

Negotiation

I. Overview

Most lawyers, irrespective of their specialties, must negotiate. This course aims to improve both your understanding of negotiation and your effectiveness as a negotiator. Drawing on work from a variety of research perspectives, the readings will provide frameworks for understanding negotiation. Within class, you will spend a significant amount of time in simulated negotiation role plays. Homework will typically consist of preparing for negotiations, assigned readings, and some written assignments. There will be one required paper, but no final exam. Emphasis will be placed on developing awareness of how one can improve as a negotiator and on helping others improve as negotiators. While there is a fair bit of work, most previous students have found the course to be enjoyable and rewarding.

II. Course Materials

1. Texts. The textbooks for the course are:

Negotiation: Processes for Problem-Solving by Carrie Menkel-Meadow, Andrea K. Schneider and Lela P. Love (Aspen Pub., 2006);

Getting To Yes: Negotiating Agreement Without Giving In by Roger Fisher, William Ury, and Bruce Patton (Penguin, any edition is fine).

From time to time, I may refer to additional supplemental readings. I will place those on reserve at the library.

2. Simulated Negotiation Exercises. At the end of most classes, I will distribute simulated negotiation role play exercises for the following class, with different roles for different people. Though the exercises will be distributed in class, they are copyrighted, and *you must purchase the right to receive these materials at the law school bookstore*. When you receive role play materials, please do not share confidential instructions with students having other roles. Additionally, *if you miss a class, please stop by my office (Holland 330) to pick up the materials you will need to prepare for the following class meeting*. I will leave them outside my office door with your name written upon them.

III. Course Requirements

1. Attendance & Preparation. Your attendance and preparation are critical in this course. In the majority of classes, you will be paired to negotiate with another student. Hence, if you are absent, your absence will preclude not only your participation that day, but may also preclude that of your partner. The same applies to preparation. If you come to class unprepared, not only will you lose out, but so will your partner(s) for that day. Class will start promptly at the scheduled time. Students arriving late will receive only partial credit for attendance that day.

2. Effort. Learning to be a better negotiator is not something that can be “done to” you. You must work at it yourself. While others can offer you advice and ideas to think about, what you learn from this course in large part will depend upon your effort. The more you put in, the more you will get out.

3. Helpfulness to Your Fellow Students. Often the best person to give you advice on how to be a better negotiator is the person with whom you have just negotiated. Hence, I ask that you give feedback to one another and assist one another in learning as constructively as you can. The more you help one another in learning, the richer your experiences will be.

4. A Willingness to Experiment. As far as I know, there is no one right way to negotiate. Rather there are different approaches and styles which are sometimes more effective and sometimes less effective. My goal in this course is not to teach you a particular style of negotiation, but rather to give you the opportunity to experiment, expand your negotiation repertoire, and find ways that work for you.

5. Participation. My general educational philosophy is that dialogue is one of the best vehicles for learning. This is a discussion course, and I hope that everyone (myself included) will learn by sharing ideas together. Also, if you have creative ideas about how we can explore the materials in interesting and fun ways, please let me know. I welcome your suggestions.

6. Readings. Attached is a list of assigned readings. Students are expected to have done the assigned readings prior to class.

7. Electronic Devices. Except for students making presentations, the use of laptop computers and other electronic devices is prohibited. Additionally, no recording of any type is permitted without my advance written permission.

8. Written Requirements.

A. Journals, Reaction Paper & Final Journal. You are required to write three short, regular journal entries over the course of the semester reflecting on your negotiations, or, should you be so inclined, on some other negotiation-related topic. These entries should be about 2-3 pages. You are also required to write one “reaction” paper (also 2-3 pages) in response to some assigned reading other than *Getting to Yes*. In addition, you are required to submit a fifth, longer (approximately 5-page) final journal entry in which you reflect upon your experience in the course as a whole. I encourage you to hand in your regular journal entries and reaction paper at the time you write them, however, all journals, reaction papers and final journals are *due by Friday, April 12*. Except in extraordinary circumstances, please submit hard copies of these items in class rather than emailing them to me.

B. Research Paper. At the end of the course, you must submit an approximately 10 page paper analyzing a topic of your choice related to negotiation. You must also make a presentation to the class on your research subject. While you are expected to do some independent research, your paper will be judged principally on the quality of your analysis. Your research paper is *due by Friday, April 19*. Except in extraordinary circumstances, late papers will receive automatic grade reductions.

IV. Grading

The course will be letter graded based upon your in-class performance (1/3), journal entries and reaction paper (1/3), and research paper (1/3). There is no final exam. For questions about grading and other academic policies (e.g., disability accommodations, religious holidays, etc.), please refer to the law school’s academic policies, available at <http://www.law.ufl.edu/student-affairs/current-students/academic-policies>.

Syllabus

Day 1: Introduction

Oil Pricing Exercise
Self-Portraits

Reading Assignment: NPPS, 3 - 18.

Day 2: Creating and Distributing Value

Law Library
Sally Soprano

Reading Assignment: *Getting to Yes*, 1 - 148.

Day 3: Creating and Distributing Value (cont.)

Discount Marketplace
Redstone

Reading Assignment: NPPS, 102 - 109.

Day 4: Creating and Distributing Value (cont.)

The Bullard Houses
Powerscreen

Reading Assignment: NPPS, 155 -160, 184 - 188.

Day 5: Perception, Inference & Communication

Weathers v. Evans
Role Reversal Exercise

Reading Assignment: NPPS, 286 - 294.

Day 6: Working with Your Client

Eazy's Garage

Reading Assignment: NPPS, 191 - 215.

Day 7: Negotiation Ethics

DONS

Reading Assignment: NPPS, 450 - 463.

Day 8: Negotiation Values & Mediation

Ellis v. MacroB

Reading Assignment: NPPS, 617 - 622, 630 – 635.

Day 9: Multiparty Negotiations & Principal-Agent Tensions

Author! Author!

Sue or Settle

Reading Assignment: NPPS, read 216 - 223, 527 - 539.

Day 10: Complex Negotiations

MAPO

There is no reading assignment.

Days 11 - 13: Student Presentations

Day 14: Conclusion

Reading Assignment: To Be Announced

A Note about Journals

Writing a journal entry is a personal process. There is no one right way to do it. Entries vary from person to person, and from journal to journal. The overarching purpose of the journal is to provide a space for you to *reflect* on your negotiations or, occasionally, on other negotiation-related topics. Don't spend your time recording play-by-plays of what occurred during your negotiations. Rather focus on your insights about yourself as a negotiator and negotiation generally. Analyze what went on, don't simply describe it. For example, a good entry may pick a specific part of a negotiation and use it as a window for looking at a broader issue. Some students may at times draw upon the readings when they write their journals, but many students do not.

A typical entry should be about two to three pages, type-written, double-spaced, but if you have more or less to say in a given journal, do not feel restricted by that guideline. Unless special circumstances make it necessary, please do not submit your journal entries by email but turn in a hard copy in class.

While your journal entries will be kept confidential, some students can be distracted by the prospect of having their journals read. Am I writing what the instructor "wants to hear?" Do I have to do what the instructor suggests to get a good grade? Let me assure you that my sole interest is that you reflect deeply about what you do. Though I may write questions or comments on your entries, what you do with that feedback, as well as with other feedback that you receive in the course, is up to you. Indeed, I very much want people to make their own choices about what types of negotiators they want to be.

At root, your journal is your space. Write in it what you want to.

A Note about Reaction Papers

The reaction paper is an opportunity for you to reflect upon one of the reading assignments other than *Getting to Yes*. Perhaps you agreed with it. Perhaps you disagreed with it. Perhaps it helped you to understand something you had not understood before. Perhaps it raised an important question in your mind. As with journals, a typical reaction paper should be about two to three pages, type-written, double-spaced, but if you have more or less, that is okay.

A Note about Research Papers

There is no final exam, however, you are required to write a research paper about some negotiation-related topic of your choosing. In contrast to your journals, this paper should not be about yourself as a negotiator, though of course your experiences may inspire your choice of topic. While you are expected to do some independent research, your paper will be judged principally on the quality and depth of your analysis. Students in previous years have written papers on topics such as the use of visual exhibits in negotiation, gender in negotiation, a specific international negotiation, humor in negotiation, body language in negotiation, online negotiations, ethical aspects of negotiation, and culture in negotiation. In short, you are free to write about a topic of your choice provided that it relates to negotiation. The paper should be roughly ten pages, double-spaced. You do not have to have your final paper topic “pre-approved” by me. However, if you would like to speak with me about it, I am happy to. All citations should conform to the current “bluebook” (*The Bluebook: A Uniform System of Citation*) standards for law review articles. Also, please use footnotes at the bottom of the page rather than endnotes.