:  
<https://calendar.carleton.ca/academicyear/>*

<b>January 9, 2023</b>	Winter term begins.
<b>January 20, 2023</b>	Last day for registration and course changes (including auditing) in full winter and late winter courses.
<b>February 20, 2023</b>	Statutory holiday. University closed.
<b>February 20-24, 2023</b>	Winter break. No classes.
<b>March 15, 2023</b>	Last day for academic withdrawal from full winter, late winter, and fall/winter courses.
<b>April 7, 2023</b>	Statutory holiday. University closed.
<b>April 12, 2023</b>	Winter term ends. Last day of full winter, late winter, and fall/winter classes.
<b>April 15-27, 2023</b>	Final examinations in full winter, late winter, and fall/winter courses will be held. Examinations are normally held all seven days of the week.
<b>April 27, 2023</b>	All final take-home examinations are due on this day.