

NEGOTIATION & LEGAL SETTLEMENT
Antonin Scalia Law School at George Mason University
Law 303-001 (3 Credits)
Summer 2022

INSTRUCTOR

Ben Jacewicz, Attorney & Mediator
703-626-4380 (c)
bjacewic@gmu.edu

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*).

SCHEDULE

Class will meet over three weekends: May 21 and 22, June 4 and 5, and June 18 and 19. Each day's class will take place between 8:30 a.m. and 5:00 p.m., with 15-minute breaks mid-morning and mid-afternoon, and a one-hour break for lunch.

ATTENDANCE

Although law school policy allows you to 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 six of our classes in their entirety because of this course's compressed schedule. In other words, if you do not anticipate attending every class, then you should not take this course. Missing class 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.

Remote attendance. If you receive a yellow or red result on the university's daily health check app, you may either (1) take an absence under the law school's attendance policy, discussed immediately above, or (2) notify me of your status, with a copy to Associate Dean Annamaria Nields (anields@gmu.edu) and request to participate in class via Zoom until you are cleared to return to campus. Permitted participation via Zoom does not count as an absence under the attendance policy.

Inclement weather. Closure of the law school building does not mean class is canceled. The law school requires that classes be held synchronously via Zoom at their regularly scheduled time. I will email you about any switch from in-person to virtual learning.

You must have the ability to connect via telephone to class if you experience problems with Zoom. Recording of any class session or sessions is prohibited.

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.

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 questions 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 Exercises (5%)

You will complete two exercises – an online research exercise and a negotiator worksheet – designed to develop your proficiency as a practitioner.

Short Essays (25%)

You will write four 2- to 3-page essays. The first and last essays will focus on your personal objectives for the course.

In the other two essays, you will engage in ***self-reflection – that is, considering and evaluating your own thinking, attitudes, motivations, behavior and emotions.*** Put another way, self-reflection entails asking yourself the “why” underlying your thoughts and emotions. These two essays should do more than just summarize the events of the role play. They 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.***

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 June 19.*

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 be 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.

ASSIGNMENTS FOR THE FIRST WEEKEND

The problem set and short essay are due by 8:30 a.m. on Saturday, May 21.

Reading: Chapters 1, 4(A-C), 5, 6, 7, 8, 9, & 12 in *Negotiation*.

Problem Set: Answer Problems 1-1, 4-3, 5-1, 6-1, 7-7, 8-3, 9-4 & 12-6 in *Negotiation*.

Short Essay: Describe what you want to learn and accomplish in this course and the reputation you want to develop as a negotiator.

PART I: NEGOTIATION CONCEPTS & THEORIES

Saturday, May 21

8:30 a.m.	Course introduction
9:00 a.m.	Conflict and methods of dispute resolution
9:30 a.m.	Conflict styles
10:15 a.m.	Break
10:30 a.m.	Role play – “The Singer’s Contract”
10:45 a.m.	Distributive negotiation
11:45 a.m.	Role play – “The Model A”
12:30 p.m.	Lunch
1:30 p.m.	Role play debrief
2:15 p.m.	Negotiator ethics
3:15 p.m.	Break
3:30 p.m.	Role Play – “Lake Drive”
4:15 p.m.	Role play debrief
5:00 p.m.	Adjourn

Sunday, May 22

8:30 a.m.	Review
8:45 a.m.	Role play – “Puppy Peril”
9:30 a.m.	Role play debrief
10:15 a.m.	Break
10:30 a.m.	Integrative negotiation
12:00 p.m.	Lunch
1:00 p.m.	Role play – “IRMA vs. SAM”
1:45 p.m.	Role play debrief
2:30 p.m.	Break
2:45 p.m.	Countering hard bargaining
3:30 p.m.	Role play – “In re The Estate of Gale”
4:15 p.m.	Role play debrief

5:00 p.m. Adjourn

ASSIGNMENTS FOR THE SECOND WEEKEND

The problem set, short essay and exercises are due by 8:30 a.m. on Saturday, June 4.

Reading: Chapters 2, 3, 4(D), 10, 11 & 13 in *Negotiation*.

Problem Set: Answer Problems 2-5, 3-5, 4-10, 10-4, 11-6 & 13-2 in *Negotiation*.

Short Essay: Reflect on “In re The Estate of Gale.”

Exercises: Complete negotiator worksheet for “Opa Catering” & online research exercise.

PART II – PRACTICAL ASPECTS OF NEGOTIATION

Saturday, June 4

8:30 a.m. Review
9:00 a.m. Role play – “Opa Catering”
9:45 a.m. Role play debrief
10:30 a.m. Break
10:45 a.m. Negotiator communication skills
11:30 a.m. Cognitive biases in negotiation
12:15 p.m. Lunch
1:15 p.m. Role play – “Moving to Minsk”
2:00 p.m. Role play debrief
2:45 p.m. Break
3:00 p.m. Culture, gender and race in negotiation
3:30 p.m. Role play – “Java Jive Internet Services”
4:15 p.m. Role play debrief
5:00 p.m. Adjourn

Sunday, June 5

8:30 a.m. Review
8:45 a.m. Legal representation in negotiation
9:45 a.m. Role play – “Laura/Lamar Dresden”/“Jamie Shelton”
10:15 a.m. Role play debrief
10:30 a.m. Break
10:45 a.m. Role play – “Hector Homerun”
11:30 a.m. Lunch
12:30 p.m. Role play debrief
1:15 p.m. Negotiation preparation

- 2:00 p.m. Role play – “Laura/Larry Nichols”/”Avery Brown”
- 2:30 p.m. Role play debrief
- 2:45 p.m. Break
- 3:00 p.m. Role play – “The Strategic Security Institute and Dr. Hannah White”
- 4:00 p.m. Role play debrief
- 5:00 p.m. Adjourn

ASSIGNMENTS FOR THE THIRD WEEKEND

The problem set, short essay and negotiation plan are due by 8:30 a.m. on Saturday, June 18.

Reading: Chapters 14, 15 & 16 in *Negotiation*.

Problem Set: Answer Problems 14-1, 15-2 & 16-9 in *Negotiation*.

Short Essay: Reflect on “The Strategic Security Institute and Dr. Hannah White.”

Negotiation Plan: Complete plan for “Uptown Media and ‘Monsoon’ Mike Storm” role play using provided template.

Remember you may consult with me about your final paper any time before June 19.

PART III – ADVANCED NEGOTIATION TOPICS

Saturday, June 18

- 8:30 a.m. Review
- 9:00 a.m. Role play – “Addison Sullivan”/“Home Sweet Home”
- 9:30 a.m. Role play debrief
- 9:45 a.m. Role play – “Uptown Media and ‘Monsoon’ Mike Storm”
- 10:30 a.m. Break
- 10:45 a.m. Role play debrief
- 11:30 a.m. International negotiation
- 11:45 a.m. Role play – “The Fisheries”
- 12:30 p.m. Lunch
- 1:30 p.m. Role play debrief
- 2:15 p.m. Negotiated Agreements
- 3:15 p.m. Break
- 3:30 p.m. Role play – “Bio-Tech Solutions and Global Shipping Logistics”
- 4:15 p.m. Role play debrief
- 5:00 p.m. Adjourn

Sunday, June 19

8:30 a.m.	Review
8:45 a.m.	Role play – “Casey Foster”/“Quinn Cozart”
9:15 a.m.	Role play debrief
9:30 a.m.	Multi-party negotiation
9:45 a.m.	Role play – “Fairview City”
10:45 a.m.	Break
11:00 a.m.	Role play debrief
11:45 a.m.	Lunch
12:45 p.m.	Negotiation and Mediation
1:30 p.m.	Role play – TBD
2:15 p.m.	Break
2:30 p.m.	Role play debrief
3:15 p.m.	Team Negotiation
3:30 p.m.	Role play – “Citizens Forum”
4:15 p.m.	Role play debrief
5:00 p.m.	Adjourn

FINAL ASSIGNMENTS

The short essay and final paper are due by 5:00 p.m. on Wednesday, June 29.

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. See “Final Grade” section above for details.