

NEGOTIATION AND MEDIATION

LAWS 4460

Fall 2019

Mondays and Wednesdays, 7:30 p.m. to 8:45 p.m.

Ricketson Law Building, Room 170

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Office Hours: Mondays, 5:30 pm – 6:30 pm and Wednesdays, 5:30 pm – 6:30 pm

Location: Room 480A

I. REQUIRED COURSE MATERIALS

Getting to Yes: Negotiating Agreement Without Giving In (hereinafter “*Getting to Yes*”)

Roger Fisher, William L. Ury, Bruce Patton

Publisher: Penguin Books; Updated, Revised Edition (May 3, 2011)

ISBN-10: 0143118757

ISBN-13: 978-0143118756

Getting Past No: Negotiating in Difficult Situations (hereinafter “*Getting Past No*”)

William Ury

Publisher – Bantam; Revised Edition (January 1, 1993)

ISBN-10: 0553371312

ISBN-13: 978-0553371314

Mediation: Practice, Policy, and Ethics (hereinafter “*Mediation*”)

Carrie Menkel-Meadow, Lela Porter Love, Andrea Kupfer Schneider

Publisher: Wolters Kluwer; 2nd Edition (August 22, 2013)

ISBN-10: 1454802626

ISBN-13: 978-1454802624

Additional required course materials will be posted on CANVAS. Please check CANVAS frequently for additional, required readings.

II. COURSE DESCRIPTION AND OBJECTIVES

A. COURSE DESCRIPTION

This course is an introduction to negotiation and mediation. As lawyers, you will often, if not daily, find yourselves in negotiations, mediations, and mediation-like settings, either as an advocate or as a neutral. In this course, my goal is for each of you to hone fundamental lawyering skills; understand and apply negotiation theory, which underpins all mediations; and acquire basic proficiency in mediation practice.

The course begins with a focus on conflict, the causes of conflict, and avenues for resolving conflict. The course builds cumulatively from simple negotiations to those of greater complexity—starting with two-party, single-issue negotiations and building toward multi-party, multi-issue mediations that evolve over time and frequently involve party advocates. The course progresses step-by-step through the negotiation and mediation processes.

B. COURSE OBJECTIVES

This course introduces students to the theory and practice of negotiation and mediation, the most commonly-used forms of legal dispute resolution in the United States and around the world. The ability to participate successfully in legal negotiations and mediations rests on a combination of five core skills that are addressed in this course:

- (1) analysis;
- (2) interpersonal awareness;
- (3) planning;
- (4) drafting; and
- (5) reflection.

This course will provide you with a set of conceptual frameworks and practical experiences that will enhance your understanding and skill level in all of these areas. You will have the opportunity to gain the perspectives of clients, advocates, and mediators.

(1) Analysis

Analysis is important because dispute resolution participants cannot develop promising negotiation and mediation strategies without acquiring a deep understanding of the theory of dispute resolution, including an understanding of the context of the situation and the distribution of power (including culture, gender, race, law, economics, politics); the underlying interests of all of the stakeholders; opportunities for and barriers to creating and claiming value on a sustainable basis; personal styles and persuasion techniques; and the range of possible moves and countermoves—both at and away from the bargaining table. As a mediator, you will analyze the interests and strategies of the parties and their attorneys and plan your interventions. Through analysis of case studies and discussion of articles on dispute resolution, you will learn lessons that you can apply to real-world dispute resolution. You will have a chance to practice this application in our in-class role plays.

(2) Interpersonal Awareness

Interpersonal Awareness is important because dispute resolution of any kind involves communication, relationship development, trust building, and persuasion. Cases and readings serve to integrate the analytic points into practice, as well as to develop intuition about complex, real-world dispute resolution dynamics. Structured negotiation and mediation role plays are used to isolate and emphasize specific analytic points and essential skills. Through participation in negotiation and mediation role plays, you will enhance your powers of communication, relationship development, trust building, and persuasion, while experimenting with a variety of

negotiation and mediation styles and strategies. From repeated participation in role plays that involve a shifting mix of cooperation and competition, as well as important ethical choices, your understanding of negotiation and mediation practice will develop and improve throughout the semester.

(3) Planning and Drafting

Planning and Drafting are among the most important aspects of successful dispute resolution. However, these skills are often neglected. In order to develop your skills in these areas, you will be required to draft short planning memos, opening statements, memorandums of understanding, and/or proposed settlement agreements. By taking the time to put your thoughts, strategies and goals in writing, you will increase your ability to discuss your analysis and perceptions. Having drafted a proposed agreement and writing final agreements reflecting the outcomes of successful negotiations and mediations, you will be prepared to bring closure to your disputes. This is important for your performance in class, in the final exam, and in your real-life opportunities to work with disputes.

(4) Reflection

Reflection is a skill you will develop, both as to your own performance and that of your colleagues. You will be asked to step back and critically appraise what happens in class during our role plays. You will also be working in groups both in class and out of class that will require you to enhance this skill. Giving constructive feedback to and receiving it from others are skills you will be expected to embrace and develop. Not only will you provide your assessment, but you will pinpoint and describe what you saw, heard, and felt and the impact or outcome of what you observed and experienced. You will be expected to offer suggestions for improvement, as well. You will be expected to be open to and explore feedback that is given to you from your colleagues and your professor.

III. EXPECTATIONS, REQUIREMENTS, GRADING

A. Requirements

(1) Attendance and Class Participation (15 points)

Active class participation is correlated with academic success. I therefore shall expect each of you to read thoroughly and be prepared to discuss all class materials. I take attendance, begin class promptly, and expect you to be on time. While I often call on volunteers, I also attempt to democratize class discussion by calling on those who do not usually volunteer. Please note that missing class in this course will affect not only our work but also that of your colleagues. I, therefore, will excuse class absences only *in extremis*, and only if I am notified in advance. Any more than three absences will result in a lowered Attendance and Class Participation Grade of two points per absence above three total absences.

Throughout the semester you will be required to prepare for negotiations and mediations based on various scenarios. These simulations will be performed in either separate groups or as

stage observations, where one group performs the role play, and the rest of the class observes. In order to encourage you to prepare fully for all simulations, I will randomly pick groups for stage observations. I will also randomly choose the days that the stage observations will occur. After every simulation exercise, there will be a short debriefing period where you will be expected to call upon the knowledge you have gained from the readings and class discussions to give feedback to your colleagues.

Before any simulations, you will be given confidential instructions for your specific role. Your roles will vary throughout the semester; you may play the role of a participant, client, attorney, or mediator. You are not to share your confidential instructions with others, unless you are assigned confidential instructions as a team. If you are assigned the confidential instructions as a team, you are not to share your confidential instructions with anyone outside of your team.

Because much of our class time will be devoted to both mediation and negotiation simulations, you will remain responsible for completing all reading assignments, even if there is no lecture on the specific reading assignment. The course has been designed for the readings to relate to the simulations that are planned. You will be expected to use the knowledge you gain from the readings during post-simulation debriefings.

(2) Group Project (15 points)

The Group Project will provide each group of students with the opportunity to research a mediation or negotiation topic of their choice, submit a proposal and written materials for potential acceptance at the CBA-CLE 13th Annual Alternative Dispute Resolution Conference on Friday, November 1, 2019, in Denver, Colorado, and, if accepted, present a poster presentation at the ADR Conference.

You will be assigned to work in groups of up to three members for the Group Project on the first day of class. Depending on the number of students enrolled in the class, we may need to adjust the numbers in each group.

There are three compulsory parts and one optional part to the Group Project. You and your group members will have to use your negotiating skills to determine how you will divide the work amongst your group.

Part One: The Proposal (3 points)

DUE DATE: AUGUST 28, 2019

On the first day of class, you will be provided with topic suggestions and detailed instructions for the Group Project. Your proposal's topic must be consistent with this year's ADR Conference theme, "Building Healthier Communities Through Effective Dispute Resolution." You must focus your Group Project on any research topic related either to mediation or negotiation. The proposal shall consist of your presentation title, a 50 word abstract, and a concise statement of no more than 50 words that describes the proposal's learning objectives and goals. There should be a minimum of three learning objectives and goals as part of your proposal.

Students are encouraged to submit proposals to the ADR Conference Committee for review and acceptance, after I have reviewed and graded them. As the ADR Conference is not being held during our regular class time and requires a full day commitment, you are not required to have your proposal submitted to the ADR Conference Committee for review. However, you are still required to complete Part One through Part Three of the Group Project. *Please indicate in your proposal whether your group would like to submit the proposal to the ADR Conference Committee.*

Part Two: The Written Materials (6 points)

DUE DATE: SEPTEMBER 23, 2019

The written component will comprise of a 1,250 word paper, double spaced, with proper citations using the Bluebook Law Review format of citation, using either footnotes or endnotes, on your topic. If your proposal is submitted and accepted, your written component will be included in the conference materials that all attendees will receive at the ADR Conference. *The written component is due on September 25, 2019.*

Part Three: The Video Presentation (6 points)

DUE DATE: OCTOBER 16, 2019

Professional conference presenters are often asked to provide a video of prior speaking engagements as part of a request for proposal process. This portion of the Group Project will give your group an opportunity to prepare such a video. *Your entire group must create a 20 minute Video Presentation on your chosen topic, due on or before October 9, 2019.* Please turn in your videos on a flash drive on or before the due date. Late submissions will not be accepted. Your Video Presentation will be graded on professional appearance, content of presentation, oral execution, and whether the learning objectives from your proposal are met.

On the same flash drive as your recorded presentation, after the conclusion of your presentation, include a short discussion of no more than five minutes regarding how you divided the work between the members of your group, how your group worked well together, and areas where your group could improve.

I will provide groups who are presenting at the ADR Conference with feedback on the videos before you present at the ADR Conference, if you choose to complete Part Four of the Group Project.

Part Four: The ADR Conference Poster Presentation (Optional)

DATE: 11/1/19

If you indicated that you want your proposal submitted to the ADR Conference Committee for review, and the proposal is accepted, your group will be expected to present your poster at the ADR Conference. Presenting at the ADR Conference will not be a factor in assessing your grade on the Group Project. However, although Part Four is optional, those who present at the ADR Conference will have the opportunity to network with a community of ADR professionals and attend conference sessions. I encourage all students to present their work at

the ADR Conference, if possible. If you present at the ADR Conference, your tuition to the ADR Conference will be waived, and you will be provided with breakfast and lunch.

The ADR Conference Poster Presentation session will provide conference attendees with a “micro-learning” opportunity, giving bite-sized content, and the ability for attendees to learn outside of the longer plenary and breakout sessions. The ADR Conference will last from approximately 7:30 am to 5:30 pm on Friday, November 1, 2019. You should plan on attending the ADR Conference for its entirety if you submit a proposal to the ADR Committee for review. However, you will only be obligated to present your poster for approximately one (1) hour throughout the day.

If accepted to present at the conference, at least one presenter shall stand at or near by their poster during registration and networking breaks to discuss your Group Project with conference attendees. This will allow you the opportunity to talk with participants about your research and answer questions regarding your work. You will be able to attend all other scheduled plenary and breakout sessions.

(3) Short Drafting Assignments (15 points)

You will complete three individual Short Drafting Assignments, separate from the Group Project. The short drafting assignments are indicated by the phrase “**to turn in**” in § C, *infra*. The Short Drafting Assignments will be worth a maximum of five points each. The assignments will focus on negotiation preparation, ethics, and settlement documents. You will be required to turn in your Short Drafting Assignments before the start of class on the day the assignment is due. Late submissions of the Short Drafting Assignment will be given zero points. The due dates for the Short Drafting Assignments are as follows:

- (a) ASSIGNMENT 1 DUE DATE: 9/4/19**
- (b) ASSIGNMENT 2 DUE DATE: 10/9/19**
- (c) ASSIGNMENT 3 DUE DATE: 11/20/19**

(4) Mediation Simulation (15 points)

You and another student will perform a graded Mediation Simulation during the latter part of the semester, on a date to be determined. The Mediation Simulation will be a 60 minute exercise where you will be paired in teams of two playing either two co-mediators, two attorneys, or an attorney and client. You will receive a confidential fact pattern based on your specific role. The confidential roles must be kept confidential and cannot be shared among other teams. *Any sharing of confidential roles shall be deemed a violation of the Honor Code and subject you to disciplinary action.*

Due to the amount of material we must cover during class, the graded Mediation Simulation exercise must be scheduled outside of class. I will provide you with a sign-up sheet mid-semester, and the simulations will occur in the evenings or on weekends during the last three weeks of class or during reading week.

(5) Final Exam (40 points)

The final exam will cover all the material covered in class and all class reading assignments, whether or not covered in class. I advise you to stay current with the readings throughout the semester, and outline the main points in the readings in anticipation of the final exam. The final exam will be an open book exam that must be completed during the scheduled exam period. You will be allowed to bring the required books, readings, and written notes into the examination, but you will not have access to your computer during the exam. The exam will consist of 25 multiple choice questions (one point each), 10 short answer questions (one point each), and a short essay (five points), for a total of 40 possible points. The exam shall be scheduled during the final exam period. I will update you on the exact date and time of the final examination when I receive this information from the registrar.

B. Grading, Mandatory Curve, Anonymity, and Accommodations

(1) Grading

I shall assign the following points for each class requirement detailed *supra*:

Attendance and In-class Participation	15 points
Group Project	15 points*
Short Drafting Assignments	15 points
Mediation Simulation	15 points*
Final Examination	40 points
TOTAL:	100 points

*Please note the Group Project and Mediation Simulation will be assigned points as a team.

The following grading scale shall be used:

Point Range	Grade
94-100	A
90-93	A-
87-89	B+
84-86	B
80-83	B-
77-79	C+
74-76	C
70-73	C-
67-69	D
65-66	D-
0-64	F

(2) Mandatory Curve

The final grades for this course must substantially conform to the mandatory curve with a median of 3.0 and a mean between 2.85 and 3.15 grade point average. As such, final grades may be adjusted to conform to the law school’s mandatory curve/grade normalization policy.

(3) Anonymity in Grading

Your final examination and your ethics essay will be graded anonymously pursuant to the law school’s anonymous grading policy. Due to the nature of the Group Project, the other Short Drafting Assignments (not including the ethics essay), and the Mediation Simulation, these assessments will not be graded anonymously.

(4) Accommodations

If you have a disability/medical issue protected under the Americans with Disabilities Act (“ADA”) and Section 504 of the Rehabilitation Act and need to request accommodations, please visit the Disability Services Program website at www.du.edu/disability/dsp. You may also call (303) 871-2372, or visit in person on the 4th floor of Ruffato Hall, 1999 E. Evans Ave. <http://www.du.edu/studentlife/disability-services/faculty-staff/index.html>.

C. TOPICS AND ASSIGNMENTS

The following chart details the topic for the day and the assignment that must be complete prior to class, unless otherwise indicated as an “in class” assignment. ***The topics and assignments contained herein are subject to change.*** You will be notified of amendments, and the amended topics and assignments will be posted on CANVAS.

Class	Topics and Assignments
Class 1: August 19	<p><i>Introduction to the Class, Class Overview, and Understanding your Personal Conflict Style</i></p> <p>Assignment:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Read <i>Mediation</i>, Chapter 1, pp. 3-33 <input type="checkbox"/> Read <i>Style Matters™: The Kraybill Conflict Style Inventory</i>, pp.1-23, and take the conflict style assessment, on CANVAS <input type="checkbox"/> Prepare to be interviewed by a classmate, who will introduce you to the class. You will be asked: (1) What is your name and year in law school; (2) Where is your hometown; (3) Why are you taking this class; and (4) What is your Kraybill style of responding to conflict? <input type="checkbox"/> In class, Group Project partner assignments <input type="checkbox"/> In class, obtain instruction sheet on proposals for Group Project

	<input type="checkbox"/> In class, obtain <i>Distributive Bargaining Negotiation</i> confidential information sheet
Class 2: August 21	<p><i>Overview of Negotiation Processes; Stages of Negotiation</i></p> <p>Assignment:</p> <input type="checkbox"/> Read <i>Mediation</i> , Chapter 2, pp. 35-52 <input type="checkbox"/> Read Menkel-Meadow <i>et al.</i> , <i>Negotiation</i> , Chapter 1, pp. 31-36 on CANVAS <input type="checkbox"/> Prepare for <i>Distributive Bargaining Negotiation Simulation</i> ; Answer the following questions before class: <ol style="list-style-type: none"> 1) What are your goals? 2) What is your anchor point? Why? 3) What is your reservation point? Why? 4) Who should make the first offer? Why? <input type="checkbox"/> In class, <i>Distributive Bargaining Negotiation Simulation</i>
Class 3: August 26	<p><i>Negotiator Effectiveness</i></p> <p>Assignment:</p> <input type="checkbox"/> Read <i>Mediation</i> , Chapter 2, pp. 57-69 <input type="checkbox"/> Read Hal Abramson, <i>Fashioning an Effective Negotiation Style: Choosing Between Good Practices, Tactics, and Tricks</i> , 23 Harv. Negot. L. Rev., pp. 319-344 (2018) on CANVAS <input type="checkbox"/> In class, <i>Prisoner's Dilemma</i> exercise
Class 4: August 28	<p><i>Interest-based Negotiation Styles/Strategies</i></p> <p>Assignment:</p> <input type="checkbox"/> Watch video: <i>Negotiation Expert: Lessons from my Horse</i> , Margaret Neale located at https://www.youtube.com/watch?v=KTTtn0i_ZyA <input type="checkbox"/> Read <i>Getting to Yes</i> , Chapters 1-5, pp. 3-95 <input type="checkbox"/> <u>GROUP PROJECT PROPOSAL DUE</u> <input type="checkbox"/> In class, <i>Survival in Space</i> exercise

	<input type="checkbox"/> In class, obtain confidential instructions for <i>Opera Singer's Contract Simulation</i>
LABOR DAY NO CLASS	<p><i>Interest-based Negotiation Styles/Strategies Continued</i></p> <p>Assignment:</p> <input type="checkbox"/> Watch video: <i>Getting to Yes in the Real World</i> , William Ury located at https://www.youtube.com/watch?v=IYdk1NK9-r0
Class 5: September 4	<p><i>Techniques to Avoid Impasse</i></p> <p>Assignment:</p> <input type="checkbox"/> Read <i>Getting Past No</i> , Part I, pp. 3-28
	<input type="checkbox"/> Read <i>Getting Past No</i> , Part II, pp. 29-75
	<input type="checkbox"/> Read Katie Shonk, <i>A Negotiation Preparation Checklist</i> , Harvard Program on Negotiation (Aug. 8, 2019), on CANVAS
	<input type="checkbox"/> Prepare for <i>Opera Singer's Contract Simulation</i> (see Short Drafting Assignment below)
	<input type="checkbox"/> <u>SHORT DRAFTING ASSIGNMENT 1 DUE:</u> Draft a negotiation memorandum of no more than 500 words based on the <i>Singer's Contract Simulation</i> confidential instructions <u>to turn in.</u> Your memorandum must answer the following questions:
	<ol style="list-style-type: none"> 1) What issues should be addressed during the negotiation? 2) What is your BATNA? Why? 3) What are each parties' underlying interests? 4) What objective criteria will you use during the negotiation? 5) What are possible good outcomes of the negotiation? 6) What are possible impediments to settlement?
	<input type="checkbox"/> In class, <i>Opera Singer's Contract Simulation</i> and debriefing
Class 6: September 9	<p><i>Techniques to Avoid Impasse Continued</i></p> <p>Assignment:</p> <input type="checkbox"/> Read <i>Getting Past No</i> , Part II, pp. 76-156
	<input type="checkbox"/> Read <i>Getting Past No</i> , Part III, pp. 157-181

	<input type="checkbox"/> In class, obtain confidential instructions for <i>Rock Band Negotiation</i>
Class 7: September 11	<p><i>Preparing for Negotiation</i></p> <p>Assignment:</p> <input type="checkbox"/> Read Menkel-Meadow <i>et al.</i> , <i>Negotiation</i> , Chapter 6, pp. 203-231 on CANVAS
	<input type="checkbox"/> Prepare for <i>Rock Band Negotiation</i> using an interest-based bargaining model
	<input type="checkbox"/> In class, <i>Rock Band Negotiation</i> and debriefing
Class 8: September 16	<p><i>Relating to your Counterpart: Information Exchange, Trust, Reputation, and Power</i></p> <p>Assignment:</p> <input type="checkbox"/> Read Menkel-Meadow <i>et al.</i> , <i>Negotiation</i> , Chapter 7, pp. 233-246, 254-273 on CANVAS
	<input type="checkbox"/> In class, obtain confidential instructions for <i>Student v. University Simulation</i>
Class 9: September 18	<p><i>Working with your Counterpart: Understanding and Emotions</i></p> <p>Assignment:</p> <input type="checkbox"/> Read Menkel-Meadow <i>et al.</i> , <i>Negotiation</i> , Chapter 8, pp. 275-314 on CANVAS
	<input type="checkbox"/> Read Active Listening Checklist, on CANVAS
	<input type="checkbox"/> Prepare for <i>Student v. University Simulation</i>
	<input type="checkbox"/> In class, <i>Student v. University Simulation</i> and debriefing
Class 10: September 23	<p><i>Negotiation and Mediation Ethics</i></p> <p>Assignment:</p> <input type="checkbox"/> Read <i>Mediation</i> , Chapter 9, pp. 319-354
	<input type="checkbox"/> Read <i>Mediation</i> , Model Standards of Conduct for Mediators, Appendix B, pp. 557-562

	<input type="checkbox"/> In class, watch INTA/CPR International Dispute Video, located at: https://www.youtube.com/watch?v=xTbj-eHwX-w&feature=youtu.be . <input type="checkbox"/> <u>GROUP PROJECT: WRITTEN MATERIALS DUE</u> <input type="checkbox"/> Obtain confidential instructions for <i>Business Sale Simulation</i>
Class 11: September 25	<p><i>Introduction to Mediation, Agreements to Mediate</i></p> <p>Assignment:</p> <input type="checkbox"/> Read <i>Mediation</i> , Chapter 3, pp. 85-107
	<input type="checkbox"/> Read sample Agreements to Mediate and Highlights of Agreement to Mediate on CANVAS
	<input type="checkbox"/> In class, obtain prompt for Short Drafting Assignment 2: Ethics Essay
	<input type="checkbox"/> In class, <i>Business Sale Simulation</i> and debrief
Class 12: September 30	<p><i>Mediator Traits, Tasks, and Qualifications; Stages of Mediation, and the Using the Caucus</i></p> <p>Assignment:</p> <input type="checkbox"/> Read <i>Mediation</i> , Chapter 6, pp. 203-237
	<input type="checkbox"/> Read Mediation Process Outline on CANVAS
	<input type="checkbox"/> Watch Tenant-Landlord Mediation located at https://www.youtube.com/watch?v=j6JEpg10pbw
	<input type="checkbox"/> In class, <i>Mediation Opening Statement</i> exercise
	<input type="checkbox"/> In class, obtain confidential instructions for <i>Two-party Probate Mediation Simulation</i>
Class 13: October 2	<p><i>Transformative, Facilitative, and Evaluative Modes</i></p> <p>Assignment:</p> <input type="checkbox"/> Read <i>Mediation</i> , Chapter 3, pp. 107-119
	<input type="checkbox"/> Read <i>Mediation</i> , Chapter 6, pp. 239-241
	<input type="checkbox"/> Prepare for <i>Two-party Mediation Simulation</i>

	<input type="checkbox"/> In class, <i>Two-party Probate Mediation Simulation</i> and debrief
Class 14: October 7	<p><i>Mediation Advocacy</i></p> <p>Assignment:</p> <input type="checkbox"/> Read Douglas N. Frankel & James H. Stark, <i>Improving Lawyers' Judgment: Is Mediation Training De-Biasing?</i> 21 Harv. Negot. L. Rev. 1 (2015), pp. 1-4 and pp. 8-17 on CANVAS
	<input type="checkbox"/> Read Amsterdam, et al., <i>Lawyering</i> , Chapter 11, pp. 274-298 on CANVAS
	<input type="checkbox"/> Read Jacqueline Nolan-Haley, <i>Mediation: The "New Arbitration,"</i> 17 Harv. Negot. L. Rev. 61 (2012), pp. 61-68 and pp. 73-83 on CANVAS
	<input type="checkbox"/> Roselle L. Wissler, <i>Representation in Mediation: What We Know from Empirical Research</i> , 37 Fordham Urb. L.J. 419 (2010), pp. 431-435 on CANVAS
Class 15: October 9	<p><i>Client Counseling</i></p> <p>Assignment:</p> <input type="checkbox"/> Read <i>Mediation</i> , Chapter 13, pp. 473-496
	<input type="checkbox"/> In class, guest lecturer Amy Roepke
	<input type="checkbox"/> In class, obtain confidential instructions for <i>Attorney-Client Mediation</i>
	<input type="checkbox"/> <u>SHORT DRAFTING ASSIGNMENT 2 DUE:</u> Draft a response to the Ethics Essay prompt of not more than 750 words <u>to turn in</u> anonymously
Class 16: October 14	<p><i>Mediation Advocacy: Preparation, Mediation Brief, and the Process</i></p> <p>Assignment:</p> <input type="checkbox"/> Read <i>Mediation</i> , Chapter 5, pp. 184-199
	<input type="checkbox"/> Read Brian Farkas & Donna E. Navot, <i>First Impressions: Drafting Effective Mediation Statements</i> , 22 Lewis & Clark L. Rev. 158 (2018), pp. 10-19 on CANVAS

	<input type="checkbox"/> Read pre-mediation brief checklist on CANVAS <input type="checkbox"/> In class, <i>Attorney-Client Mediation Simulation and Debrief</i>
Class 17: October 16	<p><i>The Use of Apology in Negotiation and Mediation</i></p> <p>Assignment:</p> <input type="checkbox"/> Read Menkel-Meadow et al., <i>Negotiation</i> , Chapter 7, pp. 247-254 on CANVAS
	<input type="checkbox"/> Read <i>Mediation</i> , Chapter 5, pp. 199-202 <input type="checkbox"/> Read Jennifer Robbennolt, <i>Apology – Help or Hindrance?</i> 10 <i>Disp. Resol. Mag.</i> 33-34 (2004). <input type="checkbox"/> Read Zaina Afrassiab, <i>Why Mediation & Sorry Make Sense: Apology Statutes as a Catalyst for Change in Medical Malpractice</i> , 2019 <i>J. Disp. Resol.</i> 197-212 (2019), on CANVAS. <input type="checkbox"/> Read § 13-25-135, C.R.S. <input type="checkbox"/> <u>GROUP PROJECT: VIDEO PRESENTATIONS DUE</u>
Class 18: October 21	<p><i>The Inherent Irony of Mediation Litigation</i></p> <p>Assignment:</p> <input type="checkbox"/> Read James R. Coben and Peter N. Thompson, <i>Disputing Irony: A Systematic Look at Litigation about Mediation</i> , 11 <i>Harv. Negot. L. Rev.</i> 77-99 (2006) on CANVAS <input type="checkbox"/> In class, guest lecturer Tessa DeVault
Class 19: October 23	<p><i>Implicit Bias in Negotiation and Mediation</i></p> <p>Assignment:</p> <input type="checkbox"/> Read Serena Patel, <i>Cultural Competency Training: Preparing Law Students for Practice in Our Multicultural World</i> , 62 <i>UCLA L. Rev. Disc.</i> 140-155 (2014), on CANVAS <input type="checkbox"/> Read David A Binder <i>et al.</i> , <i>Lawyers as Counselors: A Client-Centered Approach</i> , Chp. 1, pp. 1-10, on CANVAS <input type="checkbox"/> Read <i>Mediation</i> , Chapter 7, pp. 264-288 <input type="checkbox"/> In class, guest lecturer Amy Roepke

Class 20: October 28	<p><i>Consensus Building and Facilitation</i></p> <p>Assignment:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Read <i>Mediation</i>, Chapter 11, pp. 395-408 <input type="checkbox"/> Read <i>Mediation</i>, Chapter 11, pp. 409- 424 <input type="checkbox"/> In class, obtain confidential instructions for <i>Multiparty Mediation Simulation</i>
Class 21: October 30	<p><i>Multiparty Mediation</i></p> <p>Assignment:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Read <i>Mediation</i>, Chapter 11, pp. 425-448 <input type="checkbox"/> Prepare for <i>Multiparty Mediation Simulation</i> <input type="checkbox"/> In class, <i>Multiparty Mediation Simulation</i> and debrief <input type="checkbox"/> In class, obtain settlement agreement Short Drafting Assignment
Friday, November 1, 2019	CBA-CLE 13th Annual ADR Conference Poster Presentations (Optional)
Class 22: November 4	<p><i>Negotiated Rulemaking</i></p> <p>Assignment:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Read Hannah J. Wiseman, <i>Negotiated Rulemaking and New Risks: A Rail Safety Case Study</i>, 7 Wake Forest J. L. & Pol’y, 207-226 (2017), on CANVAS <input type="checkbox"/> In class, obtain confidential instructions for <i>Multi-stakeholder Negotiated Rulemaking Simulation</i>
Class 23: November 6	<p><i>Negotiated Rulemaking</i></p> <p>Assignment:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Prepare for <i>Multi-stakeholder Negotiated Rulemaking Simulation</i> continued <input type="checkbox"/> In class, <i>Multi-stakeholder Negotiated Rulemaking Simulation</i>
Class 24: November 11	<p><i>Negotiated Rulemaking</i></p> <p>Assignment:</p>

	<input type="checkbox"/> In class, <i>Multi-stakeholder Negotiated Rulemaking Simulation</i> continued and debrief <input type="checkbox"/> In class, obtain Short Drafting Assignment 3 instructions
Class 25: November 13	<p><i>International Negotiation and Mediation</i></p> <p>Assignment:</p> <input type="checkbox"/> Read <i>Mediation</i> , Chapter 11, pp. 442-472
Class 26: November 18	<p><i>The Relationship Between Law and Mediation</i></p> <p>Assignment:</p> <input type="checkbox"/> Read <i>Mediation</i> , Chapter 8, pp. 289-295 <input type="checkbox"/> Read <i>Mediation</i> , Uniform Mediation Act, Appendix A, pp. 551-555 <input type="checkbox"/> Read the Colorado Dispute Resolution Act, § 13-22-301, <i>et seq.</i> on CANVAS <input type="checkbox"/> Read <i>Pearson v. Dist. Court</i> , 924 P.2d 512 (Colo. 1996), on CANVAS <input type="checkbox"/> Read <i>Yaekle v. Andrews</i> , 195 P.3d 1101 (Colo. 2008), on CANVAS <input type="checkbox"/> Read <i>GLN Compliance Grp., Inc. v. Aviation Manual Sols., LLC</i> , 203 P.3d 595 (Colo. App. 2008), on CANVAS
Class 27: November 20	<p><i>Thinking Critically about Mediation and the Problem with the “Harmony Ideology”</i></p> <p>Assignment:</p> <input type="checkbox"/> Read Laura Nader, <i>From Legal Process to Mind Processing</i> , 30 <i>Fam. & Concil. Cts. Rev.</i> 468-473 (1992), on CANVAS <input type="checkbox"/> Read <i>Mediation</i> , Chapter 14, pp. 507-538 <input type="checkbox"/> <u>SHORT DRAFTING ASSIGNMENT 3 DUE:</u> Review <i>Mediation</i> , Chapter 6, pp. 237-238; Draft Memorandum of Understanding of no more than 500 words <u>to turn in</u>
Class 28: November 25	<p><i>Course Review</i></p>

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