This class is about...
Goals for the class...

• Overview of the dispute resolution continuum.
• Challenge your perspective on the dynamics of the practice of law.
• Learn something about yourself.
Grading Criteria

• Professionalism and Preparation (9%)
• Journal Entry #1 (15%) – Mediation Advocacy
  Due before class starts on March 3\textsuperscript{rd}
• Journal Entry #2 (27%) – Negotiation Advocacy
  Due before class starts on April 7\textsuperscript{th}
• Journal Entry #3 (39%) – Trial Advocacy
  Due by 5 PM on April 30\textsuperscript{th}
• Skill Assessment (10% of total grade)
Additional Class Requirements

- Attend the Final Trial for the Law Center’s Trial Advocacy class. (Saturday, April 25th).

This is the substitute for Classes 7 & 8
What We’re Going To Do

• Core 6: Overview
  • Pretrial, Mediation, Negotiation, Arbitration, Trial, and Appellate
    – Story of the Case
    – Conflict Escalation Scale
    – Deep Structure
Story of the Case

Not just your basic, average, everyday, ordinary, run-of-the-mill, ho-hum fairy tale.
Conflict Escalation Scale

Win-win
1. Level
- 1. Hardening
- 2. Debates and polemics
- 3. Action, not words!

Win-lose
2. Level
- 4. Images and coalitions
- 5. Loss of face
- 6. Strategies of threads

Lose-lose
3. Level
- 7. Limited destructive blows
- 8. Fragmentation
- 9. Together into the abyss
Journal Entries

• 3 Parts
  1. Story of the Case
  2. Conflict Scale Analysis
  3. Deep Structure
• No specific length
• Due before class starts on the due date
Skill Components

- Story: telling your clients story
- Pretrial: interviewing your client
- Mediation: mediation plan (your client’s case)
- Negotiation: multi-party negotiation
- Arbitration: selecting your arbitrator, arbitration rules, and venue
- Trial: closing argument (your client’s case)
- Appellate: oral argument (your client’s case)
Advocacy Survey

Stories
Assessments

- **Trauma**
  - On the paper provided, write your definition of trauma. Not the dictionary definition but your definition.

- **Conflict**
  - On the other side of the paper, draw a picture that represents your view of conflict.

- **Conflict Resolution Style**
  - Once you’ve completed the two assignments above, fill out the provided assessment and complete the scoring grid.
What Makes a Good Story?*

- It touches people in some way.
  - Has a sense of truth and moves the listener.
- It has to have substance.
  - Needs direction and purpose.
- It needs conflict and resolution.
  - Believable action moving the story
- It creates vivid images.
  - Bare bones vs. Detailed.
What Makes a Good Story?

- It is not “wimpy”.
  - “Wimpy” is insincere.
- It is perfect for your audience.
  - Prepare for your audience.
- It is a story you love and that you love to tell.
  - Never, never tell a story that you don’t like.

* Taken from Chris King, Creative Keys
What Makes a Good Story?

The Devil is in the Details
What Makes a Good Story?
“Maybe stories are just data with a soul.”

-- Dr. Brene Brown
Assessments – What is Trauma?

Trauma - a feeling or sensation of acute stress, or something deeply impactful or jarring.

Physical or mental injury or an event which causeth it. Anything that offends a person so much that they can't get over it in less than 4 hours.
Assessments – What is Trauma?

Trauma is either a mental, physical, or emotional disability.

An event that leaves emotional or psychological scars that continues to affects the traumatized person even well after the event.
What is Trauma?

Trauma: so severely injured, physically or emotionally, that the person is forever changed in some way.

Trauma is pain and suffering that negatively impacts your life in some way.

A negative physical or emotional occurrence that leaves a lasting impact.
What is Trauma?

Trauma: the imprint (long or short term) left by an individual as a result of some sort of negative experience/painful event.

Trauma: physical or emotional pain which has a lasting impact on the individual.

trauma - when an event is so terrible that it continues to have negative effects on the person who experienced it, those negative effects are trauma.
What is Trauma?

Trauma: negative emotional influence emanating from an event. It shapes one's outlook and influences subsequent decision-making.

When someone experiences a difficult event in one's life.
Assessments – What is Conflict?

etc.
What is Conflict?
Assessments – What is Conflict?

[Sketch of two figures, one saying, "Do your homework, please." The other responds, "No!" In the final scene, the first figure is being slapped by the second figure.]
What is Conflict?
What is Conflict?
What is Conflict?
What is Conflict?
What is Conflict?
What is Conflict?
Assessments – What is Conflict?
Deep Structure
Surface Structure:

- Words
- Tonality
- Body Language
- Gestures

What you observe
Deep Structure:

- Words
- Tonality
- Body Language
- Gestures

- Beliefs
- Values
- Biases
- Prejudices
- Experiences
- Fears
- Dreams
- Feelings
• Words
• Tonality
• Body Language
• Gestures

• Beliefs
• Values
• Biases
• Prejudices
• Experiences
• Fears
• Dreams
• Feelings

• Words
• Tonality
• Body Language
• Gestures

• Beliefs
• Values
• Biases
• Prejudices
• Experiences
• Fears
• Dreams
• Feelings
Empathy

- “The skill or ability to tap into our own experiences in order to connect with an experience someone is relating to us.”

- “It’s not just about the words. It’s about fully engaging and wanting to understand.”

  - Dr. Brene Brown
Help me understand…
Assessments
Uploading your video

- **Acclaim Student sign up instructions**
  1) Please go to the student sign up page (getacclaim.com/signup)

- Use this code (caps matter!): jlawrenceclass

- Fill out account information:
  *** Use the email that you use for this class.
Good Questions

- Open-Ended
  - Who
  - What
  - When
  - Where
  - How
  - Describe
  - Explain
  - Why**

- Leading
  - Do
  - Did
  - Are
  - Etc…
Clean Questions

Power

Precision
What is important about…?  
What interests you about…?  
What do you expect/want…?  
How do you know when…?  
How did you decide…?
What is important about…?

What else is important about…?

What interests you about…?

In addition to ___, what else interests you about…?

What do you expect/want…?

What else do you expect/want…?

How do you know when…?

Other than ___, how else do you know when…?

How did you decide…?

In what other ways did you decide…?
Advocacy Survey

9-Stage Model of Conflict Escalation
The Stages

- Stage 1: Hardening
- Stage 2: Debates and Polemics
- Stage 3: Actions, not Words
- Stage 4: Images and Coalitions
- Stage 5: Loss of Face
- Stage 6: Strategies of Threats
- Stage 7: Limited Destructive Blows
- Stage 8: Fragmentation of the Enemy
- Stage 9: Together Into The Abyss
Stage 1: Hardening

• The first stage of conflict escalation develops when a difference over some issue or frustration in a relationship proves resilient to resolution efforts.
Stage 2: Debates and Polemics

• Since the counterpart doesn't seem amenable to sensible arguments, discussions tend to develop into verbal confrontations. The parties look for more forceful ways of pushing through their standpoints. In order to gain strength, they tend to become increasingly locked into inflexible standpoints.
Stage 3: Actions, not Words

• At stage 3, the parties no longer believe that further talk will resolve anything, and they shift their attention to actions. Common interests and the prospect of resuming cooperation recede into the background, and the parties see each other as competitors.
Stage 4: Images and Coalitions

• At stage 4 the conflict is no longer about concrete issues, but about victory or defeat. Defending one's reputation is a major concern.
Stage 5: Loss of Face

- The transition to stage 5 is particularly dramatic. Loss of face means that the conflict parties feel that they have suddenly seen through the mask of the other party, and discovered an immoral, insane or criminal inside.
Stage 6: Strategies of Threats

• Since no other way seems to be open, the conflict parties resort to threats of damaging actions, in order to force the counterpart in the desired direction. The strategical threats of stage 6 are very different from the deniable punishment actions characteristic of stage 4. The latter mainly serve the function of giving vent to pent-up frustrations. Strategical threats are actively used in order to force the counterpart to certain concessions.
Stage 7: Limited Destructive Blows

• The threats of stage 6 undermine the basic sense of security of the parties. Now they expect the counterpart to be capable of very destructive acts. Securing one's own further survival becomes an essential concern.
Stage 8: Fragmentation of the Enemy

- At this stage the attacks intensify and aim at destroying the vital systems and the basis of power of the adversary. One may specifically aim at fragmenting the counterpart into ineffectual splinters, and at the ability of the counterpart to make decisions.
Stage 9: Together into the Abyss

• In the last stage of conflict escalation, the drive to annihilate the enemy is so strong that even the self-preservation instinct is neglected. Not even one's own survival counts, the enemy shall be exterminated even at the price of destruction of one's own very existence as an organization, group, or individual. Ruin, bankruptcy, prison sentences, physical harm, nothing matters any longer.
Advocacy Survey

Pretrial Litigation
Progression:
Civil Case v. Criminal Case

- Initial Stage
- Pleadings
- Discovery
- Motions
- Negotiation
- ADR
- Trial Sequence
- Appeal

- Initial Stage
- Charging
- Arraignment & Bail
- Discovery
- Motions & Negotiation
- Counseling
- Trial Sequence
- Appeal
Pretrial – TRCP

- Initial Stage
  - Client Interviewing and Counseling

- Pleadings
  - Rule 79 – Plaintiff’s Petition
  - Rule 85 – Defendant’s Answer

- Discovery
  - Rule 194 – Requests for Disclosure
  - Rule 197 – Interrogatories to Parties
  - Rule 198 – Requests for Admissions
  - Rule 199 – Depositions upon Oral Examination
Pretrial – TRCP

- Motions
  - Rule 166a – Summary Judgment
- Negotiation
- ADR – Mediation, Arbitration
- Trial Sequence
- Appeal