

## Negotiation for Lawyers Fall 2014

Professor Dwight Golann

Contact: [dgolann@suffolk.edu](mailto:dgolann@suffolk.edu) Tel: 617-573-8183  
Office: Suite 340 (right rear of building, next to Media Center)

### Assigned texts:

- Malhotra and Bazerman, *Negotiation Genius* (Bantam Paperback 2008)
- Folberg and Golann, *Lawyer Negotiation* (Aspen 2<sup>nd</sup> Ed. 2010)

### Methodology

*"I hear and I forget; I see and I remember; I do and I understand"*  
Confucius

This course teaches skills that will make you more effective in assisting your clients. It's important to learn the theory and structure of a skill and to see it performed by professionals. Most important, however, is to practice the skill. We'll do this through roleplaying exercises. Roleplaying is a powerful tool, which I use with lawyers as well as law students. We'll do it every week. In order to roleplay effectively, you need to do three things:

- *Prepare*. Roles require preparation. Students say that one of the most important things they learn is that preparation really does make you a more effective negotiator.
- *Appear*. If you don't appear for an exercise, you lose and so does your roleplay partner.
- *Play your role sincerely*. Once in role, stay in it until you complete the exercise. *Be* your character. The instructions are often short, so you'll need to fill in facts consistent with your role, but you can't boost your position by making up unrealistically helpful facts..

### Attendance

I hope you will attend every class, but unexpected events may cause you to miss one. If so give me email notice so I can find your partner a substitute. If you miss more than one class without a good reason, it will impair your grade and may lead to your not receiving credit for the course.

### Grading

This course will be graded modified pass/fail. Most students will receive Pass, but a significant number will receive Honors and some may receive a Low Pass or Fail. Grading will be based on class participation, your preparation memos, and other short assignments. There will be no final paper or exam. More information about assignments will be provided separately

## Syllabus

### Sept 8

#### Assignment for the first class:

- Read Malhotra and Bazerman ("Malhotra") 1-26
- Review the instructions for *Win as Much as You Can*

**In class:** Negotiate *Win as Much as You Can*

- Sept 15**      **Assignment:**
- Malhotra 26-49
  - Folberg and Golann, *Lawyer Negotiation* (“Folberg”), 31-41
  - Prepare to negotiate in class *Settle for More or Less*
- In class:** Negotiate *Settle for More or Less*
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- Sept 22**      **Assignment:**
- Malhotra, 50-82
  - Folberg, 42-49
  - Prepare to negotiate *Sally Soprano*
- In class:** Negotiate and discuss *Sally Soprano*
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- Sept 29**      **Assignment:**
- Malhotra, 83-102
  - Folberg, 90-98
  - Prepare to negotiate either *Executive Seminar* or *Salt Harbor*
- In class:** Negotiate and debrief cases
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- Oct 6**      **Assignment:**
- Folberg, 53-86
  - Prepare in teams to negotiate *Jones v. Cutting Edge*
- In class:** Negotiate and debrief *Jones v. Cutting Edge*
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- Oct 15 (Monday class on Wednesday)**      **Assignment:**
- Malhotra, 106-138
  - Conduct email/phone negotiation; complete by Friday, Oct 17 at 10 am
  - Take the “Bargaining Styles” diagnostic posted in Blackboard/Course Content/Handouts. When you do, *assume you are in a specific bargaining situation* that you have been or could imagine being in, and answer the questions from the standpoint of *that situation*
  - Prepare to discuss Handouts: [1] Cognitive Problems and [2] Supreme Court Case (Blackboard)
- In class:** Discuss cognitive issues, bargaining styles
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- Oct 20**      **Assignment**
- Malhotra 139-155,
  - Folberg, 163-178
  - Prepare to counsel and negotiate in *Hapless Harvest* and *PowerScreen*
- In class:** Analyze outcomes of email/phone negotiation; Negotiate with/counsel clients
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- Oct 27**      **Assignment:**
- Malhotra, 159-195, 269-272
  - Prepare to negotiate *Waltham v. Foster Fuels*
- In class:** Negotiate *Waltham*

**Nov 3**

**Assignment:**

- Malhotra, 196-235
- Prepare to negotiate *Cubit/Nystrom* and *Parker*

**In class:** Negotiate *Cubit* and *Parker*

**Nov 10**

**Assignment:**

- Malhotra, 236-268, 273-279
- Prepare to negotiate *Discount Marketplace* and *Orlen v. Bryson*

**In class:** Negotiate *Discount* and *Orlen*

**Nov 17**

**Assignment:**

- Folberg 195-205—Cross Cultural Bargaining
- Handout
- Prepare Questions 7 and 11 on 205
- Prepare to negotiate *Mumbai Partners v. MedPro Inc.*

**In class:** Negotiate *Mumbai Partners*

**Nov 24**

**Assignment:**

- Folberg 281-304—Introduction to Mediation
- Prepare to mediate *Bryan v. City of Oakdale*

**In class:** Mediate *Bryan*

**Dec 1**

**Assignment:**

- Malhotra, 280-305
- Prepare to negotiate assigned problem
- Prepare to discuss *Bargaining Problems*

**In class:** Negotiate assigned problem and discuss *Bargaining Problems*