

NEGOTIATION

Spring 2013

Wednesdays, 11:30 – 1:40

Law Classroom 04

Prof. Kenneth Fox

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“[T]he lawyer is sure to be asked, ‘Do you think we could settle this thing?’ Away from judicial chambers and the courtroom, the lawyer is thus initiated into the negotiation process, the single most prevalent and important legal decision-making system.”
Donald. G. Gifford, Legal Negotiation: Theory and Applications.

“Every company today exists in a complex web of relationships, and the shape of that web is formed, one thread at a time, through negotiations.” Danny Ertel. *Turning Negotiation Into a Corporate Capability*. Harvard Business Review, May-June 1999

About this course

Negotiation is a constant in our professional and personal lives. Lawyers negotiate with opposing counsel, co-counsel, judges, clerks, clients, law partners, office colleagues and staff. Business people use negotiation to make and save deals; to secure supplies, assure services, keep customers happy, maintain healthy work environments, build and repair relationships. Individuals negotiate at home, in the store and on vacation, with family, friends, and strangers. It is a constant part of our lives. Negotiation is something we have all practiced – with greater or lesser success – for as long as we have interacted with others. As a result, you come to this class with negotiation experience, if not expertise.

The purpose of this course is to build on and improve your existing negotiation skills. We will do this by bringing theory together with practice through (short) lectures, discussion, group exercises, role-play simulations, written assignments and presentations.

By the end of the course, I expect that you will be able to:

- prepare effectively for any negotiation;
- understand when a particular negotiation approach is appropriate;
- employ effective distributive and integrative negotiation techniques;
- understand ethical guidelines for attorneys serving as negotiators.

You also will develop a modest understanding of the range of current negotiation research and theory-building through your own and classmates’ presentations on topics from The Negotiator’s Fieldbook, Rethinking Negotiation Teaching, Venturing Beyond the Classroom, Assessing our Students, Assessing Ourselves,

or Educating Negotiators for a Connected World (on reserve in the library). Finally, you will practice your presentation skills.

Class Materials

Required:

- Russell Korobkin, *Negotiation Theory and Strategy- Second Edition* (2009)
- G. Richard Shell, *Bargaining for Advantage - Second Edition* (2006)
- Supplemental materials and class exercises (see TWEN for posted materials)

The following are optional materials in no particular order. Some of them are “classics” in the field:

Roger Fisher, William Ury & Bruce Patton, *Getting to Yes: Negotiating Agreement Without Giving In* (1991) (If you have not read this one, it is required.)

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)

Office Hours

Regular office hours will be Wednesdays after class and Thursdays, noon to 2:00 p.m. As a general rule, I am in my office every day from 10:00 a.m. to 5:00 p.m. (when I am not teaching or in meetings), and I am happy to meet when it is convenient for you. If you have difficulty finding me, please schedule an appointment time. You can reach me at (651)523-2411, or kenfox@hamline.edu

Attendance Policy

In this class, we will be conducting simulations almost every class session. It is a disservice to your classmates to be unprepared, to show up late, or to be absent. 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.

Class Participation/Contribution/Feedback:

Your “participation” will be evaluated on the quantity and quality of your contributions and insights 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.

You can add to your participation score by bringing 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).

Related to your simulation experiences with other classmates, you may also be asked to complete a “Negotiation Reputation Index.” This index (both your completion of, and scores received by others) may also factor into your participation grade.

Assignments:

The following are the graded assignments for this class:

1. Due 11:30a.m., 2/27/13 (3-5 pages) (15%)

Short paper. This paper is designed to help you reflect on what we are learning and to integrate the readings, simulations and class discussions. It will be graded on the basis of your analysis, and also on the strength of your writing. Your paper should be grammatically correct and must be proofread, or it will be marked down. The short paper is due by 11:30 a.m. in the registrar’s office on the due date listed. No extensions and no e-mail submissions accepted, although weekend students will be accommodated so that they do not have to come to HUSL just to hand in papers.

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? about negotiation theory and practice?)?
- How will I use this in future negotiations?
- How will these insights help me to be a better lawyer or other professional?

2. Between 3/13 – 4/3 (15%)

On-line discussion. All students are expected to participate in an on-line discussion (on TWEN) and must make at least three (3) postings as follows: one (1) original substantial answer to the posted question(s) and a minimum of two (2) substantial responses to other students' postings. You will be expected to include in your postings reference both to readings and to in-class discussions and activities. *Specific on-line discussion grading criteria are attached to this syllabus as Attachment 1.*

The on-line discussion will focus on the two primary models of negotiation. The specific discussion question(s) will be posted on TWEN on or before March 13, 2013. Your original post will be due by 11:55p.m. March 27, with a minimum of two (2) additional posts due no later than 11:30 a.m. on April 3.

3. Due as scheduled no later than 4/17 (25%)

Student presentation: This will be a paired presentation; detailed instructions will be given in class and put on TWEN; your (and your partner's) choice of topic is to be posted on TWEN no later than 11:55p.m. 3/13/13; presentations will be made in class on 4/10 and 4/17. Powerpoint slides or other visual media required.

4. Self-scheduled (30%)

Final Exam. There will be a final exam for this course with 2 questions: 1 on a comparison between select class negotiations; and 1 on preparation for a negotiation.

Evaluation:

1. Short paper: 15%
2. On-line Discussion: 15%
3. Presentation: 25%
4. Final Exam: 30%
5. Class Participation: 15%

Detailed Reading Assignments and Due Dates:

Class 1 1/16	Introduction to Negotiation Study; Estimating the Bargaining Zone	Korobkin, Chapters 1 & 2 Shell, Intro. & Chapter 2
Class 2 1/23	Psychological Factors in Evaluating Alternatives	Korobkin, Chapter 3 Shell, Chapter 4
Class 3 1/30	Using Integrative Bargaining to Expand the Bargaining Zone	Korobkin, Chapter 4 Shell, Chapter 5
Class 4 2/6	Integrative Bargaining - continued	Shell, Chapters 7, 8, 9, & 10
Class 5 2/13	Using Communication, Rapport Building and Creativity to Expand the Bargaining Zone	Putnam, Communication and Interaction Patterns*
Class 6 2/20	Using Power, Influence and Competitive Negotiation Tactics to Change the Bargaining Zone	Korobkin, Chapter 5 Shell, Chapter 6
Class 7 2/27	The Influence of Fairness and Other Related Social Norms on Surplus Allocation.	Korobkin, Chapter 6; Shell, Chapter 3; Short paper due at 11:30a.m., 2/27/13
Class 8 3/6	Interpersonal Obstacles; Negotiator Style	Korobkin, Chapters 7 & 8 Shell. Chapters 1, 12 & App. A.
Class 9 3/13	Group Membership	Korobkin, Chapter 9 Topic choices for presentations due at 11:55p.m. 3/13 posted on TWEN
Class 10 3/20	On-line discussion – no in class meeting	On-line question posted by 3/14. Initial response due by 11:55p.m., 3/17. Minimum of 2 additional posts due by 10:00am, 3/21/12
3/27	Mid-term break – No class meeting	
Class 11 4/3	The Principal-Agent Relationship Misrepresentation and Other Contract Defenses	On-line discussion closes at 11:30a.m. Korobkin, Chapters 10, (11), 13; Shell Chapter 11

Class 12 4/10	Student Presentations	No new readings
Class 13 4/17	Student Presentations	No new readings
	Self-scheduled final exam	

***Linda L. Putnam, "Communication and Interaction Patterns" in *The Negotiator's Fieldbook*, Andrea Kupfer Schneider and Christopher Honeyman, Eds. Posted on TWEN**

Attachment 1

Grading criteria for on-line discussion

As provided in the course syllabus, “you will participate in two (2) on-line discussions, which together will total 20% of your grade. Discussions will be posted on TWEN at different times over the course of the term. All students are expected to participate in the discussions and must make at least three (3) postings for each discussion: one (1) original substantial answer to the question(s) and a minimum of two (2) additional substantive responses to other students’ original postings.”

With respect to both on-line discussions, you will be asked to “...approach these questions from the perspective of your work or professional experience and based upon your personal interactions. Be both thoughtful and practical. I am looking for the degree to which you seriously and deeply think about these questions.”

A “substantial” original posting will be several paragraphs in length and will respond to the discussion question(s) with some level of complexity and sophistication. Stronger postings will include ***specific reference both to readings and to in-class discussions and simulations***, where appropriate. Strong participation will be evidenced by ***the thoughtfulness in your original posting and how seriously and respectfully you engage in responding to, and building upon, the original postings and responses of your classmates***. With respect to additional postings, more than two (2) responses may influence your earned points with respect to “seriously and respectfully” engaging other postings. Based on these criteria, my grading is as follows:

Timely posting(s):	2
Directly addressed the question(s) presented:	3
“Seriously and deeply” thought about question(s):	6
Minimum of 1 original and 2 responsive postings:	3
“Seriously and respectfully” engaged other postings:	6
Total possible points for each discussion assignment:	20

19 – 20 points	A
17 – 18 points	A-
16 points	B+
15 points	B
14 points	B-
13 points	C+
12 points	C
11 points	C-
10 points	D+
09 points	D
08 points	D-
0 – 7 points	F