

Hamline University School of Law

NEGOTIATION SYLLABUS

Spring 2011
Fridays: 3 pm
Law 04

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As a lawyer, you will negotiate all the time—with opposing counsel, with regulators and experts, with your own clients, and with your colleagues. When you share roughly compatible goals, assess fairness similarly and/or have strong, positive relationships, these negotiations are likely to proceed quite smoothly and amicably. You may not even think to describe these interactions as “negotiations.” Often, however, legal negotiations are difficult and can become hostile. Most of the time, you will conduct these negotiations without the help of a third party and outside the presence of your client. At times, you will negotiate in the context of a judicial settlement conference, mediation, and/or a meeting that includes your client.

You come to this class with negotiation skills and approaches that you think have (or have not!) worked for you in the past. In this course, you will have the opportunity to improve upon these skills and approaches and, perhaps more importantly, learn to use *different* skills and approaches that may be more suitable for certain situations. I hope that you will find the course relevant, useful, and thought-provoking. I intend to structure it to foster your opportunities to learn and grow as soon-to-be professionals.

This class will consist of lecture, discussion, demonstrations/observations, and many simulations and exercises. By the end of the course, I expect that you will be able to:

- Prepare effectively for any negotiation
- Articulate the appropriateness of a particular negotiation approach
- Employ and critique effective and ineffective distributive and integrative negotiation techniques
- Employ and critique the use of e-mail technology to conduct a negotiation
- Articulate basic ethical guidelines for attorneys serving as negotiators

Class Materials

Required:

- Russell Korobkin, *Negotiation Theory and Strategy* (2nd ed., 2009)
- G. Richard Shell, *Bargaining for Advantage* (2006)
- Roger Fisher, William Ury & Bruce Patton, *Getting to Yes: Negotiating Agreement Without Giving In* (1991) (If you have not read this, it is required.)
- Supplementary materials and articles placed on TWEN
- General and confidential information for simulations (handed out in class)

Office Hours

Regular office hours will be Wednesdays: 1-3 and Thursdays: 10-12. Other times can be scheduled by appointment, and you are welcome to drop by any time except right before class. I am easily reachable: (651)523-2340 or bmcadoo@hamline.edu.

Attendance Policy

In this class, we conduct simulations more often than not, and it is a disservice to classmates to show up late or unprepared. Therefore, class absence, lateness, and poor preparation will adversely affect your grade. If you must miss a class, it is imperative that you give me as much advance notice as possible so that I can rearrange role assignments for class activities.

Policy on Laptop Use in Class

I encourage you to use laptop computers or other electronic devices in class to take notes and access course-related materials. However, use of electronic devices for purposes unrelated to class (such as checking email, participating in chat rooms, surfing the web, etc.) is totally prohibited – such use may result in not being allowed to use electronic devices in class for the balance of the semester and/or a grade reduction.

Class Participation/Contribution/Feedback

I care about the quantity and quality of your contributions in class. A quality comment usually possesses one or more of the following attributes:

- offers a unique and relevant insight
- builds helpfully on other comments
- contributes to moving the discussion and analysis forward

- demonstrates recognition of concepts we are studying and integrates these concepts with reflective thinking

I appreciate it when you bring to class newspaper articles and/or video clips and/or your review of a movie or television scene illustrating some aspect of negotiation we are studying.

For the simulations, you are expected to make a good faith effort to play assigned roles as realistically as possible. Feedback to colleagues will be required and will be most helpful if:

- it is honest and respectful
- it is specific (i.e., identifies the specific language or behavior that triggered your observations)
- it relates to the concepts we are studying
- it is constructive (i.e., includes a suggestion of other language or behavior that might have worked better for you in role)

Finally, a tool to measure your “reputation index” with your classmates in this class (developed for use in business school negotiation courses) will be handed out at the end of the semester, and your score on this will be factored into the participation/contribution percentage of your final grade.

Assignments:

Papers and other written submissions should be double-spaced, 12-point Times New Roman type face, with one inch margins all around. I expect them to be well-written and will mark down papers that have not been proofread. The final examination will be by anonymous student exam numbers; the other papers will be handed in by name.

Each written product for this course must demonstrate that you are integrating class readings and discussions. Endnotes referencing these are required and are not counted in the page total.

1. Two (2) short assignments are required, listed below. These papers are designed to help you reflect on what we are learning and to integrate the readings, simulations and class discussions.

1A. Due: 2/16/11 by 5pm at the Registrar’s office (three (3) to five (5) pages) (20%)

Answer these questions, reflecting on the last few simulations, the readings and class discussion:

- What have I learned that I didn't know before (about myself, about others' behavior, and especially about negotiation theory and practice)?
- How will I use this in future negotiations?
- Will these insights help me to be a better lawyer? In what way(s)?

1B. Due: 3/25/11 (preparation form to be used in class); 4/1/11 short paper due and handed in at class, with preparation form stapled to the back (20%)

You will use your preparation form for the negotiation on 3/25/11. After the simulation in class, complete a three (3) to five (5) page paper on how your preparation was useful (or not) to your negotiation. Again, this paper should demonstrate that you are integrating the class readings and discussions, and it requires endnotes. You must hand in your preparation form with your paper.

- 2. Due: 3/22/11 by 5 pm at the Registrar's office (30%)**
We will be engaging in an e-mail negotiation with students from Hastings Law School beginning on February 18 (10 am CDT) and ending on March 1 (11 pm CDT). Further instructions for this assignment and a four to six (4-6) page paper (due 3/22/11) will be given in class.

3. Final Exam (20%)

There will be a take home final exam for this course with two questions: one will probably be about some aspect of one of our in class negotiation simulations; and one will cover preparation for a negotiation.

Assessment:

1. Short papers: 40%
2. E-mail reflection paper: 30%
3. Contribution/Participation: 10%
4. Final Exam: 20%

I reserve the right to adjust your final grade by ½ step upward (e.g., B to B+) for consistently outstanding classroom participation, or 1/2 step downward (e.g., B to B-) if your classroom participation is consistently poor.

Detailed Reading Assignments and Due Dates:

1. 1/21/11	Introduction to Negotiation Study; Estimating the Bargaining Zone	Korobkin, Chapters 1 & 2 Shell, Intro. & Chapter 2
2. 1/28/11	Psychological Factors in Evaluating Alternatives	Korobkin, Chapter 3 Shell, Chapter 4
3. 2/4/11	Using Integrative Bargaining to Expand the Bargaining Zone	Korobkin, Chapter 4 Shell, Chapter 5 Getting to Yes
4. 2/11/11	Integrative Bargaining	Shell, Chapters 7, 8, 9, & 10 Finish Getting to Yes
5. 2/18/11	Using Communication, Rapport Building and Creativity to Expand the Bargaining Zone	Readings on TWEN Short paper (1A) due Wednesday, 2/16/10 (5 pm at Registrar's office)
2/18/11 to 3/1/11	E-Mail Negotiation with Hastings Law students starts 2/18/11 at 10 am Central Time and ends 3/1/11 at 11 pm Central Time	Keep all e-mail exchanges; reflection papers due 3/22 (5 pm at Registrar's office)
6. 2/25/11	Using Power, Influence and Competitive Negotiation Tactics to Change the Bargaining Zone	Korobkin, Chapter 5 Shell, Chapter 6
7. 3/4/11	The Influence of Fairness and Other Related Social Norms on Surplus Allocation	Korobkin, Chapter 6 Shell, Chapter 3
	Spring Break	

8. 3/18/11	The Negotiator's Dilemma; Conflict Style	Korobkin, Chapters 7 & 8 Shell Chapters 1, 12 & Appendix A E-mail reflection due 3/22 (5 pm at Registrar's office)
9. 3/25/11	Group Membership	Korobkin, Chapter 9 Complete preparation form <u>before</u> 3/25 class
10. 4/1/11	Group Membership continued	Readings on TWEN Short paper (1B) due (bring to class)
11. 4/8/11	E-mail negotiation debrief	Readings on TWEN
12. 4/15/11	The Principal-Agent Relationship	Korobkin, Chapter 10 A preparation form will be handed in; reflection about results will be required on TWEN
	No class on Good Friday	
13. 4/29/11	Misrepresentation and Other Contract Defenses	Korobkin, Chapter 13 Shell, Chapter 1
14. 5/3/11	TBA	

The following are optional materials in no particular order, and I might not have the latest edition dates. Some of them are “classics” in the field:

- Linda Babcock and Sara Laschever, *Women Don't Ask: Negotiation and the Gender Divide* (2003)
- William Ury, *Getting Past No: Negotiating Your Way from Confrontation to Cooperation* (1993)
- Douglas Stone, Bruce Patton & Sheila Heen, *Difficult Conversations: How to Discuss What Matters Most* (1999)
- Robert Cialdini, *Influence: The Psychology of Persuasion* (1984)
- David Lax & James Sebenius, *The Manager as Negotiator: Bargaining for Cooperation and Competitive Gain* (1986)
- Robert Mnookin, Scott Peppet & Andrew S. Tulumello, *Beyond Winning: Negotiating to Create Value in Deals and Disputes* (2000)
- Howard Raiffa, *The Art and Science of Negotiation* (1982)
- Robert Axelrod, *The Evolution of Cooperation*, (1984)
- Deborah Kolb & Judith Williams, *The Shadow Negotiation* (2000)
- Martin Latz, *Gain the Edge* (2004)