

## If I'd Wanted to Teach About Feelings, I Wouldn't Have Become a Law Professor

*Melissa Nelken, Andrea Kupfer Schneider & Jamil Mahuad\**

*Editors' Note: "Oh no, do we have to?" is these authors' mock-horrified initial reaction to the previous chapter. Their second response, however, is "Well, if we have to, we'd better get good at it." They go on to analyze how a series of exercises already widely used for other purposes could be adapted to perform double duty, to make students really think about their emotions.*

### Introduction

Fifteen years ago, Melissa wrote an article entitled "Negotiation and Psychoanalysis: If I'd Wanted to Learn about Feelings, I Wouldn't Have Gone to Law School" (Nelken 1996). The article discussed how the typical law student reacts when faced with a discussion of emotions and feelings in a negotiation class. Since that article, negotiation courses have dramatically increased their coverage of related areas – communication and listening, cognitive psychology, behavioral economics, etc. Yet despite the burgeoning interest in the "softer" aspects of negotiation skills, many law teachers remain

---

\* **Melissa Nelken** is a professor of law at the University of California, Hastings College of Law in San Francisco, California, faculty chair of the Hastings Center for Negotiation and Dispute Resolution, and a practicing psychoanalyst. Her email address is nelkenm@uchastings.edu. **Andrea Kupfer Schneider** is a professor of law at Marquette University Law School in Milwaukee, Wisconsin. Her email address is andrea.schneider@marquette.edu. **Jamil Mahuad** is a co-founder and senior advisor to the Harvard International Negotiation Program at the Program on Negotiation, Harvard Law School. He teaches executive education programs on the use of emotions in negotiations based on his experiences as Mayor of Quito (1992-1998), President of Ecuador (1998-2000) and Nobel Peace Prize nominee (1999). His email address is jmahuad@law.harvard.edu.

hesitant at the prospect of bringing feelings into the room when teaching negotiation. At the recent Istanbul conference on “next generation” negotiation teaching, there was general agreement that emotions/psychology/feelings were important topics to address in a negotiation class – and yet there has been considerable reticence in the legal academy about writing on any of these topics (despite notable recent contributions by Leonard Riskin, Peter Reilly and Daniel Shapiro (Riskin 2010; Reilly 2005; Shapiro 2004).

This reluctance may stem from various sources. Perhaps we worry that negotiation classes are already so different from typical doctrinal courses that talking about emotions (rather than preparation, best alternative to a negotiated agreement (BATNA), or other “hard” numeric issues) will lead to more perceptions of “touchy-feely” teaching; perhaps we take “separate the people from the problem” to mean that with an understanding of interests and good listening skills we can avoid most emotions; perhaps we worry that our own lack of comfort or knowledge about psychology and emotions will undermine our authority in the classroom. However we rationalize it, it also reflects our own discomfort as professors and human beings in dealing openly with our emotions in a public setting.

In a sense, this reluctance is not surprising; those of us currently teaching negotiation were almost all trained at a time when most law schools did not offer negotiation classes, and many did not have clinics or skills classes other than trial and appellate advocacy. Without models based in our own experience, we have to make a conscious effort – and invest in considerable intellectual retooling – to move from acknowledging the theoretical importance of non-rational, unconscious factors in negotiation to exploring them in real time in the classroom. Our goal in this article is to provide law professors, and others, with concrete tools for teaching (and feeling better about teaching) the importance of emotions in understanding negotiation.<sup>1</sup>

### **Feelings, Psychoanalysis, and Where We Are Now**

Melissa’s earlier article addressed the lack of preparation in law school for dealing with actual flesh and blood clients and for dealing with the strong emotions that legal disputes evoke in people. The article noted that students are often drawn to the legal profession thinking that it will provide a set of clear rules and principles to guide them and that logic and analytic reasoning will suffice to produce optimal solutions for legal problems. Legal education, outside of clinics and skills classes, operates largely in an abstract universe, removed from the actual people whose disputes engender the appellate opinions that are the core of learning in law school. And since

appellate courts address only legal questions, these opinions are peculiarly distant from the messy factual situations that give rise to legal disputes in the first place. In short, learning “to think like a lawyer” has traditionally favored cognition and ignored the powerful role of emotions in all human undertakings.<sup>2</sup>

Given the focus on the cognitive in legal education, it is no easy matter to switch gears and to introduce feelings into the picture. Some students will bristle at the thought that their prized rationality will be undermined by attention to feelings, and some (like the student whose comment became the title for Melissa’s earlier article) will resist the notion that feelings have any place in a lawyer’s education. Indeed, students have been taught that in order to think like lawyers – to be sufficiently detached to function productively on behalf of clients – they have to be emotionally disconnected from them and their concerns. An entire first-year curriculum built around briefing the appellate opinion versus the actual problem, understanding the holding versus understanding the client, and focusing on the court’s decision versus the client’s decisions leaves no room for feelings – and many teachers reinforce this with class discussion that prizes detachment and discourages emotions of any kind. (Imagine a discussion, instead, focusing on how Mr. Marbury felt about his last minute executive appointment (in *Marbury v. Madison*<sup>3</sup>) or how Mrs. Palsgraf (of *Palsgraf v. Long Island Rail Road*<sup>4</sup>) must have reacted to an exploding package – and how these feelings must have played a role in motivating their lawsuits.) A mistaken detachment from feelings can result in a sterile, distanced form of representation that is not satisfying for either lawyer or client. By running away from the dangers of personal over-involvement in a case, lawyers can easily end up in the equally treacherous territory of disconnection.

One of the goals of focusing on feelings in a negotiation class is to help students learn that they can be emotionally engaged with clients and, therefore, with their own work as lawyers without becoming identified with them. Lawyers who understand clients at an emotional level are better able to represent the client’s needs. And a lawyer who is sensitive to the emotional cues of his counterparts in a negotiation is better able to navigate the tricky waters of dispute resolution in a way that satisfies his client’s needs without riding roughshod over the other parties involved.

Much of what needs to be taught about the centrality of feelings in negotiation is no more foreign to students (or their teachers) when they begin a negotiation class, than negotiation itself is foreign to them. As social animals, humans are hard-wired to pick up subtle emotional cues from others in order to maintain the social

fabric. What is novel in the approach we are encouraging is the explicit focus on these cues in order to develop the capacity to pay conscious attention to them. When we train ourselves to notice when we or others feel afraid, excited, or humiliated, for example, we can use that information to be more effective in negotiation.

As discussed below, there is an extensive literature on the psychology of negotiation. As negotiation scholarship has become more interdisciplinary, scholars have familiarized themselves with, for example, the broad social psychology literature on negotiation, decision making, emotional intelligence and the role of positive emotions. They have introduced many concepts from that literature into the legal/business literature on negotiation, and law and business schools now have social psychologists on their faculties who focus in these areas.

Familiarity with the psychology literature is crucial to an informed understanding of how emotions and irrational mental processes affect negotiating and negotiation outcomes. But reading about feelings can take a negotiator only so far. At some point, students have to confront their own conflicting feelings and learn how to deal with them without either imploding or exploding at the negotiation table. Without a first-hand, real-time struggle with their own strong emotions, students, and professors, are inclined to keep what they read at an abstract and distant level that is hard to draw on when the going gets rough.

### **Recent Literature on Emotions**

When Melissa published her article, psychology had already entered negotiation pedagogy. The importance of learning about listening, cognitive biases, and partisan perceptions had been well-documented and integrated into many textbooks. More often today law students can understand (and law professors can teach from their own experience) the importance of seeing the client's perspective or learning how to listen better in order to get more information from clients. This mild acceptance of some aspects of psychology, however, does not readily extend to really dealing with the feelings that negotiators bring to the table. But in the fifteen years since Melissa's article appeared, the "feelings" part of the scholarship has greatly expanded.

The development of literature on emotions has occurred in three primary streams. First, as psychologists continued to run experiments on mood, law professors picked up this approach to emotions and integrated it into emerging negotiation pedagogy. Positive moods (induced by cartoons or chocolate, for example) have been shown to lead to more creative and more integrative outcomes.

Negative or angry negotiators are less likely to reach an agreement at all, and if they do, they reach less integrative outcomes (see, e.g., Freshman, Hayes, and Feldman 2002). The importance of tone and mood in email negotiations, in particular, has also been much addressed (Ebner et al. 2009; Morris et al. 2002).

Second, in a response to the often misinterpreted *Getting to Yes* (Fisher, Ury, and Patton 1991) phrase, “separate the people from the problem,” Roger Fisher and Daniel Shapiro (2005) outlined in their book, *Beyond Reason*, a new approach for dealing with emotions in negotiation. As Fisher and Shapiro assert, negotiators need to recognize that human beings are in a state of perpetual emotion – and trying to ignore these emotions or eliminate them from negotiation is impossible. It is understandable that negotiators try to control emotions – after all, runaway negative emotions can divert your attention from substantive concerns, open you up to manipulation, lead to substituting feelings for material gains, and take charge of the negotiation. Rather than suppressing these emotions, negotiators need to find ways of effectively communicating about their emotional state. Fisher and Shapiro focus on five core sensitive concerns – appreciation, affiliation, autonomy, status and role – that give rise to emotions in negotiation. For example, when one party threatens the autonomy of another party to the negotiation through a take it or leave it offer, negative emotions are likely to arise. The reverse is also true – bolstering autonomy leads to positive feelings. In his chapter contribution to *Beyond Reason*, Jamil illustrated how intuitively paying attention to the emotional needs of the multiple parties involved in a high level international negotiation was crucial to avoiding a war between Peru and Ecuador and signing a definitive peace treaty.

Third, Leonard Riskin has, almost single-handedly, brought the meditation concept of mindfulness into lawyer training (see, e.g., Riskin 2002; Riskin 2004; Riskin 2010). He argues that less conscious self-awareness can lead to less effective negotiation behavior. If a negotiator can be more mindful in a negotiation, the negotiator will be better able to focus attention on a given subject, to deal with stress, to develop an understanding of himself and of others, and to feel compassion and empathy. Mindfulness also helps implement an understanding of mood and of the gamut of emotions that a negotiator might feel in the course of a negotiation – and Riskin notes that mindfulness will help a negotiator deal with these emotions (Riskin 2010).

## Exercises on Emotions

In this section we outline a series of exercises that can bring out feelings and help foster classroom discussion about how best to deal with emotions in negotiation. We start with some more traditional ideas that many will have seen before – journals and active listening exercises – and then explore some exercises based on the new literature on emotions described in the previous section.

### *Journaling – Practicing What You Preach*

Melissa's earlier article proposed that one way to counter law school's emphasis on rationality is to encourage students to become more self-observant in the context of developing negotiation skills – to become more aware of the multiplicity of feelings and motivations that affect their approach to different sorts of negotiations with different people. Increased self-awareness helps a beginning negotiator learn what works well for her and when she is likely to get in trouble in a negotiation. Self-reflection through weekly journal writing develops an appreciation for the myriad feelings that get stirred up in negotiations – excitement, fear, anxiety, aggression, pleasure, etc. – and journals continue to be a valuable way for negotiators to get to know themselves in the process of negotiating.

By keeping a written journal – similar to the ones that students keep to reflect on their negotiations – about her observations in the classroom, a teacher can also increase her capacity to pick up on subtle emotional cues in the room and refine her approach to teaching, just as her students refine their negotiation skills through self-observation. Student participation in simulated negotiations and group discussion are central to the way most of us teach negotiation. Without the structured format of a lecture or a Socratic dialogue, the teacher is herself involved in a negotiation with her students in every class session. She has to respond to the ebb and flow of student attention and motivation in a way that keeps the possibility of a satisfactory resolution – the sense of having taught/learned something of value – alive for all parties.

Teaching in this way requires willingness to relinquish certain aspects of control in favor of a more flexible and fluid approach that responds to the dynamics of the particular group in the room (see generally Nelken 2009). By attending to these dynamics – noting in her journal how the “weather” in the room and her own personal weather affect how well or poorly the lessons of the day are given and received; when discussion is generative and when it is merely gap-filling; when a topic catches fire and when it falls flat – a teacher can develop an appreciation for the myriad emotional contingencies that impact all negotiation outcomes. These real-time ob-

servations contribute to a deeper and more immediate understanding of the role that feelings play in any negotiation, and they help the teacher learn how to address them fruitfully with a particular group of students. Most centrally for the topic of this article, a teacher's written self-reflection can build conviction about the importance of grasping the psychological dynamics of negotiation as a means of achieving the negotiator's goals.

Thinking about teaching as a negotiation also creates an opportunity for one's teaching to reinforce the material being taught:

The more the *way* in which one teaches models *what* one teaches, the more deeply the lessons will be learned. Students will learn what it means to listen closely, to take the other parties' interests into account, to care about their perspectives on the situation, to seek joint gain, and to adapt strategy flexibly if this is what the teacher models in the classroom in the way he structures discussion and attends to students' comments and questions (Nelken 2009: 190-191).

### *Listening Exercises*

For many people, conversation is like a ping-pong game, with each player more focused on returning the ball than on hearing the other party out. But if bargaining for information is an important aspect of negotiation, then learning to tune in to the information being communicated by one's counterpart is essential. Part of developing skill as a negotiator and as a representative of clients in negotiation involves honing the skill of listening well. A negotiation pedagogy that values the content of what others have to say has to start by helping students learn to listen well rather than simply to prepare their next conversational volley. There is a difference between hearing and listening. According to the dictionary, to hear is "to perceive with the ear the sound made..." To listen is "to give one's attention to a sound..." "make an effort to hear something;" "take notice of and act on what someone says..." We hear the rain but do not generally listen to it. We need to train our students to understand the difference.

Active listening involves attending to what the other person has to say, then demonstrating your understanding by paraphrasing it in your own words, reflecting back both the content expressed and the feelings behind it. Sometimes those feelings are explicit; other times they are picked up by the listener from tone of voice, gestures, or other nonverbal signals. It is common wisdom to say that we communicate with words. That is why we pay a lot of attention to wording the right messages. However, we communicate more and in a

more powerful way through our body language and our facial expressions. People do this all the time, but we do not always consciously register the subtle messages that are being communicated. Developing more awareness of the many layers and shades of meaning and feeling in seemingly simple communications is a valuable practice that can make the difference between a “tone deaf” negotiator who runs into a stone wall and a sensitive one who finds her way around obstacles to resolution.

As an exercise, active listening can be practiced in less than ten minutes’ time, by pairing students and having them take turns being speaker and listener, talking, for no more than a minute each, about any topic about which they have strong feelings. After the listener reflects back what he or she has heard, the speaker confirms the listener’s understanding or clarifies points or feelings that were misunderstood. This simple exercise alerts students to:

- 1) How hard it is to listen closely, even for a minute, without speaking;
- 2) How interference or “noise” in the listener’s head (“Will I remember everything?” “When will it be my turn?” “Why does she think that?”) makes listening, even for a minute, difficult; and
- 3) How impoverished our vocabularies of feelings often are (“you are upset/frustrated/sad/glad”) unless we focus on them (“is she furious/livid/angry/annoyed/bothered?”)

Another exercise is exactly the opposite: instruct students to listen poorly to their counterparts – to interrupt, to give advice without being asked, to blatantly daydream, etc. – by giving them private instructions in advance. In debrief, students who were the “talkers” will note how frustrated or hurt or annoyed they were. And, for the “listeners,” they may discuss how hard the bad behavior was to enact or may, in fact, be surprised at how easy it was and/or be surprised at the reactions of the talkers.

Once students have been introduced to the basics of active listening, they can try a more extended exercise in which each member of a pair talks about an actual problem – personal or school/work-related – that she is currently dealing with. The exercise proceeds like the first one, except that the conversation goes on for five minutes or so. The listener gives intermittent feedback about what she has understood about the speaker’s problem, and the speaker confirms or clarifies the listener’s understanding after receiving feedback. In addition to giving students further practice in active listening, this exercise demonstrates how active listening often deepens a conversation, leading from more superficial issues to more nuanced ones as the listener repeatedly reflects back both the con-

tent and the feelings expressed by the speaker. When the speaker feels understood by the listener, she is often able to see the problem in a new light and to feel less conflicted about how to deal with it.<sup>5</sup> For law students, who often believe that a lawyer's job is to "solve" clients' problems, it is valuable to discover how much help they can provide simply by listening well and demonstrating their understanding of what the speaker says. For many of them, it is a revelation and a relief to learn that having all the answers is not a necessary requirement of the job; and that realization in itself reduces anxiety and enables them to listen better and understand more.

### *Fostering Constructive Dialogue*

Once students grasp the basics of active listening, they can begin to put it to productive use. In addition to listening well, negotiators need to express themselves in ways that further dialogue between the parties, rather than create barriers to understanding. Both brief and extended exercises can help students learn how to frame and reframe messages to increase the likelihood of their being understood and accepted instead of mistaken and rejected. A number of popular books, including *Getting Past No* (Ury 1993), *Difficult Conversations* (Stone, Patton, and Heen 1999), and *Tongue Fu!* (Horn 1996), provide examples of how to choose words that open up discussion rather than shutting it down. For law students trained in one-sided argumentation aimed at persuading a third party rather than their counterparts, these texts offer a particularly useful perspective on how to foster agreement and understanding without resort to language of rights and power.

Learning to phrase things in ways that other people can hear and take in is an invaluable skill for a negotiator, yet many law students resist the idea that how they say something can actually change its perceived meaning. They are surprised at how habitual some negative expressions are in their everyday speech and at the difference in tone that can result from changing a few words in a sentence. *Tongue Fu!* author Sam Horn's "words to use and words to lose," scattered throughout her book, are a good basis for a class exercise that illustrates these points. Working in groups of three or four, students rewrite sentences, for example, to acknowledge others' concerns with "and" rather than negating them with "but" ("I'd like to help you, but I'm busy right now" becomes "I'd like to help you, and I will as soon as I finish this task" ) (Horn 1996: 71-76) or to focus on desirable future change rather than past error ("You shouldn't have revealed how desperate you were to buy the widget" can become "Next time, try to get a sense of how eager the owner is

to sell her widget before revealing your need for it”) (Horn 1996: 71-76). Criticism that is backward-looking induces shame and a sense of defeat; forward-looking comments assume both the ability and a desire to improve. They are thus less harmful to people’s self-esteem and less likely to make them shut down.<sup>6</sup>

### ***Difficult Conversations Exercises***

A different exercise based on reading *Difficult Conversations* (Stone, Patton, and Heen 1999) can bring home to students in a personal way how powerful its method can be in increasing understanding in conflict situations. Students are instructed to think of a real person with whom they are involved in a conflict and come to class prepared to attempt a conversation with that person, played by one of their classmates (the “partner”). The class is divided into groups of four or five, each with a coach, so that everyone gets a chance to be speaker, partner and observer. When the exercise begins, the first speaker describes the characteristics of the other person to his partner, who is instructed to respond in role as the conversation proceeds. The speaker starts from the “third story,” describing the conflict as objectively as possible, and then proceeds to explain his story to his partner. After a few minutes, when the conversation ends, the speaker, the partner, and the observers each give feedback about their observations: what fueled or reduced the conflict, when and how emotions shifted during the conversation, etc.<sup>7</sup>

Despite the “as if” nature of these conversations (in the absence of the actual other party to the conflict), the exercise often gives students increased understanding of the conflict itself and of their own contribution to it, as well as increased understanding of the other party’s point of view. Because the subject matter is real to the participants, they also gain a conviction about the value of undertaking such difficult conversations that no amount of reading or exhortation could instill.

Andrea uses the preparation sheet from *Difficult Conversations* with the Casino exercise<sup>8</sup> in order to demonstrate how “regular” preparation differs from one that focuses on identity and feelings. The Casino exercise is a workplace conversation between a supervisor and worker with undertones of sexism and poor supervision and in which both parties have the potential for strong feelings. (Of course, professors could run this preparation with different exercises.) For Andrea’s class, students can prepare using a classic Seven Elements preparation sheet or can prepare using the *Difficult Conversations* sheet (in which the identity and feelings conversations are each identified). At the debrief of the exercise, students then discuss how they chose to prepare, why, and how that affected the negotia-

tion. Different ways of thinking about the negotiation – the standard lawyer approach versus one that includes more explicit preparation on the emotions – are easily compared and brought to light. This type of preparation about the identity and feelings conversations can also be used in real-life scenarios as outlined above.

### ***Mood Exercises***

There are several different ways that professors can bring the points about mood into the class. First, students could journal how they felt going into the negotiation, what the rest of their day had been like, what mood they were in when the negotiation started and ended. Second, professors could also run exercises in class where some groups of students are given chocolate (perhaps the class is separated into two rooms for ostensible space reasons but then only one section is given chocolate.) Andrea also had one student discuss the impact of meal time in a negotiation – one could suggest that students try, in the course of a semester, doing a negotiation when really hungry, to see how that affects the outcome. Most importantly, the key for students is to learn that mood does matter and that they need to be aware of this in order to manage their surroundings, the timing of the negotiation, etc.

### ***Beyond Reason Exercises***

Jamil has been teaching (and co-teaching with Daniel Shapiro) executive programs for people from various backgrounds focused on “Nemotiating: Using Emotions in Negotiations.” Students start off by using a 5 x 5 matrix. This matrix takes the five elements of negotiation focused on the content or substance of the negotiation from *Getting to Yes* (Fisher, Ury, and Patton 1991) and then, on the other axis, uses the five sensitive concerns from *Beyond Reason* (Fisher and Shapiro 2005). Every student writes an actual emotional situation that requires a negotiated agreement to move forward and is stuck at some emotional level. In the course of the workshop, Jamil invites the student to re-visit and re-interpret that particular personal case with the new tools he is learning. Throughout, students are given moments of silence for personal self-assessment and insights. Students also view film clips to see each individual concern in action and foster in-class discussion about the concept and practice of that concern and the subsequent emotional unfolding/escalation. (By unfolding, Jamil means discovering tensions, how the problem is composed, and how it comes to the surface. He compares this process to a Hitchcock movie in which the audience is allowed to see what is about to happen before the character can.) Discussions in private journals, small groups and plenary session promote aware-

ness about the relevance of the theory to understanding interactions in the group and the process the group is actually (“here and now”) going through. Finally, to prove the method’s worth and applicability to any difficult situation, Jamil uses the Peru-Ecuador negotiation process in 1998. After a short presentation of the facts, he invites the students to play the role of advisers and make suggestions about how to handle the emotionally charged first encounter between President Fujimori and him. Then he describes what actually happened, and the students can judge the relevance of their suggestions.

### *Mindfulness Exercises*

Some teachers start every class by ringing a bell and asking students to focus for a minute on their breath as a way of calming the mind in preparation for the day’s class. Although many of us would be uncomfortable teaching students meditation practices unless we had been trained in doing so, it can be a useful exercise to try something unfamiliar and talk with students, not as an expert but as one of the beginners. It would be especially helpful if everyone had read one of the articles on mindfulness in negotiation beforehand. In addition, one can encourage students to try out workshops offered by others (sometimes even through the law school) and to report back to the group.<sup>9</sup> Short of training in mindfulness, the concept of building awareness, finding quiet time before negotiations, and centering oneself before starting a conversation are all fruitful activities in which the students could engage.

### **Conclusion**

Our goal in this article is to equip negotiation professors better with the ability (and desire) to address feelings more fully as an important topic in negotiation. The literature in emotions and psychology continues to expand, with more and more empirical evidence to support what we already know is true – those who are able to manage their own emotions, understand their client’s motivations, and work with the emotions of their counterpart will be more effective negotiators. The second part of this article outlined a variety of exercises that are designed to support each of the streams of literature. While we do not expect that each professor will use all of the exercises, we hope that the array demonstrates how easy it can be to introduce a discussion and to add this to our repertoire.

## Notes

<sup>1</sup> A similar shift has occurred in economics scholarship, where the field of behavioral economics has rejected the "rational actor" of classical theory and sought instead to take account of the often irrational ways that people actually make economic decisions.

<sup>2</sup> Of course, many talented lawyers learn about emotions intuitively through years of practice and become quite good, for example, at reading their clients' emotions in order to better counsel them or playing on the emotions of the jury in order to better persuade them. Our point is that – in law school – the importance of feelings is often downplayed, if taught at all.

<sup>3</sup> 5 U.S. 137 (1803).

<sup>4</sup> 162 N.E. 99 (N.Y. 1928).

<sup>5</sup> Additional listening exercises and an active listening worksheet are available by emailing Andrea at [andrea.schneider@marquette.edu](mailto:andrea.schneider@marquette.edu).

<sup>6</sup> There is an obvious lesson here for negotiation teachers as well, since providing feedback to novice negotiators also calls for tact in phrasing comments constructively.

<sup>7</sup> Teachers interested in trying this exercise can obtain an instruction sheet (including an advance written preparation exercise for speakers) by emailing Melissa at [nelkenm@uchastings.edu](mailto:nelkenm@uchastings.edu).

<sup>8</sup> Case is available for purchase from Program on Negotiation at Harvard Law School, <http://www.pon.harvard.edu/>.

<sup>9</sup> One of Melissa's recent students also studies the martial art of Aikido, and he did a fascinating final project presentation on how the central principles of that discipline can be applied to negotiation.

## References

- Ebner, N., A. Bhappu, J. G. Brown, K. K. Kovach, and A. K. Schneider. 2009. You've got agreement: Negoti@ting via email. In *Rethinking negotiation teaching: Innovations for context and culture*, edited by C. Honeyman, J. Coben, and G. De Palo. St. Paul, MN: DRI Press.
- Fisher, R., W. Ury, and B. Patton. 1991. *Getting to yes: Negotiating agreement without giving in*, 2nd edn. New York: Penguin.
- Fisher, R. and D. Shapiro. 2005. *Beyond reason: Using emotions as you negotiate*. New York: Penguin Group.
- Freshman, C., A. Hayes, and G. Feldman. 2002. The lawyer-negotiator as mood scientist: What we know and don't know about how mood relates to successful negotiations. *Journal of Dispute Resolution* 2002(1): 1-79.
- Horn, S. 1996. *Tongue fu!: Deflect, disarm, & diffuse any verbal conflict*. New York: St. Martin's Griffin.
- Morris, M., J. Nadler, T. R. Kurtzberg, and L. Thompson. 2002. Schmooze or lose: Social friction and lubrication in e-mail negotiations. *Group Dynamics* 6(1): 89-100.
- Nelken, M. 1996. Negotiation and Psychoanalysis: If I'd wanted to learn about feelings, I wouldn't have gone to law school. *Journal of Legal Education* 46(3): 420-429.

- Nelken, M. 2009. Negotiating classroom process: Lessons from adult learning. *Negotiation Journal* 25(2): 181-194.
- Reilly, P. 2005. Teaching law students how to feel: Using negotiations training to increase *emotional* intelligence. *Negotiation Journal* 21(2): 301-314.
- Riskin, L. 2002. The contemplative lawyer: On the potential contributions of mindfulness meditation to law students, lawyers, and their clients. *Harvard Negotiation Law Review* 7: 1-66.
- Riskin, L. 2004. Mindfulness: Foundational training for dispute resolution. *Journal of Legal Education* 54: 79-90.
- Riskin, L. 2010. Further beyond reason: Emotions, the core concerns, and mindfulness in negotiation. *Nevada Law Review* 10 (forthcoming). Available at SSRN: <http://ssrn.com/abstract=1568644> (last accessed June 15, 2010).
- Shapiro, D. 2004. Untapped power: Emotions in negotiation. In *The negotiator's fieldbook: The desk reference for the experienced negotiator*, edited by A. K. Schneider and C. Honeyman. Washington, DC: American Bar Association.
- Stone, D., B. Patton, and S. Heen. 1999. *Difficult conversations: How to discuss what matters most*. New York: Viking Penguin.
- Ury, W. 1993. *Getting past no: Negotiating your way from confrontation to cooperation*, rev. ed. New York: Bantam Books.