

NEGOTIATION SYLLABUS

Stephen Turner—Spring Semester, 2012
Wednesdays, 5:00 – 6:50 p.m., Room 312

Contact Information

E-mail: sturner@broadandcassel.com

You may e-mail me questions or email me your class assignments at the above address.

Required Text

Lawyer Negotiation, Theory, Practice of Law
Folberg and Golann; Aspen Publishers (2d ed. 2011)

Beyond Winning
Mnookin; Harvard Press (2000)

Supplemental Readings (as assigned)

Course Description

Law school often focus lawyers to be adversarial and glorify conflict. Graduates may think their primary purpose is to litigate and fight every issue, and come to see the law as a struggle of winners and losers.

However, frequently a contentious lawsuit is not in the best interest of clients. There may not be sufficient resources available, or inclination to endure long, drawn-out adversarial proceedings. Clients may prefer to settle matters expeditiously, avoiding negative publicity and huge costs associated with litigation. Skilled lawyers will often tell you some of their biggest successes were resolving contentious matters in a sensible manner as early as practicable. When lawyers come to appreciate legal negotiation, conflict resolution evolves to a sensible, business-like process whereby both parties can walk away winners.

This course aims to introduce you to legal negotiation by coupling academic readings, class discussions, and practical experience. You will be called upon to analyze approaches to negotiation, practice negotiation skills, and critique negotiations. In doing so, you should gain the awareness, basic skills, and confidence to become skilled in negotiating solutions as an essential part of your future career.

As negotiation is inherently interactive, it is a subject best learned through discussion, example, practice, analysis from differing perspectives, and self and peer-evaluation. To these ends, I ask for your assistance in creating an open, frank, and constructive atmosphere, working together to develop a legal negotiation consciousness in a comfortable way.

Readings

Your weekly assigned readings for class are posted on the Blackboard and will be provided by hand out at the first class. Unless altered, the class reading assignments should be followed.

Class Exercises and Role Plays

This course combines theory, skills, and law. You will have the opportunity to negotiate, represent clients, be clients, and observe and evaluate role plays. Please take the necessary time to prepare where appropriate and take the roles seriously. Role plays provide opportunities to experience the process, experiment, and receive feedback.

Course Grading

There will be no written final examination for this course. Your grade for the course will be based on a total possible accumulation of 500 points as follows:

A. Attendance-- 50 points

You are expected to attend every class. If you must miss a class or be late, please communicate to me by e-mail your likely tardiness or absence before class and let me know the reason.

Attendance is essential in this class for you to acclimate to the culture for successful legal negotiation. As such, any absences will result in a reduced grade, regardless of the reason. For one absence, you will lose 10 points. For two absences will lose 25 points. For three absences will lose all 50 points. More than three absences, regardless of the reason, will result in your being administratively dropped from the class. In accordance with the American Bar Association and the Law School's requirements, you must attend 80 percent of the class meetings for this course to receive credit, i.e., you must not miss more than three classes.

B. Class Discussion - Readings/Lectures/Quizzes-100 points

You are expected to read the assigned material before Class and prepare for and participate in class discussion. Your grade will be based on your thoughtful commentary and responses. Some weeks, I may give the class a short quiz on the assigned material.

C. Participation in Class Exercises-150 points

This is a participatory class where class exercises and role plays will provide you with introductory exposure to negotiating and representing clients. Proficiency and confidence as a legal negotiator are based largely on understanding and experience. The purpose of these class exercises and role plays is to provide you with experience in the negotiation processes from various perspectives.

Role plays can often be a more valuable experience than real cases for two reasons. First, you have an opportunity and are encouraged to experiment with new and uncharacteristic approaches and techniques with no real-world consequences. Second, you will benefit from the feedback and suggestions of the other participants and observers. Thus, an integral part of the learning experience is debriefing and discussing the results of the role-play. You will learn from comparing your behavior, approach, and results with that of others in the class. You will be graded on your preparation, good faith effort in the role plays and exercises, and thoughtful commentary critiquing the exercise or role play.

Several times during the semester you should expect to be assigned a more in-depth role play to take home, read, and analyze. As part of the role play, you may have confidential instructions you are not permitted to share. At class the following week, you and your selected classmates will participate in the role play as the rest of the class observes. Both classmates participating in and observing the exercises will be expected to comment on the experience. Some weeks we may also have short class exercises requiring participation of the entire class.

Guidelines for Participation in Class Exercises and Role Plays:

1. Take the exercises and role plays seriously; what you and others get from the experience is directly related to the effort you put into it.
2. As a party, do not deviate from the facts in either the general or your confidential instructions. You may, however, "fill in the blanks" in playing your role.
3. Play the role as a party the way you think the person in the situation would play it—not necessarily the way you would respond.
4. If you are representing a party, take time to confer with your client before the mediation to be sure you understand what they desire from the mediation and what they want as an outcome.
5. Feel free to experiment and try different approaches during the exercises and role plays.
6. Do not share your confidential information with the other participants until after the role play is completed.
7. Enjoy the role play experience. Learning new ways to strengthen your negotiating skills can be fun.

D. Class Journal-200 points

You are required to create and submit on time a typed weekly journal. Each weekly journal entry should describe in a reflective manner what you learned during the previous week. The journal entries should be concise and thoughtful, not rambling and superficial. Your journal entries should be double-spaced. Each journal will be worth 20 possible point credits. The 10 highest journal scores will be used to calculate your grade. Journals will be returned to you as frequently as possible, particularly with comments which can form a basis for class discussion.

In your weekly journal entry, you should evaluate the assigned readings, class discussions, and class experiences, and delineate and discuss key points you learned. You should include discussion about how negotiation strategies and approaches played out and the positive or negative lessons you derived.

Each journal entry for the previous week is due via e-mail or in hard copy no later than the beginning of the following week's class. As such, we will have no journal entries due the first class, and you will not need to create a journal entry after the last class.

The purpose of the journal is for you to be able to thoughtfully reflect on the assigned readings, class discussions, and class exercises and role plays after each class, but before you begin your studies for the next class. As such, once you have completed your journal entry, you should e-mail it to me before you begin reading for the following week's class (sturner@broadandcassel.com). Journals may be submitted in hard copy at the beginning of the following week's class. Journals submitted after this deadline will not be accepted for any reason, and you will receive a zero for that week's journal grade.

Academic Honor Policy

Cheating, plagiarism, or any dishonesty in your work is not tolerated at this university. Please refer to your student handbook for more information about FSU's academic honor system and come to see me if any part of the code is unclear. Any student who is found to violate the honor code on any assignment for this course, or to have taken any action meant to give themselves or others an unfair advantage in this course will receive a grade of F for the course, and any honor code violation will be referred to the Dean's office for further action.

Americans With Disabilities Act

Students with disabilities needing academic accommodation should:

- (1) register with and provide documentation to the Student Disability Resource Center(SRDC); and
- (2) bring a letter to me indicating the need for accommodation and what type. This should be done during the first week of class.

This syllabus and other class materials are available in alternative format upon request. For more information about services available to FSU students with disabilities, contact the SRDC at 850-644-9566. Please let me know if you have any questions or concerns.