

NEGOTIATION SYLLABUS

For Both Sections of Negotiation

Summer Term Intensive Format

August 5 – 9, 2013

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“**[N]egotiation** can be defined as a process in which two or more participants attempt to reach a joint decision on matters of common concern in situations where they are in actual or potential disagreement or conflict.” Donald G. Gifford, *LEGAL NEGOTIATION: THEORY AND APPLICATION* (1989).

“**Negotiation** is a basic means of getting what you want from others. It is a back and forth communication designed to reach an agreement when you and the other side have some interests that are shared and others that are opposed.” Roger Fisher and William Ury, *Introduction, GETTING TO YES*, Second Edition (1991).

Welcome to the summer intensive Negotiation course. We are pleased that you chose this course because we believe that negotiation skills and knowledge are essential for effective legal practice. Most lawsuits are resolved through negotiation prior to trial.

The Supreme Court of Ohio stated in its *Ohio Courts Statistical Summary 2009*: “It is conventionally understood that approximately 2 percent of civil cases and 5 percent of criminal cases ultimately go to trial. Ohio’s trial rates fall below those figures. As shown in Figure 5, the trial rate for civil cases heard in the common pleas, general division courts in 2009 was 1.5 percent and 3.6 percent for criminal cases. Although the criminal case trial rate remained largely stable since 2000, the rate for civil trials dropped sharply by more than half from the high in 2000 of nearly 3 percent. Source: <http://www.sconet.state.oh.us/Publications/annrep/09OCS/summary/trend.pdf>

It is important to note that the Court’s statistics do not include all the matters that attorneys handle and resolve through negotiations prior to the filing of any lawsuit.

We believe this course will serve you well in your future endeavors. To maximize your learning experience we encourage you to make this course your primary focus from July 30 – August 3. Although we believe this course will be an enjoyable educational experience, we must set some clear ground rules for attendance and participation. In addition to the class elements described below, we expect that all students will conduct themselves in accordance with the principles of professionalism and civility.

1. THE COURSE

The summer negotiation course is a two (2) credit-hour course taught in an intensive five-day format. Our expectation for the course is to be prepared to teach each day and we expect that you will be prepared to fully participate each day.

The class will include lecture, class discussions of the readings, group and individual activities applying substantive materials, and analysis of exercises. The information that is discussed prior to, during, and following the activities is as important as the discussion of the readings.

2. CLASS TIME

The class will meet Monday, August 5th through Friday, August 9th from 8:00 a.m. to 1:10 p.m. Classes will begin promptly at 8:00 a.m. Please be on time for class and allow for extra time for traffic delays, parking problems and other unforeseen difficulties that may arise.

3. ATTENDANCE

Students are expected to attend all classes. The professors may subtract up to a maximum of ten (10) points from each student's grade for each class absence. The professors in their sole discretion may subtract points from a student's grade for chronic tardiness or partial absence(s).

If a student is absent from a class, a student may request an "excused absence." An excused absence will allow the student an opportunity to submit additional work to receive up to eight (8) points for the class absence. A request for an excused absence must be given to the professor with a signed written request in advance of the absence. If an emergency prevents an advance request, the student shall contact the professor via telephone or email as soon as possible to explain the reason for the absence and shall present a signed written explanation for the absence at the next class or as soon as possible. The professors in their sole discretion may grant an "excused absence" and assign the additional work. Please note that the assignment will be significant because it will need to require work equivalent to spending five hours in class.

Although previously scheduled work and family commitments may be important, they are not considered acceptable reasons for an excused absence.

Students should also note that an absence on a day that includes an in-class negotiation activity may result in the loss of points for failure to complete a graded assignment.

4. GRADING

Daily Quizzes (25 points): Five closed-book quizzes will be given. Each quiz will be based solely on assigned readings. A student arriving after the daily quiz has been distributed and prior to the quiz being collected will be able to receive the quiz, but will not be given any additional time to complete the quiz. Students arriving after the daily quiz has been distributed and collected by the professor will not be given an opportunity to take the quiz. Students arriving after the daily quiz has been distributed may have the option of completing

a writing assignment to earn a maximum of three points. **NOTE: You will have a quiz on Monday morning, so please obtain your Final Exam Number from Web Advisor prior to class on Monday morning because you will need it to receive credit for your quiz.**

Activities (25 points): During this course you will be asked to engage in numerous activities. You will be given additional instructions with each activity. Good faith participation is expected so you and your classmates will have a productive learning experience.

Exam (50 points): The take-home exam will be distributed at the end of class on August 9, 2013. Any requests for accommodations or a different exam time should be submitted to Associate Dean Rachel Janutis.

Negotiation Summer Course Reading Assignments

Legal Negotiation Theory and Practice, Second Edition by Donald Gifford

Please note that the summer course’s intensive format has proven to be an enjoyable education experience for students and it has proven to keep students **very** busy with reading, preparation for class activities and completion of written assignments. Due to the intensive format, the readings are not evenly distributed. Therefore, it is **highly recommended** that students read in advance of the start of the course.

Advance reading is strongly encouraged as it will allow students to have a more relaxed and productive week.

CLASS	READINGS
Aug. 5	Ch. 1: Negotiation Strategy for Lawyers (1 – 27) Ch. 2: Choosing Effective Negotiation Tactics (28 – 46) <i>Complete Negotiation Survey prior to class</i>
Aug. 6	Ch. 4: The Relationship Between the Negotiators: Initial Orientation (77 – 97) Ch. 5: Information Bargaining (98 – 120) <i>Handouts regarding Negotiation Ethics</i>
Aug. 7	Ch. 3: Negotiation Planning (47 – 76) Ch. 11: Negotiator Identity and Negotiation Context: The Effects of Culture, Gender and Race (207 – 215) <i>Handouts regarding Negotiation, Emotions and Culture</i>
Aug. 8	Ch. 7: Narrowing of Differences and Closure: Competitive and Cooperative Tactics (145 – 168) Ch. 8: Narrowing of Differences and Closure: Problem-Solving Tactics (169 – 178) <i>Handouts regarding negotiation tactics</i>
Aug. 9	Ch. 9: Multiple-Party Negotiation (179 – 188) Ch. 10: Negotiation Counseling (189 – 206) Ch. 12: Alternative Dispute Resolution and Negotiation (216- 236)

NEGOTIATION SURVEY

You may print this document and handwrite your answers or type on the form. This “survey” is intended to get you to start thinking about who, what, when, where, and why you negotiate. Just provide your initial thinking on each question - long answers are not expected.

1. What does the term “negotiation” mean to you?
2. What skills and qualities do you think an effective negotiator possesses?
3. With whom do you negotiate?
4. Do you like to negotiate? Why or why not?
5. What are your goals when you negotiate?
6. What do you think are your best negotiation skills?
7. What do you think are your weakest negotiation skills?
8. Do you ever allow emotions to affect your negotiations? How?
9. Do you usually use a similar negotiation approach or do you change it from time to time?
10. Who or what has had the biggest influence on the way you negotiate?