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Memorandum

To: Students in Negotiation Course
From: Professor Ackerman
Subject: Course Introduction and Syllabus
Date: January 5, 2015

About the Course. As a lawyer, you will find yourself negotiating all the time – with opposing counsel, with your own clients, with your colleagues. Sometimes, these negotiations will proceed quite amicably. On other occasions, the negotiations will be difficult and even hostile. Most of the time, you will conduct these negotiations without the help of a third party. At times, however, you will negotiate with the assistance of a mediator.

Negotiation, like other lawyering skills, is a skill that can be developed. It is quite likely that you came to law school (and to this class) with certain negotiating skills and approaches that have worked for you. In this course, you will have the opportunity to improve upon these skills and approaches and, perhaps more importantly, learn different skills and approaches which may be more suitable for certain situations. You will also be exposed to contract drafting skills, which are essential to any lawyer-negotiator. Finally, you will learn some of the law pertaining to negotiation and settlement.

Generally, the class will be a hands-on experience. Although there will be some lecturing and videos, most of our class time will consist of discussion, simulations and exercises which will require active student participation. I hope that you will find the course useful, thought-provoking, and fun.

Learning Objectives. I have several objectives for this course. I expect that by the end of the semester, you will be able to:

- understand how negotiation fits into the continuum of dispute resolution processes;
- understand when a particular negotiation orientation and approach is appropriate;
- understand and employ effective distributive negotiation techniques and tactics;
- understand and employ integrative approaches and negotiation techniques;
- understand and operate within the legal and ethical constraints for attorneys serving as negotiators;
- understand how to cope with and harness emotions that often crop up during negotiations;
- understand the special problems involved in multicultural and multiparty negotiation;
- draft a contract.

Materials. The required materials for this course are:

- RUSSELL KOROBKIN, *NEGOTIATION THEORY AND STRATEGY* (3d ed. 2014) (referred to in the reading assignments as “Korobkin”);
- Supplementary materials and articles that have been placed on TWEN;
- General and confidential information for simulations, also on TWEN.

Recommended optional materials (available in the library and in many book stores) include:

- ROGER FISHER, WILLIAM URY, & BRUCE PATTON, *GETTING TO YES: NEGOTIATING AGREEMENT WITHOUT GIVING IN* (2d ed. 1991);
- WILLIAM URY, *GETTING PAST NO: NEGOTIATING YOUR WAY FROM CONFRONTATION TO COOPERATION* (1993).

Office Hours. My office is Room 3267, on “faculty row” near the secretaries. Monday and Wednesday afternoons after class, early Tuesday afternoons, and Friday mornings are likely to be the best times at which to find me this semester. These hours should not be considered the exclusive times during which I will be available, but should give you some indication as to when you can expect to find me in. I will not be the least bit offended if you stop by at some other time or with no forewarning; I, in turn, ask that you not be offended if on occasion I ask you to return at a more convenient time. On occasion, I will be out of the office on other business, notwithstanding my posted office hours. If you have difficulty finding me, please schedule an appointment. You can reach me at ackerman@wayne.edu or 313-577-0269.

Attendance and Preparation. Your regular and punctual class attendance, as well as your preparation for class, are essential to this type of course. We will be conducting simulations more often than not, and it is an inconvenience to your classmates if you fail to show up prepared. If you must miss a class in which a simulation will be conducted, please notify my secretary, Olive Hyman, and me as far in advance as possible so that we can make necessary adjustments. Students missing classes in which simulations are scheduled will be responsible for scheduling make-up sessions at the convenience of the other students involved. Students should be particularly diligent about attending the classes immediately following their submission of negotiation reports, as classroom discussion is likely to revolve around these reports. Classroom participation accounts for 14% of your grade, and I will deduct credit for excessive absences (particularly if you are absent without notice) and poor preparation.

Together with Professor Marick Masters, who teaches negotiation in the Business School, I hope to arrange a negotiation (probably in early April) in which students in our class will team up with Business students. Details will follow.

Assignments. On pages 5 through 7 of this memo you will find the syllabus for the course. Our coverage may change based on student interest, the class’s progress, and the availability of outside collaborators. Unless I clearly say otherwise, please assume that we will cover the next assignment in the next class. You may wish to glance ahead in the syllabus from time to time, as not all assignments are of equal length. The reading assignment for February 16 is particularly long.

Please check the TWEN site on a regular basis, as that will be the principal means by which I will communicate changes in the syllabus. Any changes to the assignment for the following class will be posted to TWEN by 4:00 p.m. on the preceding business day (i.e., Friday for Monday, Tuesday for Wednesday). You are on constructive notice of any messages I have posted to TWEN, so please make sure your system is activated and check it regularly. I will try to remember to check the box to copy any messages transmitted through TWEN to your Wayne State e-mail, and ask that you do the same for me. Please do not ask me to use an e-mail address different from your Wayne State address. It is much easier for you to have your e-mail forwarded from your Wayne State address than for all of your professors to change several student addresses on each of our lists.

Ms. Hyman and I will also use the TWEN system to distribute materials for simulations and to carry on discussions outside of class. I encourage the use of the discussion forum on TWEN as a means of continuing our discourse. This should not be in lieu of face-to-face engagement, as discussed earlier.

Some of the simulation materials posted on TWEN are intended for use by only one party to a negotiation, and will be designated as such. An honor system will apply, and to date I am aware of no instances in which students have deliberately opened documents not intended for them. Those who disrupt this perfect record will be subject to sanctions.

Evaluation. Your grade in this course will be based on the following components:

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| 1. Class participation/contribution/feedback to colleagues: | 14% |
| 2. Two negotiation reports (reflective pieces about negotiation exercises) (8% each): | 16% |
| 2. One contract drafting exercise: | 14% |
| 3. An objective measurement of your results in three negotiations (4% each): | 12% |
| 4. A quiz on the language and law of negotiation and settlement: | 10% |
| 5. One videotaped negotiation, for which the grade will be based on: | |
| a. your performance in the videotaped negotiation: | 14% |
| b. your written critique of that performance, followed by a mandatory meeting with the instructor: | 14% |
| 6. Reputation index (based on a survey of your classmates): | 6% |

Grading of these components (with the exception of items 3 and 4) is necessarily non-anonymous and subjective. An ungraded CALI exercise on contract drafting will also be assigned. Failure to complete any of these assignments will result in a reduction in grade.

Class Participation/Contribution/Feedback. You will be evaluated on the *quality* of your contributions and insights in class. A quality comment usually possesses one or more of the following attributes:

- It offers a unique but relevant perspective;
- It contributes to moving the discussion and analysis forward;

- It builds on (rather than repeating or ignoring) other comments;
- It transcends the “I feel” syndrome, as it includes some evidence, demonstrates recognition of basic concepts, integrates concepts, reading, and/or current events with reflective thinking.

Similarly, for your feedback to colleagues, you will be evaluated on the *quality* of such feedback. Quality feedback generally:

- is honest and respectful;
- includes positive and constructive negative feedback;
- is specific (i.e., it identifies the specific language or behavior which triggered your observations);
- relates to the concepts we are studying;
- is constructive (i.e., it includes a suggestion of other language or other behavior that might have worked better for your character in this situation).

I encourage you all to make mistakes in this class, to try out new techniques (and even new personae), and to forgive one another’s transgressions (including mine).

Negotiation Simulations. Negotiation simulations will occur, on average, about once per week. Diligent attendance and preparation are imperative for you and your classmates to enjoy maximum benefit from these exercises. Students will be graded on substantive results obtained in *The Blockbuster*, *The White Album*, and *Harborco* negotiations. The curve will be based on a comparison between your result and that of other students assigned the same role in this and previous years. Each such result will count for 4% of your overall grade in the course (i.e., not a whole lot). Students will be expected to submit Negotiation Reports for some of the negotiations and contracts or notes reflecting the results of others.

Reputation Index. At the end of the course, a Reputation Index will be calculated, reflecting your negotiating reputation with your classmates, on the basis of their experience with you over the semester. The index recognizes that those individuals who have reputations as trustworthy and effective negotiators will have an advantage in future negotiations, and those who have reputations as untrustworthy and ineffective will have a disadvantage. It should incentivize integrity in all negotiations, including those that will be graded on substantive results.

The index will be determined by asking class members to identify peers in the class with positive and negative reputations for trustworthiness and effectiveness. These nominations will be converted into a point distribution and will be factored into your grade for the course, subject to the instructor’s oversight. In addition, students will be surveyed to determine which students, in their opinion, have contributed to others’ learning through helpful feedback, insightful participation and effective participation in simulations. This portion of the survey will influence your class participation grade.

A final comment. This course is, at its heart, a series of exercises in collaborative problem solving. Because of all the coordination that is necessary, glitches are certain to develop during the semester, and I would like to address them by employing methodology consistent with the

problem solving methodology we are learning. So please regard the course as a collaborative effort to improve our skills and understanding. Your contributions to the development of the course and to our insights on human behavior and negotiation are very much appreciated.

NEGOTIATION SYLLABUS

Revised 1/5/15

Winter 2015

Professor Ackerman

Week	Monday	Wednesday
1 1/12- 1/14	<i>Introduction to dispute resolution, the study of negotiation, and the bargaining zone</i>	
	Read: Introductory Memorandum; Korobkin pp. 1-3, 5-24, paying particular attention to <i>A New Deck</i> , p. 23. Class: Course introduction; <i>Getting to Yes</i> ; Chapter 1 discussion.	Read: Korobkin pp. 25-31. Prepare: <i>The Prado Scoot</i> . Class: Conclude Chapter 1 discussion; <i>Prado Scoot</i> negotiation and discussion.
2 1/19- 1/21	Martin Luther King Holiday: no classes	<i>The bargaining zone</i>
		Read: Korobkin pp. 31-47, paying particular attention to problems 2 and 5, pp. 46-47. Prepare: <i>Casa Grande</i> . Class: <i>Casa Grande</i> negotiation; Chapter 2 discussion.
3 1/26- 1/28	<i>Persuasion and psychological factors</i>	
	Read: Korobkin pp. 51-88. Class: <i>Casa Grande</i> discussion; Chapter 3 discussion.	Read: Korobkin pp. 88-99. Prepare: <i>Club West</i> . Class: <i>Club West</i> negotiation; Chapter 3 discussion. Write: <i>Club West</i> negotiation report due Mon. 2/2/15 at 9:00 a.m. (students 1-8).
4 2/2- 2/4	<i>Integrative bargaining and contract drafting</i>	
	Write: <i>Club West</i> negotiation report due Mon. 2/2/15 at 9:00 a.m. (students 1-8). Read: Korobkin pp. 101-127; Class: Discuss <i>Club West</i> negotiation and Chapter 4.	Read: Korobkin pp. 127-135; reading on <i>Contract Drafting</i> (on TWEN). Class: Discussion of Chapter 4; lecture and discussion on contract drafting.

Week	Monday	Wednesday
5 2/9- 2/11	<i>Contract drafting and integrative bargaining</i>	<i>Integrative Bargaining; Competitive Negotiation Techniques</i>
	Read and work through (on TWEN): CALI exercise: <i>Drafting a Contract: The Sale of Goods</i> . Prepare: <i>The Blockbuster</i> . Class: <i>Blockbuster</i> issues discussion and negotiation. Write: Blockbuster contract due Mon. 2/23 in class (entire class).	Read (on TWEN): <i>Competitive Negotiation Techniques</i> . Class: Discussion of Chapter 4 (integrative bargaining); DVD and discussion: <i>An Inside Look at Collective Bargaining</i>
6 2/16- 2/18	<i>Competitive and Cooperative Negotiation Techniques and Group Dynamics</i>	<i>Misrepresentation</i>
	Read: Korobkin pp. 389-407. Prepare: <i>Mossyback Lane</i> . Class: Conclude discussion of <i>An Inside Look at Collective Bargaining; Mossyback Lane</i> negotiation and discussion. After class, read: Korobkin pp. 407-426, before you... Write: Mossyback Lane negotiation report due Wed. 2/18 at 9:00 a.m. (students 5-13).	Read: Korobkin pp. 389-426, before you... Write: Mossyback Lane negotiation report due Wed. 2/18 at 9:00 a.m. (students 5-13). Class: Discussion of <i>Mossyback Lane</i> and Chapter 14.
7 2/23- 2/25	<i>Distributive bargaining: power</i>	
	Write: Blockbuster contract due Mon. 2/23 in class (entire class). Read: Korobkin pp. 137-157. Class: Discussion of Chapter 5; film clips: <i>Erin Brockovich</i> , <i>Dr. Strangelove</i> . Sign-ups for videotaped mediations begin.	Read: Korobkin pp. 158-168. Prepare: <i>The White Album</i> . Do not perform any extraneous research in connection with this simulation; stay within the parameters of the problem. Class: Film clip: <i>The Fortune Cookie</i> ; <i>The White Album</i> negotiation.
8 3/2- 3/4	<i>Distributive bargaining: fair division and related social norms</i>	
	Read: Korobkin pp. 169-186. Prepare: <i>In re International Roofing Co.</i> Class: <i>The White Album</i> discussion; Chapter 6 discussion; <i>International Roofing</i> negotiation. Write: International Roofing negotiation report due Wed. 2/26 at 9:00 a.m. (students 1-4, 9-13).	Read: Korobkin, pp. 186-200. Write: International Roofing negotiation report due Wed. 2/26 at 9:00 a.m. (students 1-4, 9-13). Class: Discussion of Chapter 6 and <i>International Roofing</i> .
Week	Monday	Wednesday

9 3/9- 3/11	<i>Trust and the negotiator's dilemma</i>	<i>Emotions</i>
	Read: Korobkin pp. 201-226. Prepare: <i>The Construction Venture</i> Class: <i>Construction Venture</i> exercise and discussion (incl. Chapter 7). Sign-ups for videotaped mediations conclude.	Read: Korobkin pp. 227-249. Prepare: <i>Orca View</i> . Class: <i>Orca View</i> negotiation (using your best acting chops) and Chapter 8 discussion.
3/14- 3/22	Spring Break – No Classes	
10 3/23- 3/25	<i>Negotiator style</i>	<i>Gender, group membership and multicultural negotiation</i>
	Read: Korobkin pp. 251-271. Class: Thomas-Kilmann Conflict Mode Instrument and discussion of Chapters 8 and 9.	Read: Korobkin pp. 273-301. Prepare: <i>Alpha-Beta Robotics</i> . Class: Discuss Chapter 10; <i>Alpha-Beta Robotics</i> negotiation .
11 3/30- 4/1	<i>The principal-agent relationship</i>	
	Read: Korobkin pp. 303-317. Class: Discuss Chapters 10 and 11; videotape: <i>The Weary Hand</i> medical malpractice negotiation. Videotaped negotiations begin Mon. 3/30.	Read: Korobkin pp. 317-333. Prepare: <i>The Startup</i> . Class: <i>The Startup</i> negotiation and discussion of Chapter 11.
12 4/6- 4/8	<i>Rules encouraging settlement</i>	<i>Limitations on settlement</i>
	Read: Korobkin pp. 399-424. Class: Discuss <i>The Startup</i> negotiation and Chapter 14.	Read: Korobkin pp. 425-439. Class: Quiz: Language and Law of Negotiation and Settlement ; discussion of Chapter 15.
13 4/13- 4/15	<i>Multilateral negotiations</i>	<i>Multilateral negotiations; use of mediation in negotiation</i>
	Read: Korobkin pp. 335-356. Prepare: <i>Harborco</i> . Class: <i>Harborco</i> negotiation. Meetings with instructor to review videotaped negotiations begin.	Read: Korobkin pp. 357-381. Class: Discussion of <i>Harborco</i> negotiation and Chapters 12 and 13. Videotaped negotiations conclude Fri. 4/17.
14 4/20	<i>Collaborative lawyering</i>	Meetings with instructor to review videotaped negotiations begin 4/13 and continue through examination period.
	Read (on TWEN): <i>Collaborative Lawyering</i> . Class: Course evaluations, reputation index, and discussion of collaborative lawyering.	