

Mediation Advocacy Seminar

Professor Dwight Golann

The required texts are:

- Shell, *Bargaining for Advantage* (Penguin Paperback)
- Golann and Folberg, *Mediation* (Aspen Publishing)
- *Handouts* (posted on Blackboard)

Syllabus

Part I: Negotiation and Barriers to Settlement

Mon Jan 11 Assignment:

- Shell, Chapter 1, pages 3-15, and Chapter 2
- Review instructions for *Win As Much As You Can*

Wed Jan 13 Assignment:

- Shell, Chapter 3
- Prepare to negotiate *Salt Harbor* in class

Wed Jan 20 Assignment:

- Shell, Chapter 4
- Prepare to negotiate *Eazy's Garage*

Mon Jan 25 Assignment:

- Shell, Chapter 5
- Prepare to negotiate *Sally Soprano*

Wed Jan 27 Assignment:

- Shell, Chapter 6
- Debrief and review *Soprano*

Mon Feb 1 Assignment:

- Shell, Chapter 7
- Prepare and begin negotiation of *Mumbai Partners*

Wed Feb 3 Assignment:

- Shell, Chapter 8
- Complete and debrief *Mumbai*

Mon Feb 8 Assignment:

- Shell, Chapter 9
- Prepare and begin negotiation of *Jones v. Cutting Edge*

Wed Feb 10 Assignment:

- Shell, Chapter 10
- Complete and debrief *Jones*

2/16 Barriers to Settlement

- Read Golann and Folberg (“Text”), Chapter 4
- Analyze the barriers to settlement in *Jones and Mumbai Partners* in light of the discussion of cognitive and emotional barriers in Chapter. 4:
 - Why was it hard to reach a deal in *Jones* (if it was)?
 - Why were the real parties in the *Mumbai* case unable to settle through direct negotiation, and have to go to mediation?

- In class, complete *Jones* negotiation (2:00 - 2:30)

Part II: The Mediation Process

2/17 Introduction to Mediation

- Text, 95-120
- Prepare to discuss Questions, pages 107 (#4, 5), 110 (8, 9)
- **Before class**, arbitrate the *Computec* case. Take more than 15-20 minutes (the instructions are posted on Blackboard. There are *no confidential instructions* unless you were given them in class)
 - *Each advocate has 5 minutes* to make an argument. The arbitrator may ask questions if s/he wishes. No participant should do any outside research.
 - *The arbitrator will make a decision* and give it (no explanation needed) to Professor Golann. Arbitrators: *Do not disclose your decision to litigants*

2/22 Stages and Approaches

- Text, 121-137, 142-43
- Questions 18, 19, 28
- Analysis of video

2/24 Mediating a Dispute

- Text, 145-163
- Prepare to mediate *Black Lab-Red Roses*

3/1 Process Issues

- Text, Chapter 7
- Questions, 173(1), 175 (1, 2, 3)
- Prepare to mediate *The Scout Auction*

3/3 Emotional Barriers

- Text, Chapter 8
- Questions, 198(2, 3), 199(4, 5, 7)
- Mediate problem case

3/8 Merits Issues:

- Text, Chapter 9
- Questions 237(5, 6, 7, 8)
- Problems 237 (1,2 3, 4)
- Prepare to roleplay vignettes

3/10 The Law of Mediation

- Text, 343-351, 360-361, 363-364, 366-370, 370-373
- Handout: *Leary v. Geoghan* (on Blackboard)
- Problems and questions 343(1a), 344(2a), 347(2), 356(4), 360 (5, 6), 367(20), 370(7), 374(31)

Part III: Representing Clients and Special Topics

March 22 Representing Clients in Mediation

- Handout 1
- Prepare to negotiate the mediation arrangements and select a mediator in *Waltham Construction v. Foster Fuels*

March 24 Representing Clients

- Handout 2
- Prepare to conduct the opening session in *Waltham v. Foster*
- Mediations will be videotaped

March 26 Special class 9:15 am - 12:45 pm

- Complete mediation of *Waltham* and debrief

March 29 Mediating Ethically

- Text, 327-341
- Discuss Problems and Questions, 328(problems 1, 2), 329(probs 3, 4), 334(prob 5), 335 (prob 7), 336(prob 9), 338 (probs 11, 13)

March 31 Review of *Waltham* videos in small groups

April 5 No class

April 7 No class

April 12 Court-Connected Mediation and Med-Arb

- Text, 419-426, 431-433, 435-442
- Handout: Brazil, “Thoughts about Impasse for Mediators in Court Programs”
- Questions 424(4,5), Problem 1 (437) and Question 442(2)
- Discussion in class

April 14 Special Problems

- Review and prepare to discuss vignettes

April 21 Begin to mediate *Termination Tempest*

April 22 Continue mediation (Monday class held on Thursday)

April 23 Special class 9:15-12:45 am: complete and debrief mediation

April 28 Review of video in small groups

April 30 Review of video in small groups