

## LEGAL NEGOTIATIONS FALL 2014 (Revision 08/25/14)

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**Required Text:** Roger Fisher and William Ury, Getting to Yes Negotiating Agreement without Giving In, Penguin Books 3<sup>rd</sup> edition 2011

Korobkin, R., Negotiation Theory & Strategy, Second Edition, Aspen Law and Business, 2009

### **Optional Reading List**

Robert B. Cialdini, Influence, the Psychology of Persuasion, Collins Business Essentials, 2007.

Ian Taylor and Matthew Hilger, The Poker Mindset: Essential Attitudes for Poker Success, Dimat Enterprises, 2007.

G. Richard Shell, Bargaining for Advantage, Penguin Books, 2006.

Robert Axelrod, The Evolution of Cooperation, Basic Books, 2006.

David Lax and James Sebenius, 3-D Negotiation, Harvard Business School Press, 2006.

Robert H. Mnookin, Scott R Peppet, and Andrew S. Tulumello, Beyond Winning, Harvard University Press, 2000

S. I Hayakawa, Language in Thought and Action, Fifth Edition, Hartcourt Brace Jovanovich, 1990

Howard Raiffa, The Art and Science of Negotiation, Harvard University Press, 1982.

Robert M. Bramson, Phd., Coping with Difficult People, Doubleday, 1981

### **COURSE OBJECTIVES**

1. To increase awareness of –
  - a. The pervasiveness of negotiation
  - b. The importance of process—how we negotiate
  - c. Negotiating behavior and the underlying assumptions (mental models)
2. To provide concepts and tools for thinking about negotiation

3. To enhance skills by -
  - a. Developing practical ways to apply useful concepts to daily negotiations
  - b. Recognizing effective negotiation techniques others use
  - c. Bridging the gap between theory and practice
  - d. Practicing negotiation in a safe environment

### **FORMAT OF EACH CLASS MEETING**

- Sign-in, submit current week's pre-negotiation and past week's post-negotiation journal entries/agreements
- Brief interactive discussion about previous/current week's concepts and exercise
- Students assigned to same roles meet with a professor for facilitated preparation [students will self-facilitate part of the preparation as the semester progresses and number of roles increase in negotiation simulations]
- Negotiation pairing/groups assigned; identify observation pairs/groups
- Negotiation pairs/groups meet and conduct negotiation simulation  
Professors observe negotiation pairs/groups, give individualized feedback
- Return to groups based upon role assignments and professors facilitate interactive debriefing discussion after negotiation simulation
- Full class debrief of negotiation outcomes, discussion, questions
- Lecture, interactive discussion about next week's activity
- Pick up materials for next week's exercise and graded journal entries

**GRADING:                      50% Journal                      &                      50% Research Paper**

### **50% Journal**

The purpose of the journal is for the student to demonstrate and professors to assess skill development. Students create a series of journal entries reflecting preparation, participation and analysis of negotiation exercises. By the end of the semester, a preparation and analysis will be created for each negotiation scenario; an agreement will also be created for select negotiation scenarios.

**NOTE YOUR EXAM NUMBER AND LAST 4 DIGITS OF YOUR SOCIAL SECURITY NUMBER ON EACH PAGE OF EACH JOURNAL ENTRY.**

For each negotiation, the journal should include the following:

- pre-negotiation preparation                      NO MORE THAN ONE PAGE
- post-negotiation analysis                      NO MORE THAN ONE PAGE

Journal contents should be typed, double spaced, or legible hand-writing. The negotiation exercises are real time and in class. Although emergencies and conflicts are to be expected, **THERE ARE NO OPPORTUNITIES FOR MAKE UPS.**

In addition to assessing skill development, the journals are a vehicle for students to plan, reflect and synthesize, on an ongoing cumulative basis, the lessons learned from the class, readings and experience of participating in the simulations.

**JOURNAL GUIDANCE: BREVITY IS ENCOURAGED.**

Do not summarize the readings or provide a “blow-by-blow” account of the negotiations.

Describe planning and preparation for each simulation.

Identify goals and the possible goals of the other player.

What information is important to learn from the other player?

What information do you have that may be important to them?

What **strategy** will you use to obtain your objectives?

Analyze the relationship between preparation and the particular strategy(ies) utilized in the negotiation. Was it successful? If not, why not?

Describe barriers experienced in trying to reach an agreement and how to overcome those barriers and put them to advantage.

Describe any unexpected approaches or actions by others and how they might be anticipated and dealt with in the future.

Reflect on any class discussion or questions posed as homework.

Utilize the entire time allocated for the negotiation.

For classes held September 29<sup>th</sup>, October 6<sup>th</sup>, October 13<sup>th</sup>, and October 20<sup>th</sup>, you and your negotiation partner should prepare a written agreement for that class negotiation. If an agreement is not reached, note the elements of agreement and the last positions when time ran out. **PREPARE ONE AGREEMENT FOR THE SIMULATION AND TURN IT IN WITH BOTH EXAM NUMBERS AND LAST FOUR DIGITS OF SOCIAL AT THE END OF THE CLASS PERIOD.**

One or more agreement(s) will be selected as additional journal grade(s).

Journals are evaluated based on demonstration of skill development, including class preparation, development of negotiation strategy(ies), analysis of negotiation outcomes, and integration of concepts taken from reading assignments.

Pre-Negotiation journal entries are collected **AT THE BEGINNING OF EACH CLASS.**

Post-Negotiation journal entries from the **PREVIOUS CLASS SESSION**, are collected **AT THE BEGINNING OF THE IMMEDIATELY FOLLOWING CLASS.**

## **ABSENCES**

If a class is missed, it is the student's responsibility to coordinate with a member of the class to obtain the following week's material.

### **50% Research Paper**

A topic of interest to you relating to negotiation; topics can relate to psychology, ethics, culture or strategy, or may be taken from class discussions, assigned or optional reading.

A topic description and paper outline should be prepared and submitted for approval in accordance with the dates in the class schedule below.

A paper outline and proposed bibliography are due in accordance with the class schedule below.

The paper will include ENDNOTES, NOT FOOTNOTES, AND A BIBLIOGRAPHY.

The paper will be no more than 10, no less than 8 pages typed double spaced, 12 point font, **not including endnotes and bibliography.**

The paper is due on or before 4 pm December 12, 2014, turned in to the instructors' mail boxes at the Blakely Advocacy Institute in the Law Center, Room 101 BLB.

The paper will be evaluated on:

- 1) the relevance of the topic to negotiation and to the subjects, material, simulations and discussions in class, as well as the assigned reading;
- 2) the quality of research; and
- 3) the depth and quality of analysis.

## **ADDITIONAL EXERCISES AND OBLIGATIONS**

In addition to the graded tasks that are listed above, professors will schedule at least 2 and as many as 3 to 4 observations of a negotiation simulation exercise for each student and provide individualized feedback to the students who participate in the exercise immediately after the simulated negotiation.

The negotiation pairs/groups for observation will be identified on the day of the observation; that is, there will not be any advance notice of the observation.

## **OFFICE HOURS AND APPOINTMENTS**

The professors have no office on campus and are on campus only during the class meetings each week. We will strive to be accessible to students via telephone and email contact. Feel free to call or email and talk to us after class. We will also schedule appointments on an individual, on request basis.

## CLASS SCHEDULE August 25, 2014 – November 24, 2014

August 25, 2014

### ORIENTATION

Discuss syllabus and grading

Discuss Elements of Negotiation

Take the negotiation style inventory:

[ww3.janus.com/advisor/tools-for-success/negotiations-assessment-tool](http://ww3.janus.com/advisor/tools-for-success/negotiations-assessment-tool)

Discuss negotiation styles

Simulation – *Restaurant Rancor*

Read Korobkin Chapters 1, 7A and 8A and 13 for next meeting

September 8, 2014

### CO-OPERATION - TRUST AND REPUTATION

Turn in debrief for *Restaurant Rancor*

Simulation - *Oil Pricing*

Debrief - Trust and Reputation

Lecture - Distributive negotiations:

BATNAs, Reservation points, ZOPAs, Aspirations

Pass out *Hong Kong* and *Bullard Houses*

Read Korobkin Chapters , 2 and 8B for next meeting

September 15, 2014

### DISTRIBUTIVE NEGOTIATION - BATNA

### BARGAINING ZONE - SETTING A RESERVATION PRICE

Turn in debrief for *Oil Pricing*; Prep for *Hong Kong*, *Bullard House*

Simulation - *Hong Kong*

Debrief - BATNAs

Simulation - *Bullard House*

Debrief - Lecture - Psychological Factors affecting negotiations

Pass out *Clarke v. Ins*

Read Korobkin Chapters 3, 7B and 10 for next meeting

September 22, 2014

### PSYCHOLOGICAL FACTORS AFFECTING NEGOTIATIONS

Turn in debrief for *Hong Kong* and *Bullard House*; prep for *Clarke*

Simulation - *Clarke v. Ins.*

Debrief - Determining the bargaining zone

Lecture - Agency

Pass out *Sally Soprano*

Read Korobkin Chapter 4 and begin Getting to Yes.

September 29, 2014

**ANALYZING PROBABLE VALUES**

Turn in debrief for *Clarke v. Ins.* and prep for *Sally Soprano*

Simulation - *Sally Soprano*

Prepare and turn in agreement for *Sally Soprano* by end of class

Debrief - Integrative Bargaining

Pass out *PowerScreen*

Continue reading "Getting to Yes" for next meeting

October 6, 2014

**INTEGRATIVE BARGAINING AND PRINCIPLED NEGOTIATION**

Turn in debrief/agreement for *Sally Soprano* and prep for *PowerScreen*

Simulation – *PowerScreen*

Prepare and turn in agreement for *Power Screen* by end of class

Debrief - Addressing disparate interests

Lecture - Culture and Gender

Pass out *MedLee*

Read remainder of "Getting to Yes"

Read Korobkin Chapter 9 for next meeting

October 13, 2014

**CULTURE**

Turn in debrief/agreement for *PowerScreen* and prep for *MedLee*

Class discussion of culture

Simulation – *MedLee*

Prepare and turn in agreement for *MedLee* by end of class

Debrief

Lecture - Drafting

Pass out *Ellsworth*

October 20, 2014

**FORMALIZING THE RESULTS OF NEGOTIATIONS**

Turn in debrief/agreement for *MedLee* and prep for *Ellsworth*

Simulation - *Ellsworth v Ellsworth*

Prepare and turn in agreement for *Ellsworth* by end of class

Draft Agreement

Pass out *Parking Facility* and *Hospital Committee*

Read Korobkin Chapter 6 for next meeting

**HAND IN PROPOSED PAPER TOPICS**

October 27, 2014

**FAIRNESS AND RELATED SOCIAL NORMS**

Turn in debrief for *Ellsworth*; prep for *Parking Facility, Hospital Committee*

Lecture - Fairness

Simulation - *Parking Facility*

Debrief simulation

Simulation - *Hospital Committee*

Debrief simulation

Lecture - Multi-party Negotiations

Pass out BMP Policy Meeting

Read Korobkin Chapter 5 and 11 for next class

November 3, 2014

**MULTILATERAL NEGOTIATIONS**

Turn in debrief for *Parking Facility, Hospital Committee*,

Discussion of Multilateral Negotiations

Simulation – BMP

Debrief simulation

Lecture - Mediation

Pass out Springfield

Individual conferences (on request) re: Paper Topics

Read Korobkin Chapter 12 for next meeting

**HAND IN PAPER OUTLINE/BIBLIOGRAPHY**

November 10, 2014

**MEDIATION AND VALUES BASED NEGOTIATIONS**

Turn in debrief for previous class negotiation and prep for Outfest

Simulation – Springfield Outfest

Debrief simulation

Pass out DEC vs. Riverside

November 17, 2014

**DEC VS. RIVERSIDE**

Turn in debrief for previous class negotiation and prep for DEC

Simulation – DEC vs Riverside

Turn in results of simulation at end of class

November 24, 2014

**Lecture on the Basis of Joint Gains**

Turn in debrief for previous class

Discussion of DEC vs. Riverside

Closure

Individual conferences (on request) re: Paper

**PAPER DUE December 12, 2014**