

MEDIATION PRACTICUM

PROFESSOR MITCHELL
FINAL EXAMINATION, FALL 1993

Instructions

This is a take-home exam. From this time until 6 p.m., Friday, December 17, 1993 there is to be no sharing of information of any kind. There is to be no communication between students about the questions, answers, or relevancy of particular materials. If you have any questions concerning the examination, please contact Professor Mitchell as soon as possible so that she may make an appropriate clarification.

There are 5 pages to this exam including the instructions. Additionally you will find attached to the exam, pages taken from Craig A. McEwen and Richard J. Maiman, Small Claims Mediation in Maine: An Empirical Assessment, 33 Maine L. Rev. 237 (1981).

There are three questions. Each question is assigned a value and a number of pages in which to answer the question.

Exam Writing Procedure

1. If you type your examination, the following margins are to be used with only modest deviations: all margins are to be one inch and the typing is to be double-spaced.
2. If you are writing your exam, use lined paper, 8 1/2 x 11 inches and write on every line. Do not write in the margins (we need some space for comments). Do not use paper torn from a spiral notebook.
3. If you are writing your exam, one side of a sheet of paper is one page.

Exam Return Procedure

1. Your paper must be returned to Professor Mitchell's office no later than 6 p.m. (give or take a few minutes) , Friday, December 17, 1993.
2. If possible (taking into account accident and loss), please return the exam in the envelope provided to you.
3. Put your exam number on both the envelope and the exam paper.

Exam Philosophy

Mediation Practicum 1993

The primary function of this examination is to allow you to show that you are familiar with and can use the materials and concepts used and developed in this course. When appropriate, be specific in your references to materials, and demonstrate that you have a thorough understanding of the

specific information to which you refer. Do not assume any knowledge on the part of the reader.

QUESTION ONE

(35%) (4 double-spaced typed; 4 single spaced written)

In areas of the country where domestic mediation is being used with increasing frequency, there is a growing trend among lawyers who practice domestic law to provide their clients with a brochure that discusses mediation as a process for resolving custody, support, visitation, and property issues.

A. Assume that you are a domestic relations attorney and have decided to place such a brochure in your waiting room. You have decided upon a simple one-fold format, which is four 3 1/2 by 8 inch pages.

1. Draft the statements you would put in a brochure, keeping in mind that the space restrictions require you to be brief and to the point.

2. Explain what you expect to communicate through each statement.

3. Explain why you decided to include each piece of information.

B. Assume that the brochure is printed and is available in the waiting room. You are conducting an initial interview with a new client. The new client while waiting read the brochure. She asks you what the drawbacks of domestic mediation are. What would you tell her.

QUESTION TWO

(40%) (5 double-spaced typed; 5 single spaced written)

A significant portion of your experience in this course was conducting mediations at Small Claims Court. We would like -you to assess that experience in relation to the experience of others.

Attached to this exam are pages 248-257 from Craig McEwen's seminal empirical research piece. Read these pages and then (1) identify the issues addressed in the article; (2) compare or contrast your experience on each of these issues, giving examples to support the conclusions you reach; (3) if your experience was different than what the article reported, provide an informed speculation as to why your experience was different.

QUESTION THREE

(35%) (4 double-spaced typed; 4 single spaced written)

Several themes in particular have been significant threads in this course. One of them is negotiation power and the other is negotiation style/strategy.

In relation to the theme of negotiation power:

1. Discuss and define what power is and the role it plays in negotiations.
2. Discuss the encounters you had with power as a mediator in Small Claims Court. Discuss how you responded to both the existence of power and to the exercise of power in the mediations you conducted.

In relation to the theme of negotiation styles/strategy:

1. Discuss what you think your negotiation style was when you entered the course.
2. Discuss what you think your negotiation style is as you leave the course and why.
3. Discuss the relationship between negotiation power and negotiation style/strategy. Provide examples from your experience at Small Claims Court.

Finally:

1. If lawyers were present in any of your mediations, discuss both of these topics in relation to the presence and participation of lawyers in the mediation sessions.

In the alternative:

1. If you never had an attorney present, discuss whether or not you had a mediation where you thought that the presence of an attorney would have been helpful and why or why not.