

NEGOTIATION & LEGAL SETTLEMENT
Antonin Scalia Law School at George Mason University
Law 303-001 (3 Credits)
Spring 2022
Mondays, 6:05 p.m. – 9:00 p.m.

INSTRUCTOR

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COURSE SUMMARY & LEARNING OBJECTIVES

This course will focus on negotiation as it relates to legal practice. Through readings, class discussions, audio-visual presentations, role plays, interactive exercises and written assignments, you will learn: (1) theories, models and concepts of negotiation; (2) your legal and ethical duties as a negotiator; (3) problem-solving skills; and (4) reflective practice.

REQUIRED TEXT

Carrie J. Menkel-Meadow, et al., *Negotiation: Processes for Problem-Solving* (3d ed. 2021) (*Negotiation*).

REQUIRED TECHNOLOGY

Because we will hold one class using Zoom, you must have a device with a functional camera and microphone. You also must have the ability to connect via telephone if you experience problems with Zoom.

In the event of inclement weather or other unforeseen circumstances, we may hold additional classes on Zoom. I will email you about any switch from in-person to virtual learning no later than 12:00 p.m. of the day of the class in question.

To comply with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, and respect everyone's personal privacy expectations, please share any live and recorded class meetings *only* with other members of the class and me. Likewise, please do not disseminate course materials posted to TWEN.

SCHEDULE

Each week's class will take place between 6:05 and 9:00 p.m., with a 10 minute break included.

ATTENDANCE

Although law school policy allows you to be miss up to 20 percent of a course's classes and still receive full credit for completing the course, you are expected to attend all classes in their entirety. In other words, if you do not anticipate attending every class, then you should not take this course. Missing class will not only will preclude your ability to benefit from interactive activities designed to enable you to meet the course's learning objectives, but also will impair the ability of your classmates to do so. If an unexpected situation arises that will necessitate your being absent from all or part of a class, please notify me as soon as possible.

FINAL GRADE

Class Participation (10%)

I will take attendance into account in this portion of your final grade. I also will evaluate your level of engagement in class activities. Finally, I will consider whether you make regular and meaningful contributions to class discussions, such as the role play debriefs.

Short Exercises (5%)

You will complete three exercises – an online research exercise, a negotiator worksheet, and a memorandum summarizing and analyzing a client interview – designed to develop your proficiency as a practitioner.

Negotiation Plan (20%)

You will complete a negotiation plan based upon a role play scenario. You may use the text, handouts, class notes, and any research results in preparing your plan. I will provide you with the negotiation plan template to complete.

Final Paper (20%)

You will submit a 6- to 8-page paper analyzing a real-world negotiation of your choosing. The negotiation may be one in which you were involved before taking this course, or one that you have observed or read about. The final paper should provide well-reasoned insights, critiques, conclusions and/or recommendations that apply negotiation concepts, models, skills and/or theories you have learned. ***You may consult with me about your final paper topic any time before April 11.***

Problems (20%)

You will answer one or more problems presented in the text before each class. An answer to a problem should be as long as necessary to address all issues presented in an organized and well-reasoned manner. A small amount of research may be required to answer some problems. ***Remember to answer all questions raised in the problem.*** Failure to do so will result in a lower grade.

Short Essays (25%)

You will write six 2- to 3-page essays designed to have you to engage in ***self-reflection – taking the time to consider and evaluate your own thinking, attitudes, motivations,***

behavior and emotions. More simply, self-reflection entails asking yourself the “why” underlying your thoughts and emotions.

The first and last short essays will focus on your personal objectives for the course. The other four short essays will reflect on what you learned about negotiation and/or yourself as a negotiator from a specified role play. Each of these four essays should do more than just summarize the events of the role play. It should address matters such as what you did well during the negotiation, particular challenges you faced, missteps you later realized you made, or whether ways in which you adjusted your style, strategy or tactics from a prior role play proved to be effective. ***To be clear, a short essay that just provides an excellent summary of the role play will receive no better than a B+ because it includes no self-reflection.***

WRITTEN ASSIGNMENT GUIDELINES

You will submit each written assignment as a Word or .pdf document to me at bjacewic@gmu.edu. The assignment should be double-spaced, in 12-point font, and with 1-inch margins. It also should be written clearly and concisely, and eschew legal jargon. Any citations should be to specific pages of journals, articles, texts or other sources, preferably in *Bluebook* form. ***You must complete all written assignments on your own.***

GRADING

A: 93-100; A-: 90-92; B+: 87-89; B: 83-86; B-: 80-82; C+: 77-79; C: 73-76; C-: 70-72

The Law School adheres to mandatory mean grading curves. In an elective class of this size (i.e., 6 to 49 students), the curve is a mean between 3.05 and 3.45 (i.e., B/B+). I will grade each set of assignments with this curve in mind. ***Only work I deem to among the best I have seen over my time teaching this course will earn an A.***

I will deduct 10 points for any written assignment submitted up to 24 hours after its deadline and 5 points for part or all of each 24-hour period thereafter. If you cannot meet a deadline for an assignment, then you may email me with a request for an extension. I will base my decision on whether to grant such a request on the totality of relevant factors, including but not limited to, the length of the extension sought, the reason for the extension and the fact that meeting deadlines is fundamental to success in legal practice.

I will email general feedback on assignments to everyone and specific feedback to each of you individually. General feedback will discuss larger issues raised by the assignment and highlight incisive points one or more of you made. Specific feedback will focus on issues unique to your work. It may pose questions. These questions seek to encourage you to think more deeply about an issue. They should not be taken as criticism.

WEEK 1:
Conflict Theory

Assignments:

Negotiation, pp. 3-38

Answer Problem 1-1 in *Negotiation*

Complete first short essay - describe what you want to learn and accomplish in this course and the reputation you want to develop as a negotiator

Role Play:

“Singer’s Contract”

WEEK 2:
Distributive Negotiation

Assignments:

Negotiation, pp. 153-181 and 229-241

Answer Problem 6-1 in *Negotiation*

Role Play:

“The Model A”

WEEK 3:
Negotiation Ethics

Assignments:

Negotiation, pp. 341-374

Answer Problem 12-6 in *Negotiation*

Complete online research exercise

Role Play:

“Lake Drive”

WEEK 4:
Integrative Negotiation

Assignments:

Negotiation, pp. 91-152

Answer Problems 4-3 and 5-1 in *Negotiation*

Complete second short essay – reflection on “Lake Drive”

Role Play:

“Puppy Peril”

WEEK 5:
Distributive vs. Integrative Negotiation

Assignments:

Negotiation, pp. 211-229 and 243-276
Answer Problem 9-4 in *Negotiation*
Complete negotiator worksheet for “Opa Catering”

Role Plays:

“Opa Catering”

WEEK 6:
Countering Hard Bargaining Tactics

Assignments:

Negotiation, pp. 57-65, 183-208 and 300-308
Answer Problem 7-7 in *Negotiation*

Role Play:

“In re Estate of Gale”

WEEK 7:
Cognitive Barriers to Success in Negotiation

Assignments:

Negotiation, pp. 277-300
Answer Problem 10-4 in *Negotiation*
Complete third short essay – reflection on “In re Estate of Gale”

Role Play:

“Moving to Minsk”

SPRING BREAK

WEEK 8:
Dealing with Differences: Culture, Gender, Race, and Others

**This class will meet online via Zoom.*

Assignments:

Negotiation, pp. 309-337
Answer Problem 11-6 in *Negotiation*

Role Play:

“Java Jive Internet Services”

WEEK 9:
Legal Representation in Negotiation

Assignments:

Negotiation, pp. 39-57 and 375-406

Answer Problems 2-5 and 13-2 in *Negotiation*

Complete fourth short essay – reflection on “Java Jive Internet Services”

Role Play:

“Hector Homerun”

WEEK 10:
Preparing to Negotiate

Assignments:

Negotiation, pp. 67-90

Answer Problem 3-5 in *Negotiation*

Prepare memorandum summarizing and analyzing client interview

Role Play:

“The Strategic Security Institute and Dr. Hannah White”

WEEK 11:
Multiparty Negotiation

Assignments:

Negotiation, pp. 409-447

Answer Problem 14-1 in *Negotiation*

Role Play:

“Fairview City”

WEEK 12:
International Negotiation

Assignments:

Negotiation, pp. 449-479

Answer Problem 15-2 in *Negotiation* (See Andrea Kupfer Schneider, *Getting to Nafta: a Review of Interpreting Nafta by Frederick W. Mayer*, 17 Berkeley J. Int’l L. 330 (1999), for further information about two-level bargaining theory.)

Complete fifth short essay – reflection on “Fairview City”

Role Play:

“Bio-Tech Solutions and Global Shipping Logistics”

WEEK 13:
Mediation and Negotiation

Assignments:

Negotiation, pp. 481-516

Answer Problem 16-9 in *Negotiation*

Complete negotiation plan

Role Play:

“Uptown Media and ‘Monsoon’ Mike Storm”

DUE 5:00 P.M. ON APRIL 27, 2022:

Sixth short essay – discuss what you have learned and accomplished in this course and whether it squares with the objectives you identified when the course began. In addition, identify ways in which you want to improve as a negotiator in the future and how you plan to do so.

Final paper – analyze a real-world negotiation of your choosing. See page 2 for further discussion.