

Professor Larry Bakken  
[lbakken@hamline.edu](mailto:lbakken@hamline.edu)  
Law/Grad Bldg-Room 220E  
Office: 651-523-2189  
Home: 763-521-6011

Office Hours  
Tuesday and Friday 2:30-3:30  
Saturday 11:30 a.m.-12:30 p.m.  
Other times by appointment

## **SYLLABUS**

### **Negotiation: Fall 2008**

### **Room: Law 04**

#### **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.

**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 October 11, 2008. 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 December 5, 2008. 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.

<b><u>Date</u></b>	<b><u>Week</u></b>	<b><u>Topic</u></b>	<b><u>Text/pages</u></b>
<b>Aug. 16</b>	<b>1</b>	<b>Concepts and Models of Negotiation</b>	<b>1</b>
		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
		<b>Preparing and Making Your Case</b>	<b>39</b>
		Goals – Aspirations	43-52
<b>Aug. 23</b>	<b>2</b>	Limits – BATNA and Reservation Point	52-63
		Criteria and Fairness	63-78
		Talking Persuasively	78-82
		<b>Integrative Negotiation: Expanding the Pie and Solving the Problem</b>	
		Theory	<b>89</b>
<b>Aug 30</b>	<b>3</b>	<b>Labor Day Break</b>	
<b>Sept 6</b>	<b>4</b>	Strategy	100-105
		Concerns	105-114
		Skill Building for Creative Problem Solving	114-144
		<b>Distributive Bargaining: Dividing the Pie and Mixed Models</b>	<b>147</b>
<b>Sept 13</b>	<b>5</b>	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
		<b>Skills For Negotiation</b>	<b>189</b>
		<b>Working with Your Client: Interviewing, Counseling, &amp; Representing</b>	<b>191</b>
		Interviewing and Counseling	
		Learning Your Client’s Needs	191
<b>Sept. 20</b>	<b>6</b>	Interviewing Skills	200-208
		Counseling Skills	209-215
		Attorney-Client Issues	216-239
		<b>Relating to Your Counterpart: Reputation, Trust, Rapport, and Power</b>	<b>241</b>
		Reputation	241-246
		Trust	246-255

Sept. 27	7	Rapport Power <b>Working with Your Counterpart: Understanding, Listening, Emotions, and Apology</b> Understanding Your Counterpart Listening	256-261 262-278 <b>279</b> 284-297 297-301
Oct. 4	8	Emotions and Mood Apology <b>Recognizing and Responding to Barriers in Negotiation</b> <b>Psychological Factors in Negotiation</b> Status Quo Barriers Informational Barriers Gamesmanship Barriers Plea Bargaining	302-313 314-323  <b>327</b> 334-338 338-345 345-352 353-356
Oct. 11	9	Strategies for Recognizing and Responding to Negotiation Barriers and Dilemmas  <b>Dealing with Differences: Culture, Gender &amp; Race</b> Culture Culture and Negotiation Cultural Differences Gender	357-373  <b>377</b> 377-486 377-386 386-400 400-410
Oct. 18	10	<b>Midterm Break</b>	
Oct. 25	11	Gender Con't Race <b>Law and Ethics In Negotiation</b> <b>Ethics in Negotiation</b> How Lawyers (Should) Behave in Negotiations Ethical Rules and Legal Obligations The Law of Misrepresentation and Fraud Misrepresentation Omissions Material Facts Recovery Ethical Rules	411-420 420 431  433-434 435-450       450-466
Nov. 1	12	Ethical Rules and Legal Obligations Con't. Civility <b>The Law of Negotiation</b> Negotiated Settlements as Contracts Legal Authority to Negotiate: Lawyer-Client/ Agent-Principal Duty to Bargain	466-503 476-482  485 486-490  491-494

		Rules with Incentives to Bargain: Fees and Costs of Negotiating	497
<b>Nov. 8</b>	<b>13</b>	Multiple-Party Settlements Lawyers' Duties with Multiple Clients Class Actions Joint * Several Liability for & Contributions To Settlements; Mary Carter Agreements Confidentiality, Secrecy & Transparency of Negotiations Judicial Review of Negotiated Settlements Taxation of Negotiated Settlements & Attorneys' Fees <b>Complex Negotiation Processes</b> <b>Multiparty Negotiation</b> Theories and Approaches to Multiparty Dispute Processes: How Are They Different?	503-554     511-520 521-522 523 <b>527</b>  528-554
<b>Nov. 15</b>	<b>15</b>	Structures, Forms, Procedures, and Skills in Managing or Participating in Multiparty Processes  Legal Issues in Multiparty Negotiation Settings <b>International Negotiation</b> Causes of International Conflict International Negotiation Facilitated Negotiation: International Mediation	555-567  567-573  575-582 583-595 595-604
<b>Nov. 22</b>	<b>16</b>	International Negotiation as an Alternative <b>Facilitated Negotiation: Mediation for Negotiators (Skim)</b> Introduction to Mediation Approaches to Mediation Examples of Mediations Advice for Attorney Representatives in Mediation	608-615 <b>617</b> 618-630 630-645 645-653 654-655
Nov. 29		Thanksgiving Holiday	