Course Summary

George Mason University School of Law

Law 303 Negotiation & Legal Settlement - Professor Loyola

Spring 2016 - Monday 7:00-9:40pm

Summary Syllabus and Course Survey

The required text for this class is Roger Fisher and William Ury, *Getting to Yes: Negotiating Agreements Without Giving In*, which is widely available. (Page numbers below refer to the 3d edition). In addition, there will be extensive readings in the form of handouts. These readings are required; grade for class performance and for writing assignments will take into account your command of assigned readings. The grade is based on class participation and three graded writing assignments.

Additional writing assignments, such as summaries of readings and pre-negotiation exercises, are meant to reinforce class material and to show your progress. They will not be graded, but will count heavily toward your class participation grade.

Negotiation materials for simulations will be distributed in class and must be returned as instructed.

Week 1 -- January 11

- Introductions and ground rules
- Essentials of negotiation

---------------- Jan 18 - Martin Luther King Day - No Class ----------------

Week 2 -- January 25
• Integrative v. distributive negotiations
• Thinking from others’ points of view; Focus on interests

Week 3 -- February 1
• Creating value through integrative negotiations (inventing options for mutual gain; objective criteria)
• BATNA (Best Alternative to A Negotiated Agreement)

Week 4 -- February 8
• Exchange and Efficiency: Pareto and Kaldor-Hicks Tests
• PNA (Pre-Negotiation Analysis)

Week 5 -- February 15
• In-class negotiation exercise

Week 6 -- February 22
• Review of Interests, Options for Mutual Gain, Objective Criteria and BATNA

Week 7 -- February 29
• In-class negotiation

--------------- March 7 - Spring Break - No Class ---------------

Week 8 -- March 13
• Student evaluations -- No class -- By individual appointment -- Thursday, Friday, Saturday (March 16-18)

Week 9 -- March 21
• Distributive Negotiations reconsidered
• Game Theory exercises

Week 10 -- March 28
• The role of lawyers in negotiation
• Review of distributive and integrative negotiations
• Settlement negotiations

**Week 11 -- April 4**
• In-class negotiation

**Week 12 -- April 11**
• Arbitration, mediation, and underwriting
• In-class negotiation.

**Week 13 -- April 18**
• Mediation and underwriting
• Disparities in bargaining power / changes in bargaining power

**Week 14 -- April 21 (Thursday on Monday Schedule)**
• Reflections on negotiation, risk, and the role of lawyers in society
• Course evaluation / Class Party
Course Survey

This course teaches the theory and practice of negotiation, a skill that you will depend on throughout your professional career, whether that career takes you into private law practice, business, government, or writing for publication.

Many people think of negotiation as haggling. But if negotiation just boiled down to haggling, we wouldn’t have a law school class devoted to it. This class teaches a particular kind of negotiation -- what has been called “principled negotiation” or “interest-based negotiation.” The idea is to learn how to get not merely the greatest value for you or your client, but -- ideally -- how to create value through transactions that leave everyone better off. The class therefore focuses on understanding the interests and point of view of the people opposite you.

Thus, this class fits well with the other classes you have taken in law school, which focus on arguments. The most persuasive argument is the one that begins with a complete and accurate articulation of the other side’s position. That’s as true in an appeals case as it is in negotiation.

This class mixes theory and practice. As professor Kurt Lewin said, “There is nothing so practical as a good theory.” Theory is what allows you to understand and solve unfamiliar problems quickly and efficiently. What makes theory particularly useful is when it is put into practice, and becomes a skill.

This class is founded on the negotiation theory developed by Roger
Fisher and William Ury in the seminal *Getting to Yes* of the Harvard Negotiation Project. Other theoretical approaches will be presented, to strengthen the principles you learn and your ability to apply them to practical situations. The focus of the class will be negotiation simulations that demonstrate theory in practice. Writing assignments will be used as vehicles for you to synthesize theory and practical experience.

This class will require a lot of time and effort on your part, but it will help make you a more valuable professional and problem solver. With any luck, it will help you extract winning solutions from the teeth of potentially damaging conflict in a myriad of situations.

**Class Attendance; Withdrawals**

This class meets once a week, Monday evening from 7pm to 9:40pm. But it also requires some team sessions outside of class. Attendance at all classes is strictly required. If for any reason you think you won’t be able to attend one of the classes please talk to me about it by the end of the first week of class, or withdraw from the class in time for another student to take your place, as the negotiation team assignments require a full class.

**Confidentiality**

The negotiation simulations are based on confidential fact scenarios delivered to each side. These fact scenarios are under copyright and their use is subject to strict conditions. Negotiation materials given to
you for simulation must be handed back as instructed.

In addition, the facts made available to you must be kept confidential from the other side in the negotiation. It is an Honor Code violation if class confidential information is discussed with anyone not in this class or not on the same side of the assigned negotiation problem.

Finally, please be conscientious of each other’s sensibilities and exercise discretion with respect to personal information or other things of a sensitive personal nature that come up in class or in the negotiations.

My email is mario.a.loyola@gmail.com. Feel free to contact me with any questions. If the questions are relevant to graded writing assignments, I may take the text of your question and answer it in an email to the whole class.

If you choose to remain in this class after the initial class meeting, you are agreeing to all of the foregoing.