

LEGAL NEGOTIATIONS SPRING 2020

Professors: Tracy Leissner, J. D. and Robert Hughes, J.D.
Email ttleissner@gmail.com
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, Third Edition, Aspen Law and Business, 2014

Optional Reading List

Deepak Malhotra and Max Bazerman, Negotiation Genius, Bantam Books, 2008.

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. Moonkin, Scott R Peppet, and Andrew S. Tulumello, Beyond Winning, Harvard University Press, 2000.

Rosenberg, Marshall. Non-Violent Communication. Cencinitas, Ca.: Puddle Dancer Press, 2003.

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.

Roger Fisher and David Shapiro, Beyond Reason, Penguin Books, 2005.

Counseling and Psychological Services (CAPS) can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS (www.uh.edu/caps) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the "Let's Talk" program, a drop-in consultation service at convenient locations and hours around campus.

http://www.uh.edu/caps/outreach/lets_talk.html

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
- 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% Paper

50% Journal Students create a series of journal entries reflecting preparation, participation and analysis of negotiation exercises. The purpose of the journal for students to demonstrate, and professors to assess skill development.

NOTE THE TITLE OF THE SIMULATION (INCLUDING MAKE-UP ASSIGNMENTS), EXAM NUMBER AND LAST 4 DIGITS OF SOCIAL SECURITY NUMBER ON EACH PAGE OF EACH JOURNAL ENTRY.

For each negotiation, students prepare 2 journal entries:

- pre-negotiation preparation NO MORE THAN ONE PAGE
- post-negotiation analysis NO MORE THAN ONE PAGE
- journal entries can be typed, double spaced, or legible hand-writing.

Students will also prepare a written memorandum of any agreement or ending bargaining position of the parties for simulations during class on dates **FEBRUARY 24, MARCH 2 AND 16.**

AGREEMENTS ARE DUE AT THE END OF THE CLASS PERIOD WHEN THE SIMULATION OCCURRED and contain the exam number of both participants.

Agreements are graded on, specificity, completeness and clarity. If a student misses a negotiation that requires submission of a written agreement, the student may make up the grade for the agreement by submitting a proposed agreement for the exercise **AT THE BEGINNING OF THE NEXT CLASS.**

THE NEGOTIATION EXERCISES ARE REAL TIME AND IN CLASS.

Students can make-up a post-negotiation journal entry **ONLY (NOT PRE NEGOTIATION JOURNAL ENTRY)** by submitting a 2-page paper **FOR EACH MISSED NEGOTIATION** on one of the following topics **at the beginning of the next class:**

- 1) THE FUNCTION OF RECIPROCITY
- 2) BIAS IN VALUE ANALYSIS
- 3) THE USE AND ABUSE OF POWER IN NEGOTIATIONS
- 4) THE FUNCTION OF SOCIAL NORMS IN NEGOTIATION

When a student knows they will miss a class, they should ask a classmate to pick up the material and let the professors know so they can account for role assignments.

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.

PRE-NEGOTIATION JOURNAL ENTRIES:

- Do not summarize the readings.
- Do not provide a “blow-by-blow” account of the negotiations.
- Reflect on any class discussion or questions raised by your reading.
- Describe planning and preparation for the simulation.
- Identify your goals and 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?
- Pre-Negotiation journal entries are due **AT THE BEGINNING OF THE CLASS WHEN THE NEGOTIATION IS CONDUCTED.**

POST-NEGOTIATION JOURNAL ENTRIES:

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

Journals are evaluated on:

- demonstration of skill development, including class preparation
- development of a negotiation strategy
- analysis of negotiation outcomes, and
- integration of concepts taken from lectures, reading assignments and class discussion.

Journal grading is to some degree, subjective, **ALTHOUGH NOT ARBITRARY**. Scrutiny and expectations will increase as the semester progresses. Professors look for increasing acuity at negotiation technique, comprehension and analysis.

50% Paper

On a topic of interest to you

FOCUSING ON OR RELATING TO NEGOTIATION AND ANALYZING NEGOTIATION

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.**

Paper is due on or before **THURSDAY MAY 7, 2020 AT 4 PM** turned in to instructors' mail boxes at the Blakely Advocacy Institute in the Law Center, Room 101 BLB.

A topic description, paper outline and proposed bibliography are due in accordance with the class schedule below. Paper grading is to some degree, subjective, **ALTHOUGH NOT ARBITRARY**. The paper will be evaluated on:

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

ASSIGNMENT SUBMISSIONS

Professors prefer journals and papers be submitted in hard copy form. Students who are unable to submit hard copies, may submit assignments via email to Nicole Dellario, Program Manager, University of Houston Law Center, Blakely Advocacy Institute, 713-743-2065, nhdellar@Central.UH.EDU. Emailed assignments must include class and professor name, exam number/last 4 digits SSN, name of assignment and submitted so staff can print and place in professor's mail box by the due date and time.

DO NOT SUBMIT WRITTEN ASSIGNMENTS VIA OUR PERSONAL EMAILS. ASSIGNMENTS WILL BE ACCEPTED FOLLOWS:

PRE NEGOTIATION JOURNALS ARE DUE AT THE BEGINNING OF CLASS WHEN THE SIMULATION OCCURS. IF YOU WILL BE ABSENT, THE HARD COPY JOURNAL MUST BE SUBMITTED BY ANOTHER STUDENT AT THE BEGINNING OF THAT CLASS. IN THE ALTERNATIVE THE JOURNAL MAY BE SUBMITTED BY EMAIL TO NICOLE DELLARIO AS DESCRIBED ABOVE, NO LATER THAN THE BEGINNING OF THE MISSED CLASS. THERE IS NO MAKE UP OPPORTUNITY FOR PRE-NEGOTIATION JOURNALS.

AGREEMENTS/MEMORANDA ARE DUE AT THE END OF THE CLASS WHEN THE SIMULATION OCCURRED FOR WHICH THE AGREEMENT IS DRAFTED.

POST NEGOTIATION JOURNALS / MAKE-UP POST NEGOTIATION JOURNALS / MAKE-UP AGREEMENTS/MEMORANDA ARE DUE AT THE BEGINNING OF THE FIRST CLASS AFTER THE SIMULATION OCCURRED FOR THE SUBMITTED JOURNAL/AGREEMENT/MEMORANDA. IF YOU WILL BE ABSENT, THE HARD COPY JOURNAL MUST BE SUBMITTED BY ANOTHER STUDENT AT THE BEGINNING OF THAT CLASS. IN THE ALTERNATIVE THE JOURNAL MAY BE SUBMITTED BY EMAIL TO NICOLE DELLARIO AS DESCRIBED ABOVE NO LATER THAN THE BEGINNING OF THE MISSED CLASS.

PAPERS ARE DUE AS SET OUT IN THE SYLLABUS.

LATE ASSIGNMENTS WILL NOT BE ACCEPTED.

FAILURE TO TIMELY SUBMIT ANY ASSIGNMENT WILL RESULT IN A ZERO.

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 and turn in assignments timely.

OBSERVATIONS AND INDIVIDUAL FEEDBACK

Professors will observe negotiation simulation exercises for each student and provide individualized feedback 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 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

JANUARY 27 – APRIL 20, 2020

NOTE:

THE FIRST DAY OF CLASS IN THIS COURSE IS MONDAY JANUARY 27, 2020 NOT MONDAY JANUARY 13, 2020. THERE ARE 12 CLASS MEETINGS 175 MINUTES EACH IN LENGTH AND NOT 13 CLASSES MEETINGS 162 MINUTES EACH IN LENGTH IN THIS COURSE.

JANUARY 27, 2020 – Read Korobkin Chapters 1, 7 and 14 for this class meeting ORIENTATION / CO-OPERATION - TRUST AND REPUTATION

Discuss syllabus and grading
Discuss Elements of Negotiation
Take negotiation style inventory, discuss negotiation styles
Lecture on Ethics
Simulation - *Oil Pricing*
Debrief - Trust and Reputation
Lecture - Distributive negotiations:
 BATNAs, Reservation points, ZOPAs, Aspirations
Pass out *Hong Kong* and *Bullard Houses*
Read Korobkin Chapter 2 for next meeting

FEBRUARY 3, 2020

DISTRIBUTIVE NEGOTIATION - BATNA
BARGAINING ZONE - SETTING A RESERVATION PRICE
Turn in debrief for *Oil Pricing*; Prep for *Hong Kong, Bullard House*
Simulation – *Bullard House*
Debrief
Simulation – *Hong Kong*
Debrief
Lecture – Emotions in Negotiations
Pass out *67 Fishpond*
Read Korobkin Chapters 3 and 8 for next meeting

FEBRUARY 10, 2020

PERSUASION AND EMOTION IN NEGOTIATION
Turn in debrief for *Hong Kong* and *Bullard House*; Prep for *67 Fishpond*
Simulation – *67 Fishpond Lane*
Debrief
Lecture – Calculating and Manipulating Value
Pass out *Clarke*
Read Korobkin Chapter 5 for next meeting

FEBRUARY 17, 2020

CALCULATING AND MANIPULATING VALUE

Turn in debrief for *67 Fishpond*; Prep for *Clarke v. Ins.*

Simulation - *Clarke*

Debrief

Lecture – Integrative Bargaining

Pass out *Sally Soprano*

Read Korobkin Chapter 4, begin reading “Getting to Yes” for next meeting

FEBRUARY 24, 2020

INTEGRATIVE BARGAINING I

Turn in debrief for *Clarke v. Ins.*; Prep for *Sally Soprano*

Simulation – *Sally Soprano*,

Prepare written agreement as part of negotiation to turn in at end of class

Debrief

Lecture – The Principal / Agent Relationship

Pass out *Power Graphics*

Read remainder of “Getting to Yes” and Korobkin Chapters 9 and 11 for next meeting

MARCH 2, 2020

INTEGRATIVE BARGAINING II

Turn in debrief for *Sally*; Prep for *Power Graphics*

Simulation – *Power Graphics*

Prepare written agreement as part of negotiation to turn in at end of class

Debrief

Lecture – Culture and Gender

Pass out *MedLee*

Read Korobkin Chapter 10

HAVE A GREAT SPRING BREAK

MARCH 16, 2020

CULTURE AND GENDER

Turn in debrief for *Power Graphics*; Prep for *MedLee*

Simulation – *MedLee*

Prepare written agreement as part of negotiation to turn in at end of class

Lecture – Fairness

Pass out material for *Parking Garage and Hospital Committee*

Read Korobkin Chapter 6 for next class

TURN IN PROPOSED PAPER TOPICS

MARCH 23, 2020

FAIRNESS AND RELATED SOCIAL NORMS

Turn in debrief for *MedLee*; Prep for *Parking Garage / Hospital Committee*

Simulation – *Parking*

Simulation – *Hospital Committee*

Debrief simulation

Lecture – Mediation

Pass out material for *Springfield*

Read Korobkin Chapter 13 for next meeting

Individual conferences (on request) re: Paper Topics

MARCH 30, 2020

MEDIATION AND VALUES BASED NEGOTIATIONS

Turn in debrief of *Parking Garage, Hospital Committee*; Prep for *Springfield*

Simulation – *Springfield mediation*

Debrief

Lecture – multi-party negotiations

Pass out material for *Collective Bargaining*

Read Korobkin Chapter 12

TURN IN OUTLINE OF PAPER AND PROPOSED BIBLIOGRAPHY

APRIL 6, 2020

MULTI-PARTY NEGOTIATION

Turn in debrief for *Springfield Outfest*; prep for *Collective Bargaining*

Simulation – Internal negotiation for *Collective Bargaining*

Simulation – external negotiation for *Collective Bargaining*

Debrief

Lecture – Claiming and creating value

Pass out *DEC v Riverside*

APRIL 13, 2020

THE PARETO FRONTIER

Turn in debrief for *Collective Bargaining*; Prep for *DEC v Riverside*

Simulation – *DEC v Riverside* – **TURN IN SETTLEMENT SHEET**

Pass out material for Sue or Settle

NOTE: NO DEBRIEF JOURNAL ENTRY DUE FOR DEC V RIVERSIDE

NO PREP JOURNAL ENTRY DUE FOR SUE OR SETTLE

Pizza Preferences

APRIL 20, 2020

DEC v Riverside class debrief

Simulation Sue or Settle

Debrief Sue or Settle

Pizza and Parting words

PAPER DUE THURSDAY MAY 7, 2020 BY 4 PM