

LEGAL NEGOTIATIONS Spring 2014 (Revision 012614)

Professors: Tracy Leissner, J. D. and Robert Hughes, J.D.
Email hughesleissner@aol.com
Office 713 641 9222
Hughes cell 713 303 4121 Leissner cell 713 553 4933

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

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

Optional Reading List

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

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

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

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

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

R. L. Wing, Art of Strategy, Broadway Books , New York, 1988.

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

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, analysis and agreement will be created for each negotiation scenario.

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
- a written memorandum of any agreement or ending bargaining position of the parties (BEGINNING WITH INTEGRATIVE BARGAINING)

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 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.

Prepare a brief written agreement for each negotiation. If an agreement is not reached, note the elements of agreement and the last positions when time ran out.

One agreement will be selected as an additional journal grade.

Journals are evaluated on the demonstration of skill development, including class preparation, development of a negotiation strategy, analysis of negotiation outcomes, and integration of concepts taken from the 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.

The final post-negotiation journal entry from the simulation conducted during the final class meeting is due with the paper in accordance with the class schedule below turned in to either of our mail boxes at the Blakely Advocacy Institute at the Law Center, Room 101 BLB, located on the first floor of the enclosed corridor between BLB and TUII.

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 On a topic of interest to you and relating to psychology, ethics, culture, strategy, and/or analysis **in negotiation**.

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 in accordance with the class schedule below 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.

There may be also opportunities for videotaping of exercises with individual, group or full class feedback, discussion and critique.

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 January 13, 2014 – April 21, 2014 (Revision 012614)

JANUARY 13, 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

Discuss negotiation styles

Simulation - *The Blender*

Read Korobkin Chapters 7A and 8A for next meeting

JANUARY 27, 2014

CO-OPERATION - TRUST AND REPUTATION

Turn in debrief for *The Blender*

Simulation - *Oil Pricing*

Debrief - Trust and Reputation

Lecture - Distributive negotiations:

BATNAs, Reservation points, ZOPAs, Aspirations

Read Korobkin Chapters 1, 2 and 8B for next meeting

Pass out *Hong Kong* and *Bullard House*

FEBRUARY 3, 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

FEBRUARY 10, 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.

FEBRUARY 17, 2014

ANALYZING PROBABLE VALUES

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

Simulation - *Sally Soprano*

Debrief - Integrative Bargaining
Lecture - Creating and Claiming Value
Pass out *PowerScreen*
Continue reading "Getting to Yes" for next meeting

FEBRUARY 24, 2014

INTEGRATIVE BARGAINING AND PRINCIPLED NEGOTIATION

Turn in debrief for *Sally Soprano* and prep for *PowerScreen*
Simulation - *PowerScreen*
Debrief - Addressing disparate interests
Video - HackerStar
Lecture - Culture and Gender
Pass out *MedLee*
Read remainder of "Getting to Yes"
Read Korobkin Chapter 9 for next meeting

MARCH 3, 2014

CULTURE

Turn in debrief for *PowerScreen* and prep for *MedLee*
Class discussion of culture
Simulation - *MedLee*
Debrief
Lecture - Drafting
Pass out *Ellsworth*

MARCH 17, 2014

FORMALIZING THE RESULTS OF NEGOTIATIONS

Turn in debrief for *MedLee* and prep for *Ellsworth*
Simulation - *Ellsworth v Ellsworth*
Draft Agreement
Pass out *Parking Facility* and *Hospital Committee*
Read Korobkin Chapter 6 for next meeting

HAND IN ELLSWORTH AGREEMENT AND PROPOSED PAPER TOPICS

**PLEASE TRY NOT TO MISS THIS CLASS; THE IN-CLASS
DRAFTING ASSIGNMENT WILL COUNT AS AN ADDITIONAL
JOURNAL GRADE; NO MAKE UPS**

MARCH 24, 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 *Carson Extension*
Read Korobkin Chapter 11 for next meeting

MARCH 31, 2014

MULTILATERAL NEGOTIATIONS

Turn in debrief for *Parking Facility, Hospital Committee*, Prep for *Carson*
Discussion of Multilateral Negotiations
Simulation - *Carson Extension*
Debrief simulation
Pass out *Southern Express*
Lecture - Power
Individual conferences re: Paper Topics
Read Korobkin Chapter 5 for next meeting
HAND IN PAPER OUTLINE/BIBLIOGRAPHY

APRIL 7, 2014

VALUES BASED NEGOTIATIONS

Turn in debrief for *Carson* and prep for *Southern Exposure*
Simulation - *Southern Express Part I*
Debrief simulation
Discussion of Values Based Negotiations
Pass out *Southern Express Part II*

APRIL 14, 2014

VALUES BASED NEGOTIATIONS

Turn in debrief for *Southern Exposure Part I* and prep for *Part II*
Simulation - *Southern Express Part II*
Debrief simulation
Discussion of Values Based Negotiations
Discussion of Mediation
Pass out *Springfield Outfest*
Read Korobkin Chapter 12

APRIL 21, 2014

MEDIATION

Turn in debrief for *Southern Exposure Part II* and prep for *Springfield*
Group selection of Participants in simulation
Demonstration of Simulation - *Springfield Outfest*
Debrief and discussion

FINAL JOURNAL AND PAPER DUE MAY 9