

MEDIATION

Dispute Resolution Institute
Hamline University
January 2009
Dr. Joseph B. Stulberg

TEXT: **Mediation Theory and Practice, 2nd Edition (A)**
 Alfini, Press, Sternlight & Stulberg
 The Middle Voice, Stulberg & Love (B)

CLASSES MEET: **January 2, 3, 5, 6, 7, 8, 2009 - 9:00 a.m. – 4:30 p.m.**

OFFICE HOURS: **By appointment**
 Leave message with
 Debra Berghoff, DRI Program Administrator
 at 651-523-2946

COURSE DESCRIPTION

Disputes vary in shape, intensity and complexity. They arise in multiple settings. We transform some disputes into lawsuits and attempt to resolve them; for others, we develop other “angles of vision” to examine and address them. Whatever the dispute’s format, lawyers strive to help persons resolve differences in ways that are effective, responsive to participant interests, and consistent with fundamental conceptions of fairness and dignity.

Mediators make a special contribution to the resolution of disputes. They create a suitably dignified forum for addressing conflicts; they establish conversational guidelines for the informed, spirited exchange of information and ideas; they assist disputants to examine interests and reduce rhetoric to proposals; they capitalize on inconsistencies or latent possibilities to develop a framework for settlement; and they infuse the negotiation process with an energy and passion targeted to ensure that efforts to secure a workable, fair resolution will not fail for lack of trying.

Lawyers have particular contributions to make as mediators. They are steeped in traditions of due process. They appreciate the central contributions that capable advocates can make to a search for a resolution. They are comfortable with ambiguity. And they are problem solvers.

This course examines the mediator’s role-and the contributions law-trained persons can make-in the resolution of disputes. It focuses on educating and training students to serve as mediators in those settings in which legal issues lace or shape the controversy but in which a poignant human drama defines its meaning, and it explores how mediators can support effective advocate participation in the mediation process.

ASSIGNMENTS

READING ASSIGNMENT TO BE COMPLETED BEFORE FIRST CLASS:

Reading A: Chapters 1 & 2

Reading B: Chapters 2, 3, & 4

Friday, January 2, 2008 - 9:00 a.m. – 4:30 p.m.

Overview of Conflict and Dispute Settlement Processes

Introduction to Negotiation

Introduction to Mediation and the Role of the Mediator

Assignment for Saturday, January 3:

Reading A: Chapter 7

Reading B: Chapters 5, 6 & 7

Saturday, January 3, 2009 - 9:00 a.m. – 4:30 p.m.

Beginning the Mediation Session

Accumulating Information: What Do Mediators Listen For?

Diversity Impact on Process

Assignment for Monday, January 5:

Reading A: Chapter 4

Reading B: Chapters 8 & 9

Monday, January 5, 2009 - 9:00 a.m. – 4:30 p.m.

Developing and Structuring the Negotiating Agenda

Techniques for Generating Movement

Assignment for Tuesday, January 6:

Reading A: Chapters 5 & 6

Reading B: Chapter 10

Preparation for group presentation

Tuesday, January 6, 2009 – 9:00 a.m. – 4:30 p.m.

Conducting the Caucus

Group Presentations: Law and Policy Issues

Assignment for Wednesday, January 7:

Reading A: Chapters 6, 8, 9, & 10

Reading B: Chapter 11 & 12

Wednesday, January 7, 2009 – 9:00 a.m. – 4:30 p.m.

Closing the Mediation Session

Drafting Agreements

Representing Clients in Mediation

Ethical Issues for the Mediator

Designing Mediation Programs

Assignment for Thursday, January 8

Reading A: Chapters 10 & 11

Thursday, January 8, 2009 – 9:00 a.m. – 4:30 p.m.

Minnesota Rules, statutes and practices governing mediation

Mediation Simulations

The Possibilities and Limits of Mediation

GRADING

Grades for degree-seeking students will be based on the following elements with the designated weights:

1. Class participation: 20%
2. Final paper: 80%. The final paper will be based on the syllabus readings and various simulations conducted in class. The paper must be submitted to the Hamline law registrar's office by 4:30 p.m. on Friday, January 23, 2009. Please keep a copy of your exam and obtain a time-stamped receipt. Students not residing in the Twin Cities may mail their exam to Debra Berghoff, Dispute Resolution Institute, 1536 Hewitt Avenue, St. Paul, MN 55104. Submissions must be sent via two-day mail and postmarked no later than Friday, January 23, 2009 (it is recommended that you obtain a receipt from the post office in case you need to verify that the paper was mailed on time). Grading is anonymous and consequently students should only include their exam number on their final paper. The final paper will designate maximum word limits for answers to respective questions.

Attendance at ALL class sessions is required.

Written assignment: Only degree-seeking students, including Certificate students, must complete the final paper.