

LEGAL NEGOTIATION

NORTHEASTERN UNIVERSITY SCHOOL OF LAW

FALL 2010 SYLLABUS

INSTRUCTOR:

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PART I: ASSIGNMENTS AT A GLANCE

REQUIRED READINGS:

Getting to Yes, Fisher, Ury and Patton, (Fisher), Penguin
Bargaining For Advantage, Shell, (Shell), Viking Press
Women Don't Ask, Babcock and Laschever, (Babcock) Princeton Press
"Tricks of the Trade", Burdick, (Tricks), in the Negotiation Reader which I will email to you.
"A Manual for Playing the Game", Burdick, (Manual), in the Negotiation Reader which I will email to you.

*All written assignments are described in more detail in the "Workbook" which I will email to you.
You only need to turn in written assignments listed below in bold on the day listed. Otherwise, turn them in when the rest of the Workbook is due.

1. **September 1st, Introduction to The Course**
 - a. Conduct buyer/seller negotiation in class
 - b. No written or reading assignment
2. **September 8th, An Overview of "Tricks of the Trade"**
 - a. Read Tricks in the Reader
 - b. Complete Self-critique of previous negotiation*
 - c. Complete Decksometer and Pre-course Self-assessment in Workbook*
3. **September 13th, Tipton v. Shawmut University**
 - a. Conduct personal injury, legal malpractice negotiation in class
 - b. Prepare Written Plan for this negotiation*
 - c. **Turn in what you consider to be the most probable result if this case went to trial*. Please use the format provided in the Workbook.**
4. **September 15th, The Competing Goals of a Lawyer/Negotiator**
 - a. Read Shell, chs. 1, 2; and Williams handout. "Cooperatives and Competitives"
 - b. Complete Self-critique of previous negotiation*
 - c. **Turn in "Goal of this Negotiation" paper***
5. **September 20th, Evening the Score**
 - a. Conduct affirmative action negotiation in class
 - b. Read the Manual for how to play this game in the Reader
 - c. Prepare Written Plan for this negotiation*
6. **September 22nd, Negotiating Strategically While Knowing Your Own Powers**
 - a. Read Shell, chs. 3, 7; Fisher, chs. 2, 3, 6-8
 - b. Complete Self-critique of previous negotiation*
 - c. **Turn in your "Power Analysis" for "Evening the Score"***

7. **September 27th, "Getting Divorced"**
 - a. Conduct mediated divorce negotiation in class
 - b. Prepare Written Plan for this negotiation*
8. **September 29th, Disarming the Opposition**
 - a. Read all of Babcock; Shell, ch. 4; Handouts, "The Ethnic Theory of Plane Crashes"
 - b. Complete relationship quiz and gender and race questionnaires in the Workbook*
9. **October 4th, "Stark vs. Bettencourt"**
 - a. Conduct landlord tenant negotiation in class
 - b. Prepare Written Plan for this negotiation*
 - c. Turn in what you consider to be the most probable result if this case went to trial.* Please use the format provided in your Workbook.
10. **October 6th, Clue Searching**
 - a. Watch and discuss negotiation video
 - b. Read Shell, chs. 5, 8, 11; Fisher, ch. 1
 - c. Complete Self-critique of previous negotiation*
 - d. Email me your completed Workbook up to this point in the course*
11. **October 13th, "Controlling the Labs" I**
 - a. Conduct the first part of this environmental justice negotiation
 - b. Prepare Written Plan for the first part of this negotiation*
12. **October 15th, (This Friday is a Monday Schedule), "Controlling the Labs" II**
 - a. Conduct the second part of this environmental justice negotiation
 - b. Prepare Written Plan for the first part of this negotiation*
13. **October 18th, Explaining Your Powers**
 - a. Read Shell, ch. 6; "The Psychology of Bargaining" in the Reader;
 - b. Complete Self-critique of previous negotiations*
14. **October 20th, "Keeping the Company Open"**
 - a. Conduct collective bargaining negotiation in class
 - b. Prepare Written Plan for this negotiation*
15. **October 25th, Bargaining with Packages and the Best First Offer**
 - a. Read Shell, chs. 9, 10
 - b. Complete Self-critique of previous negotiation*
16. **The Week of October 26th through November 1st, A Two on Two Business Negotiation**
 - a. Conduct 2 on 2 radio station sale negotiation in class individually scheduled
 - b. Turn in jointly prepared negotiation strategy plan at the time of this negotiation*

17. November 3rd, **"The Prisoners' Dilemma"**
- a. Conduct plea bargaining negotiation in class
 - b. Complete Self-critique of radio station sale negotiation*
 - c. Complete Written Plan for this negotiation*
 - d. Turn in most probable trial result if your case went to trial*
18. November 8th, **Plea Bargaining**
- a. Complete Self-critique of the prisoners' dilemma*
19. November 10th, **Revisiting "Tricks of the Trade"**
- a. Email me all of your Completed Workbook by November 19th.

1. MY GOALS FOR THE COURSE

This is a course in resolving disputes, apparent conflicts and shared problems using the skills of negotiation. By the end of the course I want you to be able to: 1. Design problem solving strategies and to negotiate a variety of situations effectively; 2. Develop a conceptual understanding of several different negotiation approaches; and 3. Learn from your own negotiation experience. These goals require using a combination of critiqued negotiation simulations, theoretical readings, directed class discussions, illustrations and relevant written assignments.

2. WRITTEN ASSIGNMENTS

There is usually a written assignment for each class which is described on page 4 of the Workbook.

3. CLASSES IN GENERAL

I shall begin classes promptly at 8:30 and try to end no later than 10:00. I try to make the class discussions as student-driven as possible within the general framework of the topics described in this Syllabus. A common tension for this part of the course is deciding how much time to devote to the readings and how much to devote to critiquing the simulations. I will not be able to satisfy any of you with the balance I pick, but I want your help making that decision. This means that I will ask questions that I think are important, but I will count on you to let me know what aspect of the topic is most important or problematic for you.

4. SIMULATION PLANNING AND PARTICIPATION

Being well prepared for each simulation is very important to everyone's learning in this course. One unprepared negotiator will affect everyone else's experience. You will quickly discover how being well prepared will help you in your negotiations. You are asked to prepare a piece of a written plan for each negotiation along the lines described in this Syllabus. **YOU ALSO NEED TO LET ME KNOW AS SOON AS POSSIBLE AHEAD OF TIME IF YOU CAN'T MAKE A SIMULATION, BECAUSE YOUR ABSENCE WILL AFFECT OTHER STUDENTS. IF I HAVE ENOUGH NOTICE, I CAN SOMETIMES MAKE ADJUSTMENTS.**

It is likely that during some of the negotiations you will do in this course, you will not be familiar with the context or specific terms referred to in the materials. In those situations you should do outside research in order to familiarize yourself with these terms just the way you would in a real negotiation. If you need help figuring out what to research, just email or call me to ask.

5. SIMULATION SELF-CRITIQUES

After each simulation, you should complete a "Self-critique" of your performance during that negotiation. The basic format is in the Workbook. You are encouraged to make them detailed. The more detailed the better. Developing your habits and skills of critical and constructive self-critique are among the most important goals I have for this course.

6. FEEDBACK

One of the expectations students bring to this course is receiving individualized feedback on their negotiation performance. I will try to give regular feedback to those students I observe negotiate. **YOU ARE STRONGLY ENCOURAGED TO SPEAK TO OR CALL ME TO SET UP A TIME FOR INDIVIDUAL FEEDBACK IF YOU WANT MORE THAN YOU GOT IN CLASS.**

7. ASSIGNED READINGS

I have tried to keep the number of books you have to buy to a minimum. The problem for a teacher of negotiation is that there are many perspectives on negotiation. I have asked you to buy the following books that should be in the bookstore.

- i. Getting to Yes, Negotiating Agreement Without Giving In, Fisher, Ury and Patton, Penguin, 1981
- ii. Bargaining For Advantage, Shell, Viking, 1999
- iii. Women Don't Ask, Babcock and Laschever, Princeton Press, 2003

In addition, I am assigning my papers such as "Tricks of the Trade" in the "Negotiation Reader" which I will email you. The ideas from the assigned readings will often be discussed in the last part of each class and should be very helpful in planning and critiquing your negotiations. Each includes its own framework for approaching a broad range of negotiation and problem solving situations.

We will often not talk about every reading assignment that is included in the Syllabus during our class discussions. This is in part because I like to have you control as much of the discussion agenda as you are interested in doing. The readings are very important for your conceptual development of this subject and therefore for doing your negotiation planning and critiquing. The readings are not difficult for the most part, but are often difficult to apply to a new situation. Don't be fooled by the simplicity of the presentation. That simplicity is designed to make the otherwise difficult implementation process easier in the long run to learn how to do well. **THE SIZE OF THE READING ASSIGNMENTS VARIES EACH CLASS. A STRATEGY MANY PREVIOUS STUDENTS HAVE RECOMMENDED IS READING BARGAINING FOR ADVANTAGE AND WOMEN DON'T ASK IN THEIR ENTIRETY AS EARLY AS YOU CAN AND THEN REVIEWING THE ASSIGNED CHAPTERS AS THEY ARE ASSIGNED OVER THE SESSION.**

8. RECOMMENDED READINGS

There are many perspectives on negotiating which aren't captured very well in one place. I have listed some other books you may find useful for your simulation preparation and for writing your papers.

Dealing With An Angry Public, Susskind and Field, Free Press, 1996

Leadership Without Easy Answers, Heifetz, Belknap Harvard 1994

Getting Past No: Negotiating With Difficult People, Ury, Bantam, 1991

The Manager as Negotiator, Lax and Sebenius, Free Press, 1986

Collaborating, Gray, Jossey Bass, 1989

Negotiating Rationally, Bazerman and Neale, Free Press, 1992

Rethinking America, Smith, Random House, 1995

The Art and Science of Negotiation, Riazfa, Belknap Harvard, 1982

Co-opetition, Brandenburger and Nalebuff, Currency Doubleday, 1996

Solution Selling, Bosworth, McGraw Hill, 1995

Beyond Winning, Mnookin, Peppet and Tulumello, Belknap Harvard, 2000

Breakthrough International Negotiations, Watkins and Rosegard, Jossey Bass, 2001

The Mediation Process, Moore, Jossey Bass, 1986

You Just Don't Understand, Tannen, Ballantine, 1990

You're Wearing That: Understanding Mothers and Daughters in Conversation, Tannen, Ballantine, 2006

Difficult Conversations, Stone, Patton and Hean, Harvard Negotiation Project, 1999

The Power of a Positive No, Ury, Bantam, 2007

Bargaining with the Devil, Mnookin, Simon and Schuster, 2010

9. EVALUATIONS

I will be using all aspects of your work in this course to draft your evaluation. This includes class attendance and insightful participation, the quality of your negotiation performance in the simulations, and the quality and thoroughness of all your written work. In order to get my best evaluation, you will need

- a. to attend and participate regularly in class,
- b. to prepare thoroughly and participate skillfully in all the simulations, particularly the final two on two negotiation, and
- c. to prepare thorough, timely written work of high quality.