

**NEGOTIATION & LEGAL SETTLEMENT**  
**Antonin Scalia Law School at George Mason University**  
**Law 303-001 (3 Credits)**  
**Spring 2023**  
**Mondays, 6:05 p.m. – 9:00 p.m., Room TBD**

**INSTRUCTOR**

Ben Jacewicz, Attorney and Mediator  
[bjacewic@gmu.edu](mailto: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*).

**REQUIRED TECHNOLOGY**

Because you may need to attend class via 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.

**SCHEDULE**

Each week's class will meet in person 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 not only will preclude your ability to benefit from the role plays and interactive exercises 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 are unable to attend class in-person, you may send me a request to participate in class via Zoom. Participation via Zoom will count as an absence under the Law School's attendance policy.

**Inclement weather.** Closure of the law school building does not dictate class being canceled. The law school requires that classes be held via Zoom at their regularly scheduled times. I will email you about any switch from in-person to Zoom 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 do not record any class meetings.

## **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 role plays and interactive exercises. Finally, I will consider whether you make regular and meaningful contributions to class discussions, especially the role play debriefs.

### **Short Exercises (5%)**

You will complete three exercises – an online research exercise, a negotiator worksheet, and a memorandum summarizing a client interview – intended 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 have been involved, 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 in-person and/or via email about your final paper topic any time before April 10.***

### **Problems (20%)**

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

### **Short Essays (25%)**

You will write four 2- to 3-page essays in which you should *reflect* about a negotiation role play experience. For example, an essay might address issues 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 negotiation style, strategy or tactics from a prior role play proved to be effective. ***An essay that just summarizes what happened during the negotiation will not receive a grade any higher than a B+.***

### **WRITTEN ASSIGNMENT GUIDELINES**

You will submit each written assignment as a Word or .pdf document to me at [bjacewic@gmu.edu](mailto: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 should 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 critical 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.***

### **JANUARY 23**

#### **Week 1: Conflict Theory**

#### **Assignments:**

*Negotiation*, pp. 3-38

Answer Problem 1-1 in *Negotiation*

Role Play:  
“Singer’s Contract”

**JANUARY 30**

**Week 2: Distributive Negotiation**

Assignments:  
*Negotiation*, pp. 153-181 and 229-241  
Answer Problem 6-1 in *Negotiation*

Role Play:  
“The Model A”

**FEBRUARY 6**

**Week 3: Negotiation Ethics**

Assignments:  
*Negotiation*, pp. 341-374  
Answer Problem 12-6 in *Negotiation*  
Complete online research exercise

Role Play:  
“Lake Drive”

**FEBRUARY 13**

**Week 4: Integrative Negotiation**

Assignments:  
*Negotiation*, pp. 91-152  
Answer Problems 4-3 and 5-1 in *Negotiation*  
Complete short essay on “Lake Drive”

Role Play:  
“Puppy Peril”

**FEBRUARY 20**

**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 Play:  
“Opa Catering”

## **FEBRUARY 27**

### **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”

## **MARCH 6**

### **Week 7: Cognitive Barriers to Success in Negotiation**

#### Assignments:

*Negotiation*, pp. 277-300

Answer Problem 10-4 in *Negotiation*

Complete short essay on “In re Estate of Gale”

#### Role Play:

“Moving to Minsk”

## **SPRING BREAK – NO CLASS MARCH 13**

## **MARCH 20**

### **Week 8: Dealing with Differences: Culture, Gender, Race, and Others**

#### Assignments:

*Negotiation*, pp. 309-337

Answer Problem 11-6 in *Negotiation*

#### Role Play:

“Java Jive Internet Services”

## **MARCH 27**

### **Week 9: Legal Representation in Negotiation**

#### Assignments:

*Negotiation*, pp. 39-57 and 375-406

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

Complete short essay on “Java Jive Internet Services”

#### Role Plays:

“Hector Homerun”

“Laura/Lamar Dresden” or “Jamie Shelton”

### **APRIL 3**

#### **Week 10: Preparing to Negotiate**

##### Assignments:

*Negotiation*, pp. 67-90

Answer Problem 3-5 in *Negotiation*

Prepare memorandum summarizing client interview – “Laura/Lamar Dresden” or “Jamie Shelton”

##### Role Plays:

“The Strategic Security Institute and Dr. Hannah White”

“Laura/Larry Nichols” or “Avery Brown”

### **APRIL 10**

#### **Week 11: Multiparty Negotiation**

##### Assignments:

*Negotiation*, pp. 409-447

Answer Problem 14-1 in *Negotiation*

##### Role Plays:

“Fairview City”

“Addison Sullivan” or “Home Sweet Home”

### **APRIL 17**

#### **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 more information about two-level bargaining theory.)

Complete short essay on “Fairview City”

##### Role Plays:

“Bio-Tech Solutions and Global Shipping Logistics”

“Casey Foster” or “Quinn Cozart”

### **APRIL 24**

#### **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”

**FINAL PAPERS DUE AT 5:00 P.M. ON MAY 1, 2023**