Learning Outcomes

This course is essentially a semester-long examination of the roles of lawyers. The course will increase your knowledge of what it means to be a lawyer and will improve the skills you need to be an effective one. The course will also increase your understanding of the values embraced by the profession; these are the ideas, principles, norms, and rules that guide us when we make choices about how we should act when practicing as lawyers. Additionally, you will gain a broad understanding of alternative dispute resolution (ADR), as it includes the means that lawyers use most for problem-solving.

More specifically, this course is structured to accomplish the following goals, objectives, and outcomes:

- Increasing your understanding of lawyers’ roles and relationships with clients generally;
- Knowing the distinction between problem-solving and traditional legal adversarial approaches to lawyering;
- Acquiring basic skills in interviewing and counseling clients and negotiation;
- Knowing basic “alternative” dispute resolution (ADR) procedures, their strengths and weaknesses, and the basic elements of the theory and practice of these procedures;
- Understanding how to analyze cases to assess appropriateness of different dispute resolution approaches and procedures;
- Acquiring basic skills in negotiation and mediation advocacy;
- Acquiring the knowledge and skills needed to recognize and evaluate ethical dilemmas that can arise during the representation of a client during dispute resolution; and
- Improving analytical skills. Effective analysis has several elements: identifying problematic issues; developing alternative perspectives about those issues; and making sound generalizations based on theory and one’s own experience to develop appropriate strategies to suggest to the client.

This course focuses primarily on the roles of advocates with some discussion of the roles of
neutrals (such as mediators and arbitrators). You will increase your knowledge of how lawyers help clients select and participate in efficient, just, and appropriate methods of managing and resolving conflicts.

Standard 303 of the *ABA Standards and Rules of Procedure for Approval of Law Schools* requires each student at an accredited law school “to satisfactorily complete at least . . . one or more experiential course(s) totaling at least six credit hours.”

In the judgment of your School of Law faculty, successful completion of this course will satisfy two of Standard 303’s six credit hours requirement.

**Requirements and Grading**

Grades will be based on the following criteria:

- 75% - In-class final exam (2 hours);
- 25% - Exercises, papers & class participation. We will be conducting a number of in-class and out-of-class exercises. For some of these exercises, you must write a short paper. Below are the dates in which the graded assignments will be distributed and due:

<table>
<thead>
<tr>
<th>Graded Exercise</th>
<th>Distributed</th>
<th>Due</th>
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<tbody>
<tr>
<td>Listening Paper</td>
<td>August 30</td>
<td>Sept. 4</td>
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<tr>
<td>Client Interviewing</td>
<td>Sept. 6</td>
<td>Sept. 13</td>
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<tr>
<td>Negotiation Paper</td>
<td>Sept. 27</td>
<td>Oct. 6</td>
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<tr>
<td>Mediation Simulation</td>
<td><strong>November 7 – 9</strong> 6-9 PM</td>
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<tr>
<td>Mediation Paper</td>
<td>Oct. 30</td>
<td>Nov. 27</td>
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- Note that there is also a group counseling assignment and paper – but it is not graded.

**Class Attendance**

Attendance, preparation and engagement in the exercises are of most importance. Attendance is very important because much of the learning happens in class. No distinction will be made between excused or unexcused absences. You may miss three classes without penalty. Upon the fourth absence, you will be penalized three points. Upon the fifth absence, you will be dropped from the class.

**Laptops & Cell Phones**

Please do not use cell phones in class, and be sure to silence your phones. I also am asking that you *do not use laptops on Thursdays – meaning you only may use laptops once a week*. I am trying this for the first time in an effort to assist students in learning the materials and understanding the virtues of engaging in class without distractions of checking email and browsing the Internet. Laptop-free days have also been found to improve the type and quality of class discussion as well as student understanding and enjoyment of the course. Moreover, this is a highly experiential class, and therefore you should fully engage without need for laptops. Of course, please let me know if you must have your laptop due to an accommodation (as noted in the Disability policy below).

**Intellectual Pluralism**
The School of Law community welcomes intellectual diversity and respects student rights. Students who have questions concerning the quality of instruction in this class may address concerns to either the Dean or Director of the Office of Student Rights and Responsibilities (http://osrr.missouri.edu). All students will have the opportunity to submit an anonymous evaluation of the instructor at the end of this course.

**Academic Integrity**
Academic integrity is fundamental to the activities and principles of the School of Law. All members of the law school community must be confident that each person's work has been responsibly and honorably acquired, developed, and presented. Any effort to gain an advantage not given to all students is dishonest whether or not the effort is successful. The law school community regards breaches of the School of Law’s Honor Code as extremely serious matters. In the event that you violate our Academic Integrity rules on any portion of the work required for this class, you may expect a failing grade in this course as well as possible disciplinary sanctions ranging from probation to expulsion. When in doubt about plagiarism, paraphrasing, quoting, collaboration, or any other form of cheating, consult the course instructor.

**Disabilities**
Please let the Associate Dean for Academic Affairs know as soon as possible you anticipate barriers related to the format or requirements of this course; you have emergency medical information to share; or, you need to make arrangements in case the building must be evacuated.

If you require disability-related accommodations (such as a note taker, extended time on exams or captioning), please establish an Accommodation Plan with the Disability Center. The Center is located at S5 Memorial Union. You should also contact the Associate Dean for Academic Affairs or the Law School’s Registrar, so that they can help coordinate any necessary accommodation.

**Teaching Assistant (TA)**
This class has a teaching assistant (TA) to help with class simulations and assignments. Please take advantage of this extra assistance. Note that the TA will hold office hours and is available to meet outside of class. Jennifer Boston, jbc4d@mail.missouri.edu; (314) 215-1227

**Required Readings**
Stefan H. Krieger & Richard K. Neumann, Jr., Essential Lawyering Skills, Fifth Ed.. Assignments from this book are listed below with the prefix “K&N”.

Additional required readings will be posted in the “Course Readings” page on TWEN.

**Requirement of Consent for Redistribution of Recordings of Classes**
University of Missouri System Executive Order No. 38 lays out principles regarding the sanctity of classroom discussions at the university. The policy is described fully in Section 200.015 of the Collected Rules and Regulations. In this class, students may make audio or video recordings of course activity unless specifically prohibited by the faculty member. However, the redistribution
of audio or video recordings of statements or comments from the course to individuals who are not students in the course is prohibited without the express permission of the faculty member and of any students who are recorded. Students found to have violated this policy are subject to discipline in accordance with provisions of Section 200.020 of the Collected Rules and Regulations of the University of Missouri pertaining to student conduct matters. In addition, a violation may affect a student’s grade.

Course Web Site

This course will make use of a course web page through TWEN (The West Education Network). The syllabus and other required course materials will be posted on this website. I will also send email messages to the email account that you designate when you register with TWEN. It is your responsibility to check this account regularly (at least once a day) and to make sure that the account remains functional and is not too full to accept emails. Note also that I may post additional materials and class discussions on the site.

Collaborative Class and Contacting Me

This is a small and collaborative class. That means that it will benefit you to work with others in the class and create your own discussion and study groups. I also stand ready to assist with your learning. My office location, phone, email address, and office hours are at the top of this syllabus. One of the best times to reach me is right after class. You can always send me an e-mail, and I will try to respond as soon as I can; if you e-mail me about the course, please mention "Lawyering" in the subject line in some way so that I will be less likely to miss your e-mail among the many I receive daily. If you need to see me but staying after class or coming in during office hours is not possible, please feel free to stop by at any other time or we can try to set up an appointment if that would be helpful to your reaching me. I am passionate about teaching and it is my pleasure to assist you in learning.
Class Schedule and Assignments *(subject to change)*

Discussion in class will inevitably cover some but not all of the material in the readings. Please do not expect that we will explicitly discuss all of the readings. *Nonetheless, you are responsible for all the readings, and I may call on you with questions or include surprise quizzes on the readings from time to time.* Above all, I hope that you will learn from all of the readings and find the class exercises helpful. If you have questions or concerns about the readings or exercises, please let me know. Other students often have the same questions and it benefits us all for you to share your questions and concerns.

**NOTE:**

1. *On November 7, 8 & 9, we are doing a Mediation Simulation Exercise 6-9 P.M.!* Set the dates and times aside now, as you must participate in this exercise for the class! We will therefore not have regular classes on the day of the simulation.

2. *We will have no class on November 13 & 15 but we are adding 5 min. to each class in order to make up this time*

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8/21 **Introduction to the Course**
K&N chap. 1  
Shultz & Zedek: Predictors of Lawyering Effectiveness (on TWEN)  
Foundations for Practice: The Whole Lawyer & The Character Quotient, pp. 5-21, 29-34  

8/23 **Video: Bryan Stevenson’s Talk Spring 2016**  
Read: A Presumption of Guilt by Bryan Stevenson (book excerpt on TWEN)  
As you watch the video in class, please consider the following questions: What does Mr. Stevenson tell us about the role of lawyers as advocates; What skills do lawyers need to have to play that role; What kind of relationship did Mr. Stevenson have with his clients; Why was he able to reach that kind of relationship?

8/28 **Attorney-Client Relationships & Roles in Dispute Resolution**  
K&N chap. 2  
Moore’s Circle of Conflict  
Senate Table Exercise

8/30 **Role of Lawyers & Lawyer as Problem-Solver**  
K&N Chaps. 3-4  
Discussion of Senate Table Exercise  
**Listening exercise ASSIGNED (graded)**

9/4 **Questioning and Listening Skills**  
K&N chap. 5 & The Power of Listening  
[https://www.youtube.com/watch?v=saXfavo1OQo](https://www.youtube.com/watch?v=saXfavo1OQo) (Ted Talk by William Ury)  
** Listening exercise DUE  
Continued discussion of readings & the importance of listening in lawyering
9/6  Interviewing Clients  
K&N chaps. 7-8  
** Interviewing exercise ASSIGNED (graded)

9/11  Interviewing Clients (and witnesses)  
K&N chap. 9  
Video  
Discussion of video

9/13  Interviewing Clients: Discuss Simulation  
**Interviewing exercise DUE

9/18  Counseling Clients  
K&N chaps. 18, 20-21  
**Counseling exercise & paper group paper ASSIGNED  
**mandatory but not graded

9/20  Counseling Clients: Simulation & Discussion  
**In-class counseling exercise

9/25  Negotiation: How it Works; Positions and Interests; Power  
Why Negotiations Fail | Nick Coburn-Palo | TEDxTaipeiAmericanSchool, at https://www.youtube.com/watch?v=DC_ebaS6LaA.  
K&N chap. 23 (except §23.5)  
** Counseling paper DUE

9/27  Negotiation: Strategies and Styles  
K&N chaps. 25-26  
** Negotiation exercise & paper ASSIGNED (graded)

10/2  Negotiation: Tactics  
K&N chaps. 27-28

10/4  Negotiation Simulation in Class

10/6  Negotiation - Discuss Simulation  
** Negotiation paper DUE

10/9  Negotiation: Legal and Ethical Obligations in Negotiation
10/11  **Bias and Cross-Cultural Issues**  
K&N chap. 6

10/16  **Lawyering in the Digital Age: Transition from ADR to ODR**  

10/18  **Mediation: Introduction**  
ABA Section of Dispute Resolution, Preparing for Mediation,  
*Skim:* Model Standards of Conduct for Mediators

10/23  **Mediation: Videotape & Discussion**

10/25  **Mediation: Videotape & Discussion**

10/30  **Mediation: Effective Advocacy**  
**Mediation exercise & paper ASSIGNED (graded)**

11/1  **Mediation: Best Practices & Digital Dimensions**  
*Special guest TBD*

11/6  **Mediation-- continued**  
**Mediation exercise initial meetings and discussions**

**11/7, 8 & 9  **Mediation: Simulation Exercise  
**Mediation exercise –6-9 P.M.!!

11/13  **NO Class**!

11/15  **NO Class**!
11/20 & 11/22: No class; Thanksgiving break

11/27 Arbitration: Nature of Arbitration
* Mediation exercise & paper DUE (graded)

11/29 Recap and Regroup: Considering What We Have Learned; Reviewing for Final

FINAL EXAM: Please Check Exam Schedule; currently set for 12/11 at 8:30 AM
2.5 hours exam