

Course Outline

COURSE:	LAWS 4402 A – Employment Dispute Resolution
TERM:	Winter 2025
PREREQUISITES:	LAWS 2908, 0.5 credit from LAWS 3006, LAWS 3401, LAWS 3405, and fourth-year Honours standing.
CLASS:	Day & Time: Tuesdays, 2:35pm – 5:25pm Room: Check Carleton Central for room location <i>In person seminar</i>
INSTRUCTOR:	Dr Ania Zbyszewska
CONTACT:	Office Hrs: Wednesdays, 3:00pm-4:00pm, Loeb C475 or by appointment Telephone: 613-520-2600 ext. 2621 Email: ania.zbyszewska@carleton.ca
BRIGHTSPACE:	https://brightspace.carleton.ca/d2l/home/285190

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 utilize the labour power of workers towards products and services 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.

LEARNING OUTCOMES

At the end of this course, the students will achieve the following learning objectives:

- Gain knowledge of different theoretical approaches to conceptualizing workplace conflict, and to resolving collective and individual workplace disputes, including through negotiation, grievance arbitration, mediation and other mechanisms.
- Understand and critically evaluate different models of dispute resolution.
- Practice to apply theory through simulations and engaging in reflective practice.
- Develop legal research and writing skills.

REQUIRED TEXTS

Roger Fisher, William L. Ury, Bruce Patton, *Getting to Yes, Revised (3rd) Edition*. Penguin: 2011 (Available in print and digital formats at the Carleton University Bookstore, and on most online platforms where books can be purchased; cost ~\$24).

An audio copy is available at the library, on a short-term loan.

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

Additional supplementary resources will be placed on ARES (course reserve; McOdrum Library).

EVALUATION

The assessment and evaluation in this course are structured as follows:

1	Participation	15%	Throughout the term
2	Presentation (Group Work and Evaluation)	10%	In class, during session 3 (Jan 21)
3	Bargaining Simulation (Group Work; Individual Evaluation)	20%	In class, during session 4 (Jan 28); critique/reflection due Feb 4
4	Arbitration Simulation (Group Work & Evaluation)	20%	In class, during sessions 8, (March 4) & 9 (Mar 11); written briefs due March 11 or 18
5	Evaluation of Dispute Resolution Process (Individual Work & Evaluation)	35%	Last day of class, April 8

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

Detailed Description of the Assessment Structure

Participation (15%) **(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 12 pm on Tuesdays (prior to our session). Your forum post should engage with a selected article from amongst that week's reading list; it should briefly set out: 1) two key points from the reading and 2) a question for class discussion (150-200 words).

Presentations (10%) **(In class, during session 3, January 21)**

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. 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 (20%) **(In class, January 28; Critique/Reflection Due February 4, Brightspace)**

In class bargaining simulation in groups on January 28; 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 (20%) **(In class, group presentation, either March 4 or March 11; submission of written briefs one week after in-class simulation, so on March 11 or March 18, 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 (35%)
(Due April 8)

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. Furthermore, the assignment involves comparative analysis, as you will be asked to carry out this study in relation to two different workplaces/employers. You are required to present the analysis in a traditional **written essay of about 3000 words**, due on the last day of term, **April 8 (submission to Brightspace)**. More details will be provided once term begins.

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

LATE PENALTIES 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 short-term extensions, please complete the form at the following link and submit it to the instructor **prior to** the assignment due date: <https://carleton.ca/registrar/academic-consideration-coursework-form/>.

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).

For more information regarding academic consideration for short-term incapacitation (illness, injury, or extraordinary circumstances beyond a student's control), please visit the following link: <https://students.carleton.ca/course-outline/#academic-consideration-for-short-term-incapacitation>

SCHEDULE

Required readings listed below. Please check the Brightspace page for additional and supplementary materials, as well as further details on preparation for class activities.

Session 1/ January 7 Introduction (Forum posts, due weekly)

Session 2/ January 14 Approaches to Bargaining

Reading:

- Richard E. Walton and Robert B. McKersie, *A Behavioral Theory of Negotiations* (New York: Mc-Graw Hill, 1965) Chapter 1 (pp 1-15)
- Dean G. Pruitt and Peter J. Carnevale, *Negotiation in Social Conflict* (Buckingham, UK: Open University Press, 1993) Chapter 3 (pp. 28-48)
- David A. Lax and James K. Sebenius, *3-D Negotiation* (Boston: Harvard Business School Press, 2006) Chapter 1, 2, 3 (pp. 7-50)

Session 3 /January 21 Bargaining to Resolve Conflict (In-Class Group presentations)

Reading:

- Fisher, R. Ury, W, Patton, B. *Getting to Yes* (Penguin Books), pp. 1-240.

Session 4/ January 28 Collective Bargaining Stimulation (In-Class group exercise)

No reading: Group Exercise

Session 5/February 4 Critiques of Bargaining (DUE Reflection on bargaining)

Reading and other materials:

- Carrie Menkel-Meadow, "Why Hasn't the World Gotten to Yes? An Appreciation and Some Reflections" (2006) 4:4 *Negotiation Journal*, pp. 485-503
- Carol Watson, "Gender versus Power as a Predictor of Negotiation Behavior and Outcomes" (1994) 10:2 *Negotiation Journal*, pp. 117-127
- Brett, J. M. (2000), "Culture and Negotiation" *International Journal of Psychology*, 35: 97–104
- Effective negotiation strategies for women (video, 37 min).

Session 6/ February 11 Collective Agreement Arbitration I

Reading:

- Kenneth Wm. Thornicraft, "The Grievance Arbitration Process: Theory and Practice" in Morley Gunderson, Allen Ponak and Daphne G. Taras, eds. *Union Man*, pp. 371-393.

- John P. Sanderson, *Labour Arbitrations and All That*, 2nd ed. (Aurora, Ont.: Canada Law Book, 1985, pp. 46-86.
- Webb, S. R. & Wagar, T. H. (2018). Expedited Arbitration: A Study of Outcomes and Duration. *Relations industrielles / Industrial Relations*, 73(1), 146–173.
- Hon. Warren K. Winkler, *Arbitration as a Cornerstone of Industrial Justice* (Speech, 2011), no pp available.
- Ontario Labour Relations Act, 1995, S.O. 1995, c. 1, Sch. A , ss. 48-50.

Week of Feb 17 No Class/Reading Break

Session 7/ February 25 Collective Agreement Arbitration II

No reading: Preparation for Group Exercise; film viewing

Session 8/ March 4 Arbitration Simulation (In-Class Group exercise)

No reading

**Session 9/ March 11 Arbitration Simulation (In-Class Group exercise)
(DUE Memorandum of argument)**

No reading

Session 10/ March 18 Conceptualizing Conflicts (DUE Memorandum of argument)

Reading:

- W. Felstiner, R. Abel, A. Sarat, "The Emergence and Transformation of Disputes: Naming, Blaming, Claiming . . ." (1980) 15:(3-4) *Law and Society*, pp. 631-654.
- David B. Lipsky and Ariel C. Avgar, "Towards a Strategic Theory of Workplace Conflict Management" (2008) 24 *Ohio State Journal on Dispute Resolution* 1
- Budd, John W. and Colvin, Alexander, "Improved Metrics for Workplace Dispute Resolution Procedures: Efficiency, Equity and Voice" (2008) 47:3 *Industrial Relations: A Journal of Economy and Society*, pp. 329-503.

Session 11/ March 25 Designing Dispute Resolution Systems for Organizations

Reading:

- Jeanne M. Brett, Stephen B. Goldberg, William L. Ury, "Designing Systems for Resolving Disputes in Organizations" (1990) 45:2 *American Psychologist*, pp. 162-170.
- Mary Lou Coates, Gary T. Furlong and Bryan M. Downie, *Conflict Management and Dispute Resolution Systems in Canadian Nonunionized Organizations* (Queens University), pp. 1-48.

Session 12/April 1**Alternative Dispute Resolution***Reading:*

- Lisa Blomgren Bingham et al., “Dispute System Design and Justice in Dispute Resolution: Mediation at the Workplace” (2009) 14 Harvard Negotiation Law, pp. 1-50.
- Helga Hoel and Stale Einarson, “Investigating Complaints of Bullying and Harassment” in Stale Einarson et al., eds, *Bullying and Harassment in the Work*, pp. 341-357.

April 8**Last Day of Class/No Session****(DUE Final Assignment)**

Winter 2025 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 6, 2025	Winter term begins.
January 17, 2025	Last day for registration and course changes (including auditing) in winter courses.
January 31, 2025	Last day to withdraw from full winter courses and the winter portion of fall/winter courses with a full fee adjustment.
February 17-21, 2025	Winter break, no classes.
March 15, 2025	Last day for academic withdrawal from winter courses.
March 25, 2025	Last day for summative tests or examinations, or formative tests or examinations totaling more than 15% of the final grade, in winter term or fall/winter undergraduate courses, before the official April final examination period.
April 8, 2025	Winter term ends.
	Last day of winter and fall/winter classes.
	Last day for final take-home examinations to be assigned.
April 9-10, 2025	No classes or examinations take place.
April 11-26, 2025	Final examinations in winter and fall/winter courses will be held.
April 18, 2025	Statutory holiday. University closed.

April 26, 2025	All final take-home examinations are due on this day, with the exception of those conforming to the examination regulations in the Academic Regulations of the University section of the Undergraduate Calendar/General Regulations of the Graduate Calendar.

UNIVERSITY AND DEPARTMENTAL POLICIES

POLICY ON PERMISSIBILITY OF SUBMITTING SAME WORK MORE THAN ONCE, PERMISSIBILITY OF GROUP OR COLLABORATIVE WORK, AND PERMISSIBILITY OF USING GENERATIVE AI

Although this is not a violation of the Academic Integrity Policy, students who re-use their own work from a different course/assignment must seek instructor's permission before doing so and must clearly cite such work.

While students are permitted to collaborate and discuss with each other their assignments, the final written work they submit for assessment must be their own individual work.

Unless explicitly permitted, either generally or for a specific assignment, any use of generative AI tools (e.g. ChatGPT) to produce assessed content is considered a violation of academic integrity standards.

PLAGIARISM

The University Academic Integrity Policy defines plagiarism as "*presenting, whether intentionally or not, the ideas, expression of ideas or work of others as one's own.*" This 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, artworks, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, material on the internet and/or conversations.

Examples of plagiarism include, but are not limited to:

- any submission prepared in whole or in part, by someone else, including the unauthorized use of generative AI tools (e.g., ChatGPT);

- using ideas or direct, verbatim quotations, paraphrased material, algorithms, formulae, scientific or mathematical concepts, or ideas without appropriate acknowledgment in any academic assignment;
- using another's data or research findings without appropriate acknowledgement;
- submitting a computer program developed in whole or in part by someone else, with or without modifications, as one's own; and
- failing to acknowledge sources through the use of proper citations when using another's work and/or failing to use quotations marks.

Plagiarism is a serious offence that cannot be resolved directly by the course's instructor. The Associate Dean of the Faculty conducts a rigorous investigation, including an interview with the student, when an instructor suspects a piece of work has been plagiarized. Penalties are not trivial. They can include a final grade of "F" for the course.

STATEMENT ON STUDENT MENTAL HEALTH

As a University student you may experience a range of mental health challenges that significantly impact your academic success and overall well-being. If you need help, please speak to someone. There are numerous resources available both on- and off-campus to support you. For more information, please consult <https://wellness.carleton.ca/>

Emergency Resources (on and off campus):

- <https://wellness.carleton.ca/get-help-now/>

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

ACADEMIC ACCOMMODATIONS

Carleton is committed to providing academic accessibility for all individuals. You may need special arrangements to meet your academic obligations during the term. The accommodation request

processes, including information about the Academic Consideration Policy for Students in Medical and Other Extenuating Circumstances, are outlined on the Academic Accommodations website (students.carleton.ca/course-outline).

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows.

Pregnancy Obligation and Family-Status Related Accommodations

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 about the accommodation policy, visit the [Equity and Inclusive Communities \(EIC\)](#) website.

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, please go to: <https://carleton.ca/equity/focus/discrimination-harassment/religious-spiritual-observances/>.

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. You can find the Paul Menton Centre online at: <https://carleton.ca/pmc/>

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/>.

Academic Consideration for Medical and Other Extenuating Circumstances

Due to medical and other extenuating circumstances, students may occasionally be unable to fulfill the academic requirements of their course(s) in a timely manner. The University supports the academic development of students and aims to provide a fair environment for students to succeed academically. Medical and/or other extenuating circumstances are circumstances that are beyond a student's control, have a significant impact on the student's capacity to meet their academic obligations, and could not have reasonably been prevented.

Students must contact the instructor(s) as soon as possible, and normally no later than 24 hours after the submission deadline for course deliverables. If not satisfied with the instructor's decision, students can conduct an "informal appeal" to the Chair of the department within three (3) working days of an instructor's decision. We have created a webform specifically for appeals to the Chair, which can be found here: <https://carleton.ca/law/application-for-review-of-refusal-to-provide-academic-consideration/>. *Note: This form only applies to LAWS courses and is not the same as a formal appeal of grade.* More information about the academic consideration can be found [here](#).