“[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 (on reserve in the library). Finally, you will practice your presentation skills.

I wish to acknowledge Professor Bobbi McAdoo, upon whose syllabus this course is structured.
Class Materials

Required:

Supplemental materials and class exercises

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.)

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 more often than not, and it is a disservice to classmates to show up late or unprepared. 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:

You 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).

Assignments:

1. Two (2) short papers are required, listed below. These papers are designed to help you reflect on what we are learning and to integrate the readings, simulations and class discussions. They will be graded on the basis of your analysis (of course!), and also on the strength of your writing. All papers should be grammatically correct and must be proofread, or they will be marked down. Papers are due by 5 P.M. in the registrar’s office on the due dates. No extensions, and no e-mail submissions accepted, although week end students will be accommodated so that they do not have to come to HUSL just to hand in papers.
The two short paper assignments and due dates for them are as follows: (Dates could change slightly depending on the progress of class.)

1A. Due: 2/20/08 (3-5 pages) (15%)

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?
Will these insights help me to be a better lawyer? How?
(You must reference class readings in this paper!)

1B. Due: 3/5/08 (2-4 pages) (15%)

Complete a preparation form prior to the negotiation on 2/27 and write a 2-4 page reflection about the preparation and your performance in the negotiation. Answer questions such as: How did I prepare? Was it helpful to the negotiation? Did I anticipate the other side’s performance? Was I able to keep to my “game plan” in the negotiation? Why, or why not? What have I learned about negotiation preparation? Please attach your preparation form to your paper.

2. Due: 4/23 (25%)

Student presentation: Detailed instructions will be given in class and put on TWEN; choice of topic in writing due 3/26/08 in class; presentations will be made in class on 4/16 and 4/23; powerpoint slides required.

3. Final Exam (30%)

There will be a final exam for this course with 2 questions: 1 on a comparison of 2 of the final 3 class negotiations; and 1 on preparation for a negotiation.

Evaluation:

1. Short papers: 30%
2. Presentation: 25%
3. Class Participation: 15%
4. Final Exam: 30%
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<thead>
<tr>
<th>Date</th>
<th>Topic</th>
<th>Reading Assignments</th>
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<td>1/16</td>
<td>Introduction to Negotiation Study; Estimating the Bargaining Zone</td>
<td>Korobkin, Chapters 1 &amp; 2 Shell, Intro. &amp; Chapter 2</td>
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<td>1/30</td>
<td>Psychological Factors in Evaluating Alternatives</td>
<td>Korobkin, Chapter 3 Shell, Chapter 4</td>
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<td>2/06</td>
<td>Using Integrative Bargaining to Expand the Bargaining Zone</td>
<td>Korobkin, Chapter 4 Shell, Chapter 5</td>
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<td>2/13</td>
<td>Integrative Bargaining</td>
<td>Shell, Chapters 7, 8, 9, &amp; 10</td>
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<td>2/20</td>
<td>Using Communication, Rapport Building and Creativity to Expand the Bargaining Zone</td>
<td>Readings TBA Short paper (1A) due 2/20/08</td>
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<tr>
<td>2/27</td>
<td>Using Power, Influence and Competitive Negotiation Tactics to Change the Bargaining Zone</td>
<td>Korobkin, Chapter 5 Shell, Chapter 6</td>
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<td>3/05</td>
<td>The Influence of Fairness and Other Related Social Norms on Surplus Allocation.  <em>NOTE: The focus for this, and next week’s class is subject to change, TBA</em></td>
<td>Korobkin, Chapter 6 Shell, Chapter 3 Complete preparation form for 2/27 class; short paper (1B) due 3/5/08</td>
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<td>3/12</td>
<td>The Negotiator's Dilemma; Conflict Style</td>
<td>Korobkin, Chapters 7 &amp; 8 Shell. Chapters 1, 12 &amp; App. A</td>
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<td>3/26</td>
<td>Group Membership</td>
<td>Korobkin, Chapter 9 Topic choices for presentations due at 3/26 class in writing</td>
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<td>The Principal-Agent Relationship</td>
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<td>4/9</td>
<td>Misrepresentation and Other Contract Defenses</td>
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