

LEGAL NEGOTIATION
NORTHEASTERN UNIVERSITY SCHOOL OF LAW
FALL 2010 WORKBOOK

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SCHEDULE OF WRITTEN ASSIGNMENTS*

***The following written assignments are to be completed according to this schedule. However, only those written assignments with an asterisk* need to be turned in on the day they are to be completed.**

September 1st	No written assignment
September 8th	Decksometer Reading Negotiator Self-Assessment Self-critique of previous negotiation
September 13th	*Probable Trial Result Written Plan
September 15th	Self-critique of previous negotiation *Goal Paper
September 20th	Written Plan
September 22nd	*Power Analysis Self-critique of previous negotiation
September 27th	Written Plan
September 29th	Relationship Quiz Self-critique of previous negotiation Gender and Race Questionnaire
October 4th	*Probable Trial Result Written Plan
October 6th	Self-critique of previous negotiation *Completed Workbook
October 13th	Written Plan
October 15th	Written Plan
October 18th	Self-critique of previous negotiation
October 20th	Written Plan
October 25th	Self-critique of previous negotiation
Week of October 27th -November 1st	*Special Joint Written Plan
November 3rd	Self-critique of previous negotiation Written Plan *Probable Trial Result
November 8th	Self-critique of previous negotiation

November 10th Decksometer Reading
Post Course Negotiator Self-assessment

November 19th *The Entire Completed Workbook

SEPTEMBER 1ST: INTRODUCTION TO THE COURSE

1. MY GOALS FOR THIS CLASS

My goal for this class is to give you an overview of the design and feel for the course.

2. WRITTEN ASSIGNMENT

There is no written assignment for this class.

3. THE NEGOTIATION FOR THIS CLASS

You will conduct a negotiation in this class entitled “Let’s Make a Deal” between a prospective seller and a buyer. For the sake of our class discussions in general, I would like you to think of this course as a laboratory for a group of "action scientists" collectively testing the efficacy and social acceptability of certain propositions about how best to work with others to solve any shared problem. To this end I will break the group down into "buyers" and "sellers". You will be asked to prepare a business negotiation involving the sale of non-toxic chemicals and then to conduct the negotiation one on one. When you return, we will explore a number of topics that may have been raised by this negotiation. These topics make up something I call “Tricks of the Trade”, a simple framework for thinking about negotiations and conflict resolution in general. This framework provides me with an agenda for the course.

SEPTEMBER 8TH: "TRICKS OF THE TRADE" SUMMARIZED

1. MY GOALS FOR THIS CLASS

My goal for this class is to describe my theory of legal negotiation as a way of setting the agenda for the rest of the course.

2. WRITTEN ASSIGNMENT

Please complete each of the following written assignments. You do not have to turn any of them in at this class.

A. PRE-COURSE "DECKSOMETER" READING

I have designed a tool I call a "Decksometer" which, should I ever find a million dollars to develop it, would measure a person's power to solve any new problem requiring the cooperation of someone else. The Decksometer derives its name from my theory of personal problem solving power. I contend that personal problem solving power is composed of the **Desire** to solve the new problem, the **Confidence** to be able to solve it, the **Knowledge** to know how to solve it, and the **Skill** to be able to put that knowledge into action. Each of these four components is necessary to solve a new problem. Each contributes to the other. **This course is designed to increase your personal problem solving power.** Since my design has not yet been operationalized, you will have to help me. I want you to take your own Decksometer reading at the beginning and at the end of this course. This is what you have to do.

Please assign a number between 0 and 25 that reflects your opinion of your Desire, Confidence, Knowledge and Skill to solve new problems that require the help of others to satisfy your interests or the interests of those you represent. A "25" represents the highest or most powerful measurement you could have. Then total the four readings. That number will be your Pre-Course "Personal Problem Solving Power" reading.

- a. Your **Desire** to try to solve new problems that require your working with others (0-25) _____
- b. Your general **Confidence** level for working with others to solve new problems (0-25) _____
- c. Your general **Knowledge** about how to work with others to solve problems successfully (0-25) _____
- d. Your **Skill** level at working with others to solve new problems successfully (0-25) _____

YOUR TOTAL PERSONAL POWER _____

B. PRE-COURSE NEGOTIATOR SELF-ASSESSMENT

Please answer the following questions about yourself as well as you can. Don't worry if some of these questions are unfamiliar. I promise you they will be very familiar by the end of the course.

1. KNOW YOUR OWN POWERS. How well do you prepare when you work with other people to try to solve a shared problem or resolve a conflict? In particular, how well are you able to analyze in advance your power or leverage in the situation?

2. SELECT AN OPTIMISTIC, REALISTIC GOAL. What goals does a negotiator who represents others have to choose from? How high do you tend to set your goals when you negotiate? How hard are you prepared to work to get what you want in a negotiation?

3. THINK STRATEGICALLY. How self-aware and purpose-driven are you when you negotiate about what you are doing strategically? Are you able and willing to think strategically when you negotiate?

4. BUILD TRUST. How effectively do you work with others when you are trying to solve a shared problem? Do you make others more or less defensive toward you when you negotiate?

5. SEARCH FOR CLUES TO THE OTHER PARTY'S BEST OFFER TO YOU. How effective are you at finding clues to what the other side may be willing to offer you or your clients when you negotiate? How well are you able to get information from others who may not want to give that information to you?

6. EXPLAIN YOUR POWERS. How persuasive are you when you share information with the other side to motivate them to improve their willingness to satisfy your interests? How effective are you at explaining your power?

7. OFFER HOPE ON COMMON GROUND WITH STANDARDS OF FAIRNESS. How well are you able to identify the common ground the parties may share in order to motivate them to continue to work with you to find a mutually satisfactory solution to your problem?

8. BRAINSTORM MORE OPTIONS. **How creative are you at finding innovative solutions to your shared problems?**

9. BARGAIN WITH PACKAGES RATHER THAN ISSUE BY ISSUE. **How well do you bargain when it is time to claim what you have created? How tough are you?**

10. PLAY CHICKEN WITH DEADLINES TO CLOSE THE DEAL. **How firm are you as the deadline approaches without a deal?**

C. PREPARE A SELF-CRITIQUE OF LAST WEEK'S "LET'S MAKE A DEAL" NEGOTIATION USING THE FORMAT IN APPENDIX A OF THIS WORKBOOK.

SEPTEMBER 13TH: “TIPTON VS. SHAWMUT UNIVERSITY”

1. MY GOAL FOR THIS CLASS

My goal for this class is to show you how important preparation is to your success in a legal negotiation. We will discuss what constitutes good preparation for a negotiation in the next class.

2. THE NEGOTIATION FOR THIS CLASS

In this negotiation the Plaintiff Charlotte Tipton sues her law school law student lawyer, his clinical supervisor and their university for negligence and a violation of the consumer protection statute, ch. 93A, for causing her husband to find and assault her. This is a one on one negotiation. You are to assume this jury trial will start tomorrow if you do not settle it today.

3. WRITTEN ASSIGNMENT

A. PREDICT THE MOST PROBABLE OUTCOME OF THIS TRIAL.

Please complete the following questionnaire and turn it in at the beginning of this case.

TIPTON VS. SHAWMUT UNIVERSITY

PROBABLE TRIAL RESULT

a. Your Name

Your Client

1. More probably than not, the Plaintiff will _____ will not _____
present enough evidence for the judge to be willing to submit the case to the jury for
damages?

2. More probably than not, if the judge presents the case to the jury, it will _____ will
not _____ find the Defendants liable to the Plaintiff for any damages.

2. If the judge submits the case to the jury, and the jury finds the Defendants liable for
some amount of damages, I believe the most probable damage award on the following parts
of the Plaintiff's claim for damages is:

Past medical expenses	_____
Future medical expenses	_____
Past pain and suffering	_____
Future pain and suffering	_____
Past lost earning capacity	_____
Future lost earning capacity	_____
Lost companionship for Her daughter	_____
Attorney's fees under 93A	_____
Pre-judgment interest	_____

3. If the judge submits the case to the jury, I believe the most probable outcome on the
Plaintiff's ch. 93A claim is

- a. no liability _____
- b. double actual damages _____
- c. treble actual damages _____

4.I believe the most probably total trial outcome in this case will be

\$ _____

**B. PREPARE A WRITTEN PLAN FOR THIS NEGOTIATION ACCORDING TO THE
FORMAT IN APPENDIX B OF THIS WORKBOOK.**

SEPTEMBER 15TH: THE COMPETING GOALS OF A LAWYER/NEGOTIATOR

1. MY GOALS FOR THIS CLASS

My goals for this class are to identify what goals are available in general to a lawyer/negotiator and to look at how important goal setting is to the overall strategy of the negotiator.

2. WRITTEN ASSIGNMENT

A. PREPARE A SELF-CRITIQUE OF YOUR TIPTON VS. SHAWMUT UNIVERSITY NEGOTIATION AS DESCRIBED IN APPENDIX A..

B. *WHAT SHOULD YOUR GOAL FOR THE TIPTON NEGOTIATION HAVE BEEN?

In no more than two, typewritten pages please select and defend what you believe your goal for representing your client in the Tipton vs. Shawmut University negotiation should have been: Any Deal, the Best Deal or the Enhanced Best Deal?

SEPTEMBER 20TH: “EVENING THE SCORE”

1. MY GOAL FOR THIS CLASS

My goal for this class is to provide you with an opportunity to work as a team of problem solvers in role to solve a problem with many shared and differing goals, interests, values, and assumptions.

2. THE NEGOTIATION FOR THIS CLASS

During this class, you will play a negotiation game entitled “Evening the Score”. You will be assigned to a role and a group competing for the most valuable, unanimous solution to the problem that you can agree to in one hour. No group or player will be eligible to win this game unless every player in the group at least satisfies his or her bottom line. The structure of the game is described in “The Manual for Playing the Game” which is found in the “Negotiation Reader”. You will be given a Challenge card that describes the problem to be solved, your role, and your secrets for your role.

The situation for this negotiation is the aftermath of the filing of the first legal challenge to the Boston School Department’s 35 % Minority Set Aside to insure “diversity” in the system’s examination schools, or in this case Boston Latin. You are members of a committee put together by the Superintendent to decide how to respond to a law suit challenging the constitutionality of this set aside as applied to a white sixth grader who did not get into Boston Latin because of it. You are to assume it is 1997 and no court has yet decided the legality of the set aside. You may and should do research to see what happened, but you cannot cite that research as the reason for doing what you want the committee to do. **YOU HAVE MY PERMISSION AND ENCOURAGEMENT TO COMMUNICATE WITH ANY OR ALL OF THE OTHER NEGOTIATORS IN THIS NEGOTIATION AND ALL SUBSEQUENT NEGOTIATIONS OUTSIDE OF CLASS.**

3. WRITTEN ASSIGNMENT

A. PREPARE A WRITTEN PLAN FOR THIS NEGOTIATION AS DESCRIBED IN APPENDIX B.

SEPTEMBER 22ND: NEGOTIATING STRATEGICALLY WHILE KNOWING YOUR OWN POWERS

1. MY GOAL FOR THIS CLASS

My goal for this class is to begin to get you to look at the concept of bargaining power. What is bargaining power, where do we find it and how does it work?

2. WRITTEN ASSIGNMENTS

Please complete each of the following written assignments. You should turn in the Power Analysis at the beginning of this class.

A. WRITE A “POWER ANALYSIS” OF “EVENING THE SCORE” AND TURN IT IN AT THE BEGINNING OF THIS CLASS.

In “Tricks of the Trade” I describe six distinct kinds of “power” that a negotiator can potentially use in any negotiation to favorably influence another party to give her what she wants: constructive power, obstructive power, walking power, fairness power, collective power and personal power.

Your “constructive power” is defined as the other party’s perception of your ability and willingness to satisfy its interests better than its best alternative if you get what you want.

Your “obstructive power” is defined as the other party’s perception of your ability and willingness to interfere with the satisfaction of its interests unless you get what you want.

Your “walking power” is defined as the other party’s perception of your ability and willingness to walk away from the table if you don’t get what you want.

Your “fairness power” is defined as the other party’s perception of the fairness of your claim to what you want from the outcome of the negotiation.

Your “collective power” is defined as the other party’s perception of your obstructive and constructive power when enhanced by partners who can help you interfere with or satisfy their interests.

Your “personal power” is defined as your desire, self-confidence, knowledge and skill (DECKS) for solving problems that require the help of other people.

For this assignment, would you please analyze what you imagine the bargaining power of three of the parties in “Evening the Score” would be if this were a real negotiation, in no more than five, typewritten pages.

- a. The paper will be evaluated on how insightful and realistic your understanding of the probable influence of each role is and with whom that role has what kind of influence.
- b. The paper should footnote any authorities you rely on for your analysis.

B. COMPLETE A SELF-CRITIQUE OF LAST WEEK’S “EVENING THE SCORE” NEGOTIATION USING THE FORMAT OF APPENDIX A.

SEPTEMBER 27TH: “GETTING DIVORCED”

1. MY GOALS FOR THIS CLASS

My goal for this class is to increase the degree of difficulty for resolving a dispute in an already very polarized situation.

2. THE NEGOTIATION FOR THIS CLASS

The husband and wife are getting divorced, and they need your help. They quickly realized that getting a divorce is a community event and lots of people have a stake in the process and the outcome. They saw that all these people were contributing to the negotiation without being at the table and that maybe that wasn't the best approach for anyone.

3. WRITTEN ASSIGNMENT

**A. PREPARE A WRITTEN PLAN FOR THIS NEGOTIATION AS DESCRIBED
IN APPENDIX B.**

SEPTEMBER 29TH: DISARMING THE OPPOSITION

1. MY GOALS FOR THIS CLASS

My goals for this class are to get you to begin to look at the strategic importance of the negotiators’ working relationship. In particular, I want to look at the strategic importance of trust, and what “trust” means in the context of a negotiation. What can you accomplish with trust that you can’t without it? I also want to begin to look at the strategic relevance of “differences” between negotiators including differences in gender, race and ethnic background.

2. WRITTEN ASSIGNMENTS

A. COMPLETE THE RELATIONSHIP QUIZ

You should answer the following questions in preparation for this class.

This course explores the importance of different kinds of working relationships among problem solvers. I use two categories, "competitives" and "cooperatives" defined in Gerald Williams’ book, Legal Negotiation and Settlement. A "competitive" is essentially in it for himself, regardless of how polite or civil his style of problem solving. A "cooperative" is essentially in it for everyone, like a partner. I recognize that these are not pure categories, but I am confident everyone understands the basic difference between being someone's partner and being their competitor. I would like you to evaluate the ideal, not typical, forms of the following relationships and ask you to characterize them. Then total up how many "partnerships" (P) you listed and how many "competitions" (C).

- 1. 2 spouses negotiating the terms of a divorce _____
- 2. A new car dealer selling a new car to a new customer _____
- 3. The heads of the engineering and marketing departments of a computer company addressing the company budget for the next year _____
- 4. A landlord and a tenant discussing the conditions the tenant's apartment _____
- 5. Roommates discussing the maintenance of their apartment _____
- 6. Two parents deciding on the best interests of their children _____
- 7. Parents and children discussing the maintenance of the child's room _____
- 8. Divorcing spouses discussing the terms of child custody and visitation _____
- 9. Business owners discussing the expenses of running a business _____

10. Co-owners of a restaurant discussing the allocation of profits and losses _____
11. Used car dealers and customers regarding the
future maintenance of a car being sold _____
12. A clerical union of a university negotiating the
terms of their members' employment with
management _____
13. A teacher and student discussing the grade a
student ought to receive on a paper _____
14. A business buyer and seller negotiating the
price per unit of a non-toxic chemical used in
the buyer's business _____
15. Police negotiating with a hijacker of a plane _____
16. Police negotiating with a terrorist organization
threatening to retaliate if its demands are not
met _____
17. A lawyer with her client _____
18. An environmental regulatory agency and a
potentially responsible party regarding who will
pay for the clean up of a number of hazardous
waste spills _____
19. A family owned television station selling its
station to an outside corporation _____
20. A company and its long term customers _____
21. A company and its suppliers _____
22. A regulatory agency and a known past polluter
regarding future inspections of the company's
plant _____

PLEASE TOTAL YOUR "C's" and "P's"

C's_____ P's_____

**B. PLEASE COMPLETE A SELF-CRITIQUE OF LAST WEEK'S
NEGOTIATION USING THE FORMAT IN APPENDIX A.**

**C. PLEASE COMPLETE THIS GENDER IN NEGOTIATION
QUESTIONNAIRE.**

Deborah Kolb and Gloria Coolidge in their article "Her Place at the Table: A Consideration of Gender Issues in Negotiation" make certain generalizations about how women and men tend to experience the negotiation process. I would like you to indicate whether you agree or disagree with the accuracy of the "tendencies" they describe regarding men and women in general, and not about you personally.

1. Women's "voices" are often hushed in formal negotiations. Agree___ Disagree___
2. Negotiation is generally conceived by women as a context of conflict and competition. Therefore, they are not comfortable there. Agree___ Disagree___
3. Men and women tend to approach negotiation differently and to use a different style in search of agreement. Agree___ Disagree___
4. Women do not tend to fare well in formal negotiations with men. Agree___ Disagree___
5. The Getting to Yes approach to solving problems with its advice to stay rational and "Separate the People from the Problem" is essentially technical and analytical and therefore less well suited to a woman's preferred approach to problem-solving. Agree___ Disagree___
6. Women tend to start and end a negotiation at a different point from a so-called "principled" model of negotiating. Agree___ Disagree___
7. Women tend to experience negotiation, not as a separate game with its own rules, but as part of the extended organizational context in which it occurs. Agree___ Disagree___
8. Women rarely separate or frame "negotiation" from the other facets of their life. Agree___ Disagree___
9. Women tend to conceive of power less as the exertion of control over another and more as power with another, or power energizing interaction with another. Power is more mutual empowerment than competition with another. Agree___ Disagree___
10. Women tend to experience problem-solving more as a dialogue over time with a solution that emerges rather than a debate over who is right or wrong. They see conflict resolution as evolutionary and collaborative more than men do. Agree___ Disagree___

11. Women tend to engage in a joint exploration of ideas whereby understanding is progressively clarified through interaction. Agree___ Disagree___
12. Women tend to reveal more about their interests, concerns and attitudes than men do in similar situations. Agree___ Disagree___
13. Women's problem-solving skills that they use effectively in solving personal problems are often not given free expression in the public sphere. Agree___ Disagree___
14. Women tend to feel that they have fewer options than men and a limited ability to influence the negotiated outcome in conflict situations. Agree___ Disagree___
15. Women tend to feel satisfied with a problem-solving session if the interpersonal style was pleasant even if they never discussed the main points of contention. Agree___ Disagree___
16. Women more than men have a lower tolerance for antagonism and will work harder than men to smooth differences over, even if it means sacrificing their own interests to do so. Agree___ Disagree___
17. Women tend to be more reluctant than men to challenge and probe for more difficult clues to the other's situation. Agree___ Disagree___
18. Women tend to listen more and speak less when negotiating with men. Agree___ Disagree___
19. When a woman empathizes with the other party, she tends to be more vulnerable to exploitation than a man in the same situation. Agree___ Disagree___
20. Women tend to speak differently than men in a negotiation, often qualifying and softening what they say. Agree___ Disagree___
21. Women tend to interrupt less than men do in a negotiation. Agree___ Disagree___
22. Women are less likely than men to advocate their own position assertively. They tend to signal influence less than men do. Agree___ Disagree___
23. It is harder for a woman than a man to act forcefully and competitively in the work place without inviting criticism. Agree___ Disagree___
24. As mediators, women are generally perceived to be less effective than men even when they achieve superior results. Agree___ Disagree___

OCTOBER 4TH: “STARK VS. BETTENCOURT”

1. MY GOAL FOR THIS CLASS

I want you to see how you can use your knowledge of the law and the legal system as a source of bargaining power.

2. WRITTEN ASSIGNMENT

*

**A. PREPARE A WRITTEN PLAN FOR THIS NEGOTIATION AS IN
APPENDIX B.**

B. PREDICT THE MOST PROBABLE RESULT IF THIS CASE GOES TO TRIAL.

Please fill out the answers to the following questionnaire.

STARK VS. BETTENCOURT

PROBABLE TRIAL RESULT

Your Name

Your Client

1. More probably than not, I believe that if this case goes to trial, the Plaintiff will _____ will not _____ win possession of the premises.
2. If the Plaintiff wins possession, I believe the tenants will probably have to move by _____ at the earliest.
3. If the Plaintiff wins possession, I believe the most probable amount that the court will find the rent or use and occupancy per month to be will be _____ .
4. If the Plaintiff wins possession, I believe the most probable amount of back rent or use and occupancy she will recover is _____ .
5. If this case goes to trial, I believe the most probable total abatement of the back rent the tenants will win because of the conditions in their apartment will be _____ .

OCTOBER 6TH: CLUE SEARCHING

1. MY GOAL FOR THIS CLASS

My goal for this class is to have you look at the power of asking good, strategic questions as an important negotiation strategy.

2. WRITTEN ASSIGNMENT

**A. COMPLETE A SELF-CRITIQUE OF LAST WEEK'S NEGOTIATION
USING THE FORMAT IN APPENDIX A.**

OCTOBER 13TH: “CONTROLLING THE LABS, I”

1. MY GOALS FOR THIS CLASS

I want you to see how planning a negotiation with partners is itself a kind of negotiation.

2. THE NEGOTIATION FOR THIS CLASS

This is the first of a two part negotiation exercise. Over the weekend there was a hydrogen sulfide leak at the Chemistry Building on the campus of Tufts University which could be smelled by the neighbors. Rumors of chemical warfare research appear in the newspaper the next day. The neighbors demand some answers. The President of Tufts agrees to meet with them personally to address their concerns. Half of you will be in role on behalf of Tufts. The other half will represent the neighbors. The smaller teams on meeting during this class period to prepare for the next meeting with the other side. **YOU ARE FREE TO TALK TO WHOMEVER YOU WANT OUTSIDE OF CLASS AS PART OF THIS NEGOTIATION.**

3. WRITTEN ASSIGNMENT

**A. PREPARE A WRITTEN PLAN FOR THIS SESSION ACCORDING TO
APPENDIX B.**

OCTOBER 15TH: “CONTROLLING THE LABS, II”

1. MY GOALS FOR THIS CLASS

I want you to see how groups negotiate with each other..

2. THE NEGOTIATION FOR THIS CLASS

This is the second of a two part negotiation. The leadership of Tufts meets with the neighbors to discuss what happened the previous weekend in the Chemistry Lab. **YOU ARE FREE TO TALK TO WHOMEVER YOU WANT OUTSIDE OF CLASS AS PART OF THIS NEGOTIATION.**

3. WRITTEN ASSIGNMENT

A. PREPARE A WRITTEN PLAN FOR THIS SESSION PER APPENDIX B.

OCTOBER 18TH: EXPLAINING YOUR POWERS

1. MY GOALS FOR THIS CLASS

My goals for this class are to look at the best ways to show the other negotiators the power you have to persuade them to give you what you want.

2. WRITTEN ASSIGNMENTS

A. COMPLETE A SELF-CRITIQUE OF LAST WEEK'S CONTROLLING THE LABS NEGOTIATIONS PER APPENDIX A.

OCTOBER 20TH: “KEEPING THE COMPANY OPEN”

1. MY GOALS FOR THIS CLASS

I want you to see how coalition building works as a negotiation strategy.

2. THE NEGOTIATION FOR THIS CLASS

This is a collective bargaining negotiation. The union is negotiating with management for a wage increase for the next three years at the same time that rumors abound that the company is about to close. The owner in this negotiation is the chairman of the board of the conglomerate that owns the Harrahway Shirt Company. The Company President is the president of Harrahways. The Union President represents the whole union. The Stewardship Board is composed of the stewards of the various departments at the company. **YOU ARE FREE TO TALK TO WHOMEVER YOU WANT OUTSIDE OF CLASS AS PART OF THIS NEGOTIATION.**

3. WRITTEN ASSIGNMENT

A. PREPARE A WRITTEN PLAN FOR THIS NEGOTIATION PER APPENDIX

B.

OCTOBER 25TH: BARGAINING WITH PACKAGES AND THE BEST FIRST OFFER

1. MY GOAL FOR THIS CLASS

My goal for this class is to take a look at a theory of bargaining and to see if we can identify some rules of thumb for effective bargaining.

2. WRITTEN ASSIGNMENT

**A. COMPLETE A SELF-CRITIQUE OF LAST WEEK'S NEGOTIATION
PER APPENDIX A.**

THE WEEK OF OCTOBER 27TH-NOVEMBER 1ST: A TWO ON TWO BUSINESS NEGOTIATION

1. MY GOAL FOR THIS CLASS

My goal for this class is to give you a chance to test your negotiation skill and to make sure you get some individualized feedback on your negotiation skills.

2. THE NEGOTIATION FOR THIS CLASS, TAVARES VS. TELRAD BROADCASTING CORP.

Everyone will be paired with another person to conduct the negotiation in front of me. Juan and Dolores Tavares are selling their Spanish-speaking radio stations, K PASO AM AND FM in New Bedford, Massachusetts. They have already had preliminary discussions with representatives of Telrad Broadcasting. Your job will be to try to finalize this deal.

You will have a hour in front of me followed by a hour critique. Because I will watch every negotiation, I have to schedule them at a time when everyone is available. Your individual as well as team performance in this negotiation will be critiqued as part of your final grade.

THEREFORE, IT IS IMPORTANT THAT YOU ACTIVELY AND SKILLFULLY PARTICIPATE IN THE NEGOTIATION ITSELF IN FRONT OF ME TO GIVE ME SOMETHING MEANINGFUL TO EVALUATE. YOU NEED ONLY ATTEND THE SIMULATION TO WHICH YOU HAVE BEEN ASSIGNED. YOU MAY STARTING NEGOTIATING OUTSIDE OF CLASS AS LONG AS YOU DON'T REACH AN AGREEMENT. BEWARE: "ANY DEAL" WILL NOT BE ENOUGH FOR ME OR YOUR CLIENTS TO EARN THE BEST EVALUATION FOR THIS NEGOTIATION.

3. WRITTEN ASSIGNMENT

A. JOINTLY PREPARE THE FOLLOWING NEGOTIATION STRATEGY MEMO.

Please jointly prepare, copy and submit to me by the date of your final negotiation a “negotiation strategy memo” that answers the following questions.

Introductions

1. What is your power in this negotiation?
2. How will you introduce yourselves? What kind of persona do you want to project in this negotiation?
3. Are you their competitor or their partner?

Group Planning

1. List all the issues you want to address during this negotiation.
2. What special ground rules do you want to use?

Clue Sharing

1. What do you think their interests in this deal are?
2. What do you think their standards of fairness for the outcome of each of the issues you listed are?
3. What secret information about this deal do you think they may have?
4. What do you think their best alternative to a deal with your client is?
5. What do you intend to tell them about your interests in each of the issues you listed?
6. What standards of fairness do you plan to share with them about your ideal outcome for this negotiation?
7. What secret facts do you plan to share with them during the negotiation?
8. What, if anything, do you plan to tell them about your best alternative to a deal with them?

Matching Up

1. List everything you think you have in common with them regarding your interests, your standards of fairness, your facts and your alternatives.

Brainstorming

1. List fruitful topics for brainstorming that could genuinely help to identify options that make you both better off.

Bargaining

1. Describe your most likely Best First Offer, as a package of options that address all the issues you expect to be included in this negotiation.

2. Identify good trades off of your Best First Offer that might make both of you better off.

Finalizing

1. What deadlines are available to put pressure on them to want to improve their offer to your client?
2. How might you go about improving the final package before time runs out?

NOVEMBER 3RD: “THE PRISONERS’ DILEMMA”

1. MY GOAL FOR THIS CLASS.

My goal for this class is to have you look again at how you bargain over information.

2. THE NEGOTIATION FOR THIS CLASS

This is a very different kind of negotiation. Two criminal defense lawyers have been charged with the first degree murder of the husband of one of the defendants. One defendant is scheduled to go to trial before the other one. The prosecutors are trying to get one defendant to testify against the other defendant. You do not need a unanimous agreement to resolve this dispute. There is lots of strategy here. Don’t wait until class to use it.

3. WRITTEN ASSIGNMENT

A. PREPARE A WRITTEN PLAN FOR THIS NEGOTIATION PER APPENDIX B..

Please prepare a plan for this negotiation. Include in your plan what you think the probable trial result would be on both cases if neither defendant testifies against the other.

B. PREPARE OF SELF-CRITIQUE OF THE PREVIOUS NEGOTIATION PER APPENDIX A.

NOVEMBER 8TH: PLEA BARGAINING

1. MY GOAL FOR THIS CLASS

My goal for this class is to compare negotiating in the criminal context with negotiating the resolution of civil cases.

2. WRITTEN ASSIGNMENT

**A. COMPLETE A SELF-CRITIQUE OF LAST WEEK'S NEGOTIATION
PER APPENDIX A.**

NOVEMBER 10TH: REVISITING “TRICKS OF THE TRADE”

1. WRITTEN ASSIGNMENT

A. COMPLETE THE POST-COURSE SELF-ASSESSMENT AND DECKSOMETER READING.

You may remember my Decksometer from the beginning of the course. I now want you to take an end of the course Decksometer reading for your sake and for mine.

1. Please assign a number between 0 and 25 that reflects your opinion of your Desire, Confidence, Knowledge and Skill to solve new problems that require the help of others to satisfy your interests or the interests of those you represent. A "25" represents the highest or most powerful measurement you could have. Then total the four readings. That number will be your Post-Course Personal Problem Solving Power reading.

- a. Your **Desire** to try to solve new problems that require your working with others (0-25) _____
- b. Your general **Confidence** level for working with others to solve new problems (0-25) _____
- c. Your general **Knowledge** about how to work with others to solve problems successfully (0-25) _____
- d. Your **Skill** level at working with others to solve new problems successfully (0-25) _____

YOUR TOTAL PERSONAL POWER _____

Now that the course is over, please answer these questions again.

- 1. KNOW YOUR OWN POWERS.** How well do you prepare when you work with other people to try to solve a shared problem or resolve a conflict? In particular, how well are you able to analyze in advance your power or leverage in the situation?
- 2. SELECT OPTIMISTIC REALISTIC GOALS.** What goals does a negotiator who represents others have to choose from? How high do you tend to set your goals when you negotiate? How hard are you prepared to work to get what you want in a negotiation?

3. **THINK STRATEGICALLY.** How self-aware and purpose-driven are you when you negotiate about what you are doing strategically? Are you able and willing to think strategically when you negotiate?
4. **BUILD TRUST.** How effectively do you work with others when you are trying to solve a shared problem? Do you make others more or less defensive toward you when you negotiate?
5. **SEARCH FOR CLUES TO THE OTHER PARTY'S BEST OFFER TO YOU.** How effective are you at finding clues to what the other side may be willing to offer you or your clients when you negotiate? How well are you able to get information from others who may not want to give that information to you?
6. **EXPLAIN YOUR POWERS.** How persuasive are you when you share information with the other side to motivate them to improve their willingness to satisfy your interests? How effective are you at explaining your power?
7. **OFFER HOPE ON COMMON GROUND WITH STANDARDS OF FAIRNESS.** How well are you able to identify the common ground the parties may share in order to motivate them to continue to work with you to find a mutually satisfactory solution to your problem?
8. **BRAINSTORM MORE OPTIONS.** How creative are you at finding innovative solutions to your shared problems?
9. **BARGAIN WITH PACKAGES RATHER THAN ISSUE BY ISSUE.** How skillful are you at bargaining? How tough are you?
10. **PLAY CHICKEN WITH DEADLINES TO CLOSE THE DEAL.** How firm are you as the deadline approaches without a deal?

B. COMPLETE THE WRITTEN ASSIGNMENTS IN THIS WORKBOOK.

You may email to me your final Workbook by noon on Friday November 19th.

APPENDIX A: SELF-CRITIQUE FORMAT

PREPARE A SELF-CRITIQUE OF LAST WEEK'S NEGOTIATION USING THIS FORMAT.

Please complete a self-critique of last week's negotiation using the following format. Please type detailed answers to the following questions regarding what happened during the negotiation you did during the previous class.

Identify what role you were assigned in the negotiation.

Going into this negotiation what was really your goal: Any Deal, Best Deal, the Enhanced Best Deal, or something else?

Did you feel satisfied with your performance at the conclusion of the negotiation? Please explain why you felt the way you did.

Did your feeling of satisfaction change after you heard the discussion of the negotiation in class? Please explain your answer.

What, if any, value did you leave on the table that you or your clients could have had if you handled this negotiation differently? ('Value' just means how much more you could have gotten of what your role cared about if you had conducted this negotiation more effectively. This is often a painful question to answer.)

If you left value on the table, why did you?

Was it because you set your goals too "low"?

Was it because you weren't well enough prepared for this negotiation?

Was it because you didn't think it was "fair" for you to claim this value?

Was it because you weren't skilled enough?

Was it because you were afraid to ask for it?

Was there another reason?

If you were in a similar negotiation like the one you just did, what if anything would you do differently?

If you could do this negotiation over again, what if anything would you do differently to prepare for it?

Did anything happen in this negotiation that surprised or bothered you?

APPENDIX B: WRITTEN PLAN FORMAT

Please complete this plan. Please type your answers to the following questions.

YOUR POWER: What is your power in this situation to favorably influence the other negotiators?

In particular, what will you do if there is no deal in this negotiation? (Your Walking Power)

What is the “fairest” outcome you can realistically justify for your role? (Your Fairness Power)
(To think about the “fairest” outcome for your role, imagine that someone else is in that role.

What is the “fairest” outcome you could describe for them in that role?)

YOUR GOALS: What is your goal for this negotiation?

What interests of your role or client do you want to satisfy?

How hard are you personally prepared to work to satisfy those interests?

YOUR PLAN: What is your plan for achieving your goal?

What do you consider to be the ideal working relationship among the negotiators for this negotiation?

How will you introduce yourself to the others?

What ground rules do you want to use in this negotiation?

What issues do you want to address in this agreement?

What clues do you want to discover from the other negotiators about the probable location of their best offer to you?

What information do you want to explain to the other negotiators about your power in this negotiation?

What important common ground do you think the parties may share in this negotiation?

What creative ideas do you have for increasing the value of the overall solution to this problem?

What will your Best First Offer be?

What concessions are you prepared to make off of your BFO?

How do you plan to use the deadline for this negotiation?

What else have you planned to do in this negotiation that you have not listed so far?