

University of Houston Law Center  
Fall 2013  
Advanced Legal Negotiations

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Room 4 BLB  
**Course # 5271 Section # 34480**

Tuesday 4:00 - 5:40 p.m.

**Professors:**        **Kevin Hedges**  
                         **Jim Lawrence**

**Required Text:**    Negotiation Genius; Malhotra, Bazerman

**Office Hours:**     **By appointment**

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**E-mail:**            Everyone should have access to email and an e-mail account. Email is the best way to contact Professor Hedges. He prefers e-mail to that of scheduled appointments. You can reach him at:

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Professor Lawrence offices in the Blakely Advocacy Institute, 101 BLB. You can drop in anytime or contact him via email at:

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**Course Description:**

Pre-requisites: Legal Negotiation, participation in the ABA Negotiation Competition, or participation in the ICC International Commercial Mediation Competition.

This course will focus on in-depth analysis, planning and practice of preferred systems and techniques for complex negotiations involving both hard and soft interests. The analytical skills to be emphasized are (1) Identification of Interests, (2) Analysis and improvement of each party's BATNA, (3) Development of options, and (4) Assurance of transparency, implementation and enforcement. Class size is limited to 12 students in order to assure the faculty/student ratio necessary for in-depth analysis and training.

**Course goals:**

This is an advanced course offered to students who have been exposed to basic concepts of negotiation theory and practice. The following description of course goals for legal negotiation is accurate for this class as well, but we will be exploring the issues relating to preparation and opportunities for mutual gain in more depth than in introductory classes.

This course starts from the observation that the world of managers, lawyers, public officials, analysts and other professionals is marked by interdependencies, fragmented sources of power and an uncertain future. In this unruly world, the sources for understanding and stability are often provisional and the ability to learn and to manage change is at a premium. The diversity of our society and work force contributes to conflicts over goals, interests, and frames of reference. These characteristics create an ongoing need for the ability to craft stable agreements that advance interests, build trust, and construct understanding in complex and unstable environments. They create a need for negotiation.

To help you develop the understanding and skills necessary to respond to this challenge, we will explore three insights that currently shape negotiation research, theory and practice. The insights each describe negotiations as an interactive process. The first insight is that even simple interdependencies create a dynamic environment in which multiple outcomes are possible. The bare fact that a bargain requires the consent of both parties is sufficient to open a complex space for interaction between negotiators. The second insight is that negotiation is rarely a zero-sum process. Negotiators affect not only how value is distributed, but also how much value there is to distribute. The third insight is that negotiation is a social process. Through their interactions, negotiators shape the terms in which they understand problems, their sense of what kind of behavior is fair, appropriate, and desirable, and their ability to trust.

We hope to accomplish two goals. First, we hope that you will develop skills that will make you a better negotiator. Second, we hope to help you connect your developing understanding of negotiation in terms connected to adjacent questions about learning, rationality, ethics, organizational behavior, and other fields. In more substantive terms, this course should help you to diagnose conflict, prepare to negotiate, negotiate purposefully and thoughtfully, and critically evaluate outcomes and experiences.

We will explore a systematic approach to negotiation that we think constitutes good advice about what to do when your interests or beliefs are in tension with others' and you cannot act unilaterally.

## **Negotiation Exercises:**

You will take part in several negotiation exercises. For each case, you will be assigned a particular role; given background information, instructions and confidential information to aid in your preparation. You will be asked to prepare in writing for the negotiation, and may be asked to negotiate the exercise in class before the other students

## **Cases and Readings:**

**Required Books:** Negotiation Genius; Malhotra, Bazerman

## **Grading:**

Your grading will be based on the following four components:

10% Class Participation - - This component is based on (1) showing up; (2) participating in class discussions in a productive and involved way; and (3) if applicable, your participation in a fishbowl negotiation.

20% Preparation Sheet for First Exercise.

Preparation Sheets require the following information (1) your interests, (2) the other party's interests, (3) options for creating mutual gain, (4) strategies for meeting your interests.

30% Preparation Sheet for Second Exercise.

40% Preparation Sheet for Third Exercise.

**PLEASE NOTE, ALL GRADING EXCEPT FOR CLASS PARTICIPATION IS DONE ANONYMOUSLY. IF YOUR NAME APPEARS ON ANY ASSIGNMENT THAT YOU TURN IN, YOU WILL AUTOMATICALLY BE GIVEN THE LOWEST GRADE APPLICABLE FOR THAT ASSIGNMENT.**

## **Confidential Instructions**

You will receive confidential instructions in each of the exercises. You may choose to reveal or discuss some or all of the contents of your confidential information in a fishbowl negotiation—indeed, to be successful; this kind of communication is often indispensable. However, you must not physically show your confidential information sheets to the other side. This rule is intended to mirror reality: in most actual situations, you cannot simply show the full set of your underlying values and information to your negotiating counterparts.

## **Optional Reading List**

Fischer, Ury, Getting to Yes, Penguin Books, 1981

James Selenius, Essentials of Negotiations, Harvard Case, November 18, 1993.

George Wu, Decision Analysis, Harvard Case, 1997.

Robert B. Cialdini, Influence Experts Influence: The Psychology of Persuasion, November 1, 1995.

Thomas Schelling, An Essay on Bargaining (ch. 2) The Strategy of Conflict.

G. Richard Shell, When is it Legal to be in Negotiations, Sloan Mgmt. Review, April 1, 1991.

George Wu, Exercises in Negotiation Analysis, Harvard Case, August 1, 1996.

## **Tentative schedule**

|                         |                                                                                                                |
|-------------------------|----------------------------------------------------------------------------------------------------------------|
| Class 1 (August 27):    | Hand Out Exercise 1                                                                                            |
| Class 2 (September 3):  | Reading: Chapter 1                                                                                             |
| Class 3 (September 10): | Reading: Chapter 2                                                                                             |
| Class 4 (September 17): | Reading: Chapter 3<br>Breakout Sessions in preparation for Exercise 1                                          |
| Class 5 (September 24): | Turn in Preparation Memo for Exercise 1<br>(20% of grade)<br><br>Fishbowl of Exercise 1<br>Hand Out Exercise 2 |
| Class 6 (October 1):    | Reading: Chapters 4 and 5                                                                                      |
| Class 7 (October 8):    | Reading: Chapter 6                                                                                             |
| Class 8 (October 15)    | Reading: Chapter 7<br>Breakout Sessions in preparation for Exercise 2                                          |

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|-------------------------|------------------------------------------------------------------------------|
| Class 9 (October 22):   | Turn in Preparation Memo for Exercise 2<br>(30% of grade)                    |
|                         | Fishbowl of Exercise 2<br>Hand Out Exercise 3                                |
| Class 10 (October 29):  | Reading: Chapter 8                                                           |
| Class 11 (November 5):  | Reading: Chapters 9 - 10                                                     |
| Class 12 (November 12): | Reading: Chapters 11 - 12                                                    |
| Class 13 (November 19): | Reading: Chapters 13 - 14<br>Breakout Sessions in preparation for Exercise 3 |
| Class 14 (November 26): | Turn in Preparation Memo for Exercise 3<br>(40% of grade)                    |
|                         | Fishbowl of Exercise 3.                                                      |
| Class 15 (December 3)   | Wrap-up                                                                      |