

Professor Larry Bakken
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Office Hours
Wed & Fri 2:00-3:30
Thurs 3:00-4:30

SYLLABUS
Negotiation: Spring 2009
Room: Law MTCT 1:00 p.m. – 2:50 p.m.

Required Reading:

Negotiation: Process for Problem Solving, Menkel-Meadow, Schneider and Love, Aspen Publisher, (2006) ISBN 07355-4441-7

Recommended Reading:

Legal Negotiation In A Nutshell, 2ed Levy Teply, Thompson West (2005) ISBN 0-314-15417-5

Course Description: This course examines the skills, constraints, and dynamics of the negotiation process. A theoretical framework for understanding negotiation practice in a variety of contexts will be developed through readings and highly interactive exercises and role plays. The course addresses the fundamental skills of systematic and thorough negotiation preparation, the ongoing management of a negotiation process, and the identification and achievement of optimal agreements. Legal and ethical constraints of negotiation also are considered. Course content is drawn from the fields of law, psychology, business, government, communication and international transactions.

Purpose: Lawyers represent clients on a regular basis as advocates, advisors or counselors. The course is designed to help you be a better advocate. It is a practical course grounded in theory and enhanced by interdisciplinary knowledge and information. Personal experience in class simulations and exercises will be especially useful in the professional growth of each student. The course should serve as a reference for specific information, and understanding of negotiation techniques and methods and skills enhancement. Negotiation experience is essential for today's lawyers and should reflect the need for attorneys to recognize the importance of interpersonal nature of disputes and conflicts. The course will prepare to address various styles of negotiation and to integrate ethical considerations and practices into one's professional standards. Students will learn by doing, discussing and evaluating their negotiation experiences, particularly in the negotiation couch will improve ones bargaining skills, reduce the time in conflict resolution and will streamline the litigation when on is so engaged..

Coverage: The course will cover all standards strategies and techniques usually used in bargaining and dispute settlement discussions. It will introduce, describe and evaluate alternative negotiation styles. It will also provide students with basic guidelines and checklist to use when engaged in the negotiation process. The course will include time for planning, setting objectives responding to negotiation positions, negotiation fundamentals such as communication skills, standard strategies techniques and tactics. The negotiation process will be examined and various ploys and responses will be discussed. Time will also be devoted to culture, race and gender issues, ethics and pertinent legal issues. Finally the course will cover complex negotiation processes international issues and facilitated negotiations.

Class Format: Lectures, analysis, questions and answers, exercises and simulations, problem discussions and videos.

Computer Policy: You may use laptop computers or other electronic devices in class to take notes and access course related materials. You should not use your laptop or electronic devices for other purposes.

In addition to the usual courtesies due to your classmates, refrain from text-messaging and email, using cell phones, pagers, or any other communication device. Refrain also from displaying wallpaper, screen savers, or other material on your computer screen that can reasonably be expected to distract your classmates.

Grading Policy: The final grade will be based upon a self assessment/evaluation journal 15% a class presentation 10%, and a final exam 75%. Student grades may be increased by ½ grade for positive and regular class participation. In addition, students may increase their grade by ½ grade if they submit an optional paper. The journal will be due April 30, 2009

Final Exam: Two essay questions.

Optional Paper: Students may submit a research paper for a portion of their final grade. The paper must be of C+ quality or better. If accepted the final course grade will be raised (1/2) one half grade. Instructor must approve paper topics. Two page description must be submitted to the instructor by March 5, 2009. The paper should be typed, double-spaced, and 12-15 pages in length. The text should be in a 12-point font, margins should be 1” on the right side and top, bottom and left side should be 1 ¼ “. The paper should include a table of contents, footnotes and a separate two page executive summary. The optional paper is due the April 30, 2009. The final copy will not be returned

Attendance: Students are expected to attend class and be prepared each day. Students may miss six hours of class (three (3) class sessions). When students miss a fourth class session, they are required to submit a ten-page paper must be submitted to the instructor and if a fifth class session is missed, a second ten-page typed paper will be turned in. Finally, if a sixth class session is missed, the name of the student will be submitted to the Dean’s office and the student will be dropped from the class. Remember each session is two hours long.

<u>Date</u>	<u>Week</u>	<u>Topic</u>	<u>Text/pages</u>
Jan. 22	1	Concepts and Models of Negotiation	1
		Conflict Theory: Concepts of Conflict & Negotiation	3
		Conflict Theory: Theoretical Underpinnings of Conflict and Dispute Resolution	4-14
		Negotiation Theory	
		Concepts of Conflict and Negotiation	15-29
		Descriptions of the Negotiation Process	29-37
		Preparing and Making Your Case	39
		Goals – Aspirations	43-52

Jan. 29	2	Limits – BATNA and Reservation Point	52-63
		Criteria and Fairness	63-78
		Talking Persuasively	78-82
		Integrative Negotiation: Expanding the Pie and Solving the Problem	
		Theory	89
Feb. 5	3	Strategy	100-105
		Concerns	105-114
		Skill Building for Creative Problem Solving	114-144
		Distributive Bargaining: Dividing the Pie and Mixed Models	147
Feb 12	4	Adversarial Approaches	151-200
		Theory	152-155
		Strategy	155-160
		Concerns	160-165
		Accommodating	165-169
		Theory and Strategies	165-167
		Concerns	167-169
		Mixed Models and Prisoner’s Dilemma	169-183
		Negotiator’s Dilemma	184-187
		Choosing Among Negotiation Approaches	187-188
		Skills For Negotiation	189
		Working with Your Client: Interviewing, Counseling, & Representing	191
		Interviewing and Counseling	
		Learning Your Client’s Needs	191
Feb. 19	5	Interviewing Skills	200-208
		Counseling Skills	209-215
		Attorney-Client Issues	216-239
		Relating to Your Counterpart: Reputation, Trust, Rapport, and Power	241
		Reputation	241-246
		Trust	246-255
Feb. 26	6	Rapport	256-261
		Power	262-278
		Working with Your Counterpart: Understanding, Listening, Emotions, and Apology	279
		Understanding Your Counterpart	284-297
		Listening	297-301

Mar. 5	7	Emotions and Mood	302-313
		Apology	314-323
		Recognizing and Responding to Barriers in Negotiation	
		Psychological Factors in Negotiation	327
		Status Quo Barriers	334-338
		Informational Barriers	338-345
		Gamesmanship Barriers	345-352
		Plea Bargaining	353-356
Mar. 12	8	Strategies for Recognizing and Responding to Negotiation Barriers and Dilemmas	357-373
		Dealing with Differences: Culture, Gender & Race	377
		Culture	377-486
		Culture and Negotiation	377-386
		Cultural Differences	386-400
		Gender	400-410
Mar. 19	9	Gender Con't	411-420
		Race	420
		Law and Ethics In Negotiation	431
		Ethics in Negotiation	
		How Lawyers (Should) Behave in Negotiations	433-434
		Ethical Rules and Legal Obligations	435-450
		The Law of Misrepresentation and Fraud	
		Misrepresentation	
		Omissions	
		Material Facts	
		Recovery	
		Ethical Rules	450-466
Mar. 26	10	Spring Break	
Apr. 2	11	Ethical Rules and Legal Obligations Con't.	466-503
		Civility	476-482
		The Law of Negotiation	
		Negotiated Settlements as Contracts	485
		Legal Authority to Negotiate: Lawyer-Client/ Agent-Principal	486-490
		Duty to Bargain	491-494
		Rules with Incentives to Bargain: Fees and Costs of Negotiating	497

Apr. 9	12	Multiple-Party Settlements 503-554 Lawyers' Duties with Multiple Clients Class Actions Joint * Several Liability for & Contributions To Settlements; Mary Carter Agreements Confidentiality, Secrecy & Transparency of Negotiations 511-520 Judicial Review of Negotiated Settlements 521-522 Taxation of Negotiated Settlements & Attorneys' Fees 523 Complex Negotiation Processes 527 Multiparty Negotiation Theories and Approaches to Multiparty Dispute 528-554 Processes: How Are They Different?	
Apr. 16	13	Structures, Forms, Procedures, and Skills in Managing or Participating in Multiparty Processes 555-567 Legal Issues in Multiparty Negotiation Settings 567-573 International Negotiation Causes of International Conflict 575-582 International Negotiation 583-595 Facilitated Negotiation: International Mediation 595-604	
Apr. 23	14	International Negotiation as an Alternative 608-615 Facilitated Negotiation: Mediation for Negotiators (Skim) 617 Introduction to Mediation 618-630 Approaches to Mediation 630-645 Examples of Mediations 645-653 Advice for Attorney Representatives in Mediation 654-655	
Apr. 30	15		