Syllabus: INTRO TO MEDIATION, FALL 2014 – 09/08/14 - #3

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Fall 2014, 14 Weeks, Two Credits
Mondays, 8:00 – 9:50pm, 08/18/2014 – 11/24/2014
School of Law and Education, Room 116 (Legal Clinic)

OVERVIEW: This course will introduce you to basic mediation skills, practice and theory, including the benefits and limitations of mediation as a dispute resolution method. Our class time will be divided nearly equally between developing mediation skills as an impartial third party and discussing conceptual issues and challenges facing third party neutrals.

All assignments are subject to modification.

COURSE REQUIREMENTS & GRADES: There will be no scheduled exam; students may choose to write a final paper or do a take-home exam. Your take-home exam or paper will be due Monday, 12/15/14, @8:10pm. Please submit a hard copy to the faculty secretary and an electronic copy to me. In this class, there is no anonymity; just transparency.

In that regard, no grading system can fully and fairly evaluate your student performance in this class. This is a class that requires a great deal of class participation, but I have discovered that there is no objective way to measure class participation. Therefore, 75% of your grade will be based on 3 writing assignments, and 25% of your grade will be based on class attendance.

• 50% of your grade will be based on your final paper or take-home exam, as the case may be;
• 25% will be based on two other written assignments; and
• 25% of your grade will be based on your class attendance (see below), the only objective way to measure of class participation.

OFFICE HOURS: I will be available before class, or we can arrange to meet or talk on the phone at mutually convenient times. My office is Room 252 on the second floor.
CLASS ATTENDANCE: Because class attendance is critical to your understanding the process of mediation, you are expected to attend ALL 14 classes. Indeed, the 25% of your grade related to class attendance is just that; it’s based on class attendance; not class participation, although the latter is also expected.

Recognizing, however, that things happen over which you have no control: A student enrolled in this class should not miss more than two class sessions. Absences, whether excused or unexcused, in excess of this limit will result in a lower grade for the course. In contrast, if a student misses none or only one class, this attendance record will result in a higher grade. For example, a student with a grade of B, based on her/his written work, who

- attends 13 or 14 classes, will receive a B+ for the course;
- misses two classes, will receive a B; and
- misses more than two classes, will receive a B-.

Should you discover that you are unable to attend any class for any reason, please notify me by e-mail or voicemail as soon as possible. I plan interactive exercises based on the entire class being present and participating and may need to change assignments should anyone be absent.

CLASS PARTICIPATION: Class attendance is rewarded; class participation is expected. This class will teach you a different set of skills and thinking from those most of you have encountered in law school. As lawyers-in-training, you are schooled to give advice to parties; to solve problems FOR them, not WITH them. The crux of being a competent mediator is not to give advice, but to assist parties themselves in communicating, in identifying their interests, in developing options based on their interests, and then helping them identify the option or options that provide the most useful solution for them. As an attorney assisting a client in a mediation, you will be acting more as a consultant than an advocate. This can be a shift in thinking and practice and is best learned through practice and reflection. There is no expectation that you will end the semester a skilled mediator, but you will have a firm grasp of the principles and processes of mediation, and an understanding of what you need, to become either an effective mediator or advocate in a mediation.

Your participation, therefore, in class discussion, exercises and role plays are critical to both your learning in this course and the success of the course as a whole. I invite you to engage with the material and in the exercises, role plays and debriefs.
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This may present you with the opportunity to do things out of your comfort range, and I urge you to push yourself, because, trite as it sounds, the more you participate in this class, the more you will learn.

WRITTEN ASSIGNMENTS: In addition to your final paper or take-home exam, from time to time, you will be given additional writing assignments over the course of the semester. Not all these additional writing assignments will be graded; but two will be. These are listed on the syllabus as “Graded Writing Assignment.”

TENTATIVE COURSE OUTLINE AND ASSIGNMENTS

Class Assignments
- Reading and video clip assignments should be completed before class on the day they are listed;
- All chapter-by-chapter video clips are assigned unless otherwise noted.
- Writing assignments are also due before class on the day they are listed.
- PLEASE SUBMIT ELECTRONIC COPIES OF YOUR ASSIGNMENTS BY EMAILING THEM TO ME BEFORE CLASS ON THE DAY THEY ARE DUE.

Course Outline

August 18: Class #1 – Introduction to Course; Introduction to Dispute Resolution.

- Read: F&S, Chapter 1, "So You Want to Study Mediation?" An Introduction to the Processes of Mediation and the Skills of Effective Mediators

August 25: Class #2 – The Role of the Mediator and Differing Approaches to the Process

- Read: F&S, Chapter 3, The Role of the Mediator: Differing Approaches, Fundamental Norms
- Watch Video clips 3-A (Lord) and 3-B (Cutrona). Please watch Lord, and then Cutrona, in that order.

Sept. 1: No Class – Labor Day
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Sept. 8: Class #3 – Mediation Role Play Exercises

- **Read:** F&S, Chapter 2, Basics of Negotiation Theory and Why Negotiations Fail (especially those students who have not already taken a “Negotiations” class)
- **Read:** F&S, Chapter 5, Mediation as a Structured Process

Sept. 15: Class #4 – Preparing for Mediation; The Stages of Mediation.
- **Read:** F&S, Chapter 4, Preparing to Mediate.

Sept. 22: Class #5 – The Mediator’s Opening Statement; Listening; Clarifying; Summarizing and Reframing.

- **Read:** F&S, Chapter 6 (all):
  6 – Opening the Process, Developing Information, Managing the Process
- **Note:** *Omit video clips 6-J & 6-N(1), (2) & (3).*
- **Graded Writing Assignment:** Prepare an Opening Statement

Sept. 29: Class #6 – Developing and Expanding Information in Mediation

- **Read:** F&S, Chapter 7:
  7 – Expanding Information to Aid the Negotiations

Oct. 6: Class #7 – Identifying and Framing Issues, Organizing a Multi-Issue Agenda.

- **Read F&S, Chapter 8,** Identifying and Framing Mediation Issues, Organizing an Agenda
- **Continue with Satellite Dish role-play and discussion.**

Oct. 13: Class #8 – Persuasion and Problem-Solving in Mediation.

- **Read F&S, Chapter 9,** Generating Movement through Problem-Solving and Persuasion
- **Note:** *Omit clips 9-A, -C and -D.*
- **Watch** Harris Bock (“Play All”) mediate Resnick v. Stevens Realty.
- **Graded Writing Assignment:** Identify and evaluate Harris Bock’s “persuasive” interventions.
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Oct. 20: Class #9 – Conducting the Bargaining, Dealing with Impasses.

- **Read F&S, Chapter 10**, Conducting the Bargaining, Dealing with Impasse
- **Ungraded Writing Assignment:**
  - Submit 1 or 2 page outline of final paper; or
  - Submit 2 or 3 questions for the take home exam

Oct. 27: Class #10 – Conducting the Bargaining, Dealing with Impasses.

- **Watch** Hanna (“Play All”) mediate Fitzgerald v. Fitzgerald.
- **In Class:** Mediation Simulation #1
- **Ungraded Writing Assignment:**
  - Write one paragraph each about three things you have learned to date about mediation, and
  - List three questions you still have about the mediation process.

Nov. 3: Class #11 – Concluding the Mediation, Drafting Settlement Agreements.

- **Read F&S, Chapter 11**, Concluding the Mediation
- **Discuss** questions you still have about the mediation process (Class #10 assignment)

Nov. 10: Class #12 – Mediation Simulation #2

Nov. 17: Class #13 – Representation in Mediation

- **Read F&S, Chapter 13**, Representing Clients in Mediation
- **Discuss additional** questions you still have about the mediation process (Class #10 assignment)

Nov. 24: Class #14 – (topic TBD)

- **Take-Home Exams** distributed at end of class.
- **Exams/Papers due by 8:10pm Monday, Dec. 15.**
- **Please email or speak with me** about ANY questions you have about the take-home exam or final paper.

*Tuesday, Nov. 25*  
*Last Day to Drop Course*  
*Monday-Tuesday, Dec. 1-2*  
*Reading Period/Class Makeups*  
*Wednesday-Tuesday, Dec. 3-16*  
*Exam Period*