

MEDIATION:
Skills and Theory
Course Summary and Syllabus
Spring 2014

Class time: Tuesday - Thursday 2:00 pm - 3:15 pm
Room 4

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Office Hours: By appointment (However, feel free to check my office at any time to see if I'm available to meet with you).

Texts: James Alfini, Sharon Press & Josh Stulberg, *Mediation Theory and Practice*, 3rd Edition LexisNexis Publishing, 2013

Handouts and reserved reading

Recommended Reading: Roger Fisher, William Ury and Bruce Patton, *Getting To Yes: Negotiating Agreement Without Giving In* (2d ed. 1991)

Course Overview

During the past thirty-five years, the use of mediation in judicial and non-judicial settings has skyrocketed. Many state and federal courts have institutionalized mediation and other forms of dispute resolution into existing court procedures. For better or worse (and I expect an intriguing discussion of this question) the growth of mediation will continue to impact the legal culture throughout your professional careers.

My primary goal for this course is to provide you a conceptual and practical framework as to how the mediation process fits in your role as future advocates or neutrals. To accomplish this goal we will spend the semester learning about the practical aspects of the mediation process and the theoretical underpinnings that guide it. Through lectures, exercises, simulations and classroom discussions we will focus on skills related to communication, problem-solving and professional judgment. We will explore the ethical and professional issues related to mediation as well as the legal and cultural constructs that shape the way mediation is, or should be, practiced in legal and non-legal settings.

Grading

Your grade will be based on the following:

Class Participation	10%
Reflective Papers	10%
Final Exam	80%

Expectations

During this course I expect that you:

Complete all readings and assignments in a timely manner.

Attend class regularly. We will be doing exercises and simulations during class time and it is essential that I know who will be in class so I can arrange role playing assignments accordingly. If you must miss a class, please notify me as early as possible. As noted above, 10% of your grade is based on class participation. **Missing class will surely impact your grade! Missing four or more classes will automatically result in losing at least half of your class participation points (that is, you will lose 5 points off of your total grade).**

Constructively participate in classroom discussions.

Participate in exercises and simulations in a good faith, realistic manner.

Provide honest, constructive, and respectful feedback to your classmates.

Have fun.

Simulations

We will be doing a number of in-class simulations throughout the semester. After each simulation, you will be required to write a short reflection paper based on the lessons you learned during the simulation. There will be more specific instructions with each simulation.

Final Exam

There will be a final examination.

Special Arrangements

If you need accommodations because of a disability, if you have emergency medical information to share with me, or if you need special arrangements in case the building must be evacuated, please inform me immediately. Please see me privately after class or in my office. Please note, however, that all requests for accommodations are handled by the Associate Dean for Academic Affairs.

To request academic accommodations (for example, a notetaker), you also must register with the Office of Disability Services, S5 Memorial Union, 882-4696. It is the campus office responsible for reviewing documentation provided by students requesting academic accommodations, and for accommodations planning in cooperation with students and instructors, as needed and consistent with course requirements. For other MU resources for students with disabilities, click on “Disability Resources” on the MU homepage.

Intellectual Pluralism

The School of Law community welcomes intellectual diversity and respects student rights. Students who have questions concerning the quality of instruction in this class may address concerns to either the Dean or Director of the Office of Student Rights and Responsibilities (<http://osrr.missouri.edu>). All students will have the opportunity to submit an anonymous evaluation of the instructor at the end of this course.

Policy Permitting Recording in Class But Requiring Consent for Redistribution of Recordings

University of Missouri System Executive Order No. 38 lays out principles regarding the sanctity of classroom discussions at the university. The policy is described fully in Section 200.015 of the Collected Rules and Regulations. In this class, students may make audio or video recordings of course activity unless specifically prohibited by the faculty member. However, the redistribution of audio or video recordings of statements or comments from the course to individuals who are not students in the course is prohibited without the express permission of the faculty member and of any students who are recorded. Students found to have violated this policy are subject to discipline in accordance with provisions of Section 200.020 of the Collected Rules and Regulations of the University of Missouri pertaining to student conduct matters. In addition, a violation may affect a student’s grade.

Academic Integrity

Academic integrity is fundamental to the activities and principles of the School of Law. All members of the law school community must be confident that each person's work has been responsibly and honorably acquired, developed, and presented. Any effort to gain an advantage not given to all students is dishonest whether or not the effort is successful. The law school community regards breaches of the School of Law’s Honor Code as extremely serious matters. In the event that you violate our Academic Integrity rules on any portion of the work required for

this class, you may expect a failing grade in this course as well as possible disciplinary sanctions ranging from probation to expulsion. When in doubt about plagiarism, paraphrasing, quoting, collaboration, or any other form of cheating, consult the course instructor.

Class Schedule

The following class schedule is subject to change. Some additional reading may be assigned.

Class 1 January 16

Introduction

Senate Table and Assumptions Regarding Dispute Settlement

Reading Assignment: **Mediation Theory and Practice (MTP) pp. 1- 21**

Class 2 January 21

Communication/Effective Listening

Reading Assignment: **MTP pp. 117-119, Art of Mediation pp. 86-107 (TWEN)**

Class 3 January 23

Theory of Conflict and Styles of Conflict

Reading Assignment: **Moore, *The Mediation Process: Practical Strategies for Resolving Conflict*, Jossey-Bass, 3rd Edition, 2003, pp.4 - 5, 61-66 (TWEN)**

Class 4 January 28

Negotiating and Bargaining Theory

Preparing for a negotiation, Negotiation exercise

No Reading Assignment

Class 5 January 30

Negotiation and Bargaining Theory (cont.)

Reading Assignment: **MTP pp. 27-36, 41-53, 60-65**

Class 6 February 4

Video ***No Reading Assignment***

Class 7 February 6

Stage 1 - The Opening Statement

Reading Assignment: MTP pp. 103 - 117

Class 8 February 11

Stages 2 - 3

Gathering Information, ID Issues and Interests and Reframing

Reading Assignment: MTP pp. 121 -127

***Training Mediators to Listen, Love, 38 FAMILY AND
CONCILIATION COURTS REVIEW 27 (2000) (TWEN)***

Class 9 February 13

Round Robin Exercises

No Reading Assignment

Class 10 February 18

Round Robin Exercises

No Reading Assignment

Class 11 February 20

Stage 4: Generating Settlements and Caucus

Reading Assignment: MTP pp. 74-95, 127-137

Class 12 February 25

Stage 5: Concluding Mediation and Drafting Agreements

Reading Assignment: Art of Mediation pp.64 -70 (TWEN)

Reflective paper due

Class 13 February 27

Video

No Reading Assignment

Class 14 March 4

Simulation

No Reading Assignment

Class 15 March 6

Role of the Mediator Revisited

Reading Assignment: MTP pp. 147 - 168

Class 16 March 11

Mediator Orientations

Reading Assignment: MTP pp. 169-183, 141-145

Class 17 March 13

Mediator Orientations (continued)

Reading Assignment: MTP pp. 137-141, 183-191

Class 18 March 18

Mediation Video

No Reading Assignment

Class 19 March 20

Confidentiality

Reading Assignment: MTP pp. 205-239

Class 20 April 1

Confidentiality (continued)

Reading Assignment: MTP pp. 249-271
Missouri confidentiality statute (TWEN)

Class 21 April 3

Ethical Issues

Reading Assignment: MTP pp 413-444

Class 22 April 8

Ethical Exercises

Reading Assignment: Review ethical questions in April 3 reading

Class 23 April 10

Advocacy in Mediation

Reading Assignment: MTP pp. 533-545, 547-575

Class 24 April 15

Simulation

Class 25 April 17

Legal Issues in Mediation
Enforceability of Mediated Agreements
Good Faith Requirements R

Reading Assignment: MTP pp. 285-291, 305 -324, TBA

Reflective paper due

Class 26 April 22

Simulation

Class 27 April 24

Diversity and Power

Reading Assignment: MTP pp 353-354, 365-390

Reflective paper due

Class 28 April 29

Simulation

Class 29 May 1

Diversity and Power (continued)

Course Review

Reflective paper due