

**DRAFT CONTRACT
NEGOTIATIONS
Spring 2015**

Course Description

Practice preparing for and conducting legal negotiations. Discussion of negotiations theory, strategy, communications skills, and ethical issues. Students negotiate several different types of situations, both transactional and in anticipation of litigation. Students research the problems to be negotiated, and prepare various written products, which may include drafting a contract, evaluations of each negotiation, and/or a final analytical paper discussing some aspect of the negotiations process. This is a core requirement in the Certificate in Advocacy and Dispute Resolution. This course will satisfy the Lawyering Skills requirement.

Law School Learning Objectives: Legal Analysis, Legal Writing, Client Representation

Learning Objectives

This course supports the Client Representation Learning Objective. Specifically, students will learn to employ basic negotiation techniques. Students will learn and apply strategies for use in different phases and approaches to negotiation.

Text: Craver, Effective Legal Negotiation and Settlement, (LexisNexis, 7th ed 2012)

All reading assignments should be completed before the class for which they are assigned.

Negotiated agreements are due by 4:00 pm two weeks after they are handed out, unless otherwise indicated. Negotiated agreements may be turned in by fax or e-mail as well as personal delivery to Professor Schultz's office or to a faculty assistant for placement in Professor Schultz's mailbox. Agreements turned in by e-mail must be followed by signatures to be delivered by the beginning of class on the day the agreement is due.

Evaluation papers are due at the beginning of class one week after the results of each negotiation are announced. Papers should typically be 6-10 pages in length (double-spaced and typewritten), and should discuss why the negotiation proceeded as it did; address preparation and strategy, information exchange, concession patterns, the final result, and the tone and style of the negotiation. Each paper should identify lessons learned that will be helpful in future negotiations. Evaluation papers are to be submitted individually. Unexcused late papers will not be accepted, but extensions may be granted subject to the discretion of Professor Schultz. Papers for which extensions have been granted will be considered on time so long as they are turned in by the agreed-upon extended deadline. Submission of papers by e-mail and fax is permitted.

Grading will be:

Negotiations: 15%

Evaluations: 85%

Negotiation ranks will be recorded as 0 - 4 for grading purposes. [Ranks will be kept for the last five negotiations, and the top four will be counted in the grade.]

There will be a fee/fine for the following occurrences:

- (1) If a student gets to class after attendance has been taken, the student will pay a late fee of \$3.00.
- (2) Any student whose cell phone rings during class will pay a fine of \$3.00; if the student answers the phone, an additional fine of \$5.00 will be due. Cell phone fines may be avoided by keeping the phone on vibrate--if a call must be answered, the student will leave the classroom to take the call.
- (3) If a student arrives at a scheduled negotiation session more than 10 minutes late, the student will pay a late fee of \$3.00.
- (4) In addition, a student who fails to attend a scheduled negotiation session in violation of Rule 11 of the Legal Negotiation Ground Rules will pay a fine of \$10.00.

Late fees may be waived or reduced by a vote of the class, or the members of a negotiating group, if the late student offers a sufficient excuse. All funds collected from fines and fees will go toward a pizza party at the end of the semester. Voluntary donations will be accepted, as will providing beverages to share in lieu of late fees or fines.

The attached schedule and Legal Negotiation Ground Rules are incorporated by reference as a part of this contract.

The contract may be amended by a majority vote of the class at any time during the semester.

Date: _____

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Week of	Topic	Reading	Assignment
January 12	Contract/Intro	Ch. 1-4	Practice Negotiation #1 assigned (Wed.)
January 19 (no class Monday)	Negotiation Basics		
January 26	Communication skills Case Evaluation		Practice Negotiation #1 due (Mon.) Practice Negotiation #2 assigned (Mon.)
February 2	Prelim/Info Phases	Ch.5-6	Practice Negotiation #2 due (Wed.) Practice Negotiation #3 assigned (Wed.)
February 9	Comp/Coop Phases	Ch. 7-9	Practice Negotiation #3 due (Wed.) Negotiation #1 assigned (Wed.)

February 16	Tactics/ Assessment/Other Issues	Ch. 10- 13	
February 23	Stereotypes/Cultural Sensitivity	Ch. 14- 15	Negotiation #1 due (Wed.) Negotiation #2 assigned (Wed.)
March 9	Drafting		Evaluation #1 due (Wed.)
March 16	Open		
March 23	Plea Bargaining		Negotiation #2 due (Mon.) Negotiation #3 assigned (Mon.)
March 30	Open		Evaluation #2 due (Mon.)
April 6	Ethics	Ch. 17	Negotiation #3 due (Monday)

			Negotiation #4 assigned (Monday)
April 13	Open		Evaluation #3 due (Mon.)
April 20	What makes a good/bad Negotiator?		Negotiation #4 due (Mon.)
April 27	Open		Evaluation #4 due (Mon.)

LEGAL NEGOTIATION GROUND RULES

1. You may **never** show your Confidential Information Sheet to your opponents during a negotiation, nor may you disclose any of the specific information pertaining to your side's scoring system, i. e., while you may indicate that one item is valued twice as much by your client as another item, you may **not** disclose that one item is worth 40 pts. and the other is worth 20 pts. If your Confidential Information Sheet contains a non-settlement option, **you may not disclose the actual point calculation system** provided. After the negotiation is completed, you may disclose or display your Confidential Information to your opponents.

2. You may **not** make any **intentional or reckless misrepresentation** of any **material fact** during your negotiations. Representations concerning one side's **value system** or what one is willing to accept [e.g. minimum acceptable terms] shall **not** be considered representations regarding material information.

3. You may **not** discuss settlement talks or any agreement achieved with any law student or legal professional, except your partner or opponents or Professor Schultz, until the time limit for all of the groups has expired. You may **not** even disclose whether or not a settlement has been achieved, since such a disclosure might influence the behavior of others who have not yet settled. You may **not** ask classmates about the status of their negotiations.

4. If any student is charged with a violation of Rule (1), (2), or (3), the facts will be presented to the class at the next regular meeting following completion of the current negotiation session for a determination of whether a violation has occurred. The standard of proof shall be preponderance of the evidence. The non-involved class members will vote, by secret ballot, and a three-fourths majority will be required to support any finding of improper conduct.

5. Any individual found to have committed a violation of Rule (1), (2), or (3), shall automatically receive a score that will place him or her at the bottom of the class for that exercise. That person's partner (if not similarly accused and found guilty of a violation) and opponent(s) shall have the option of either accepting the results of their agreement or having that exercise disregarded entirely. Professor Schultz will calculate the average of all the scores earned by the entire class on the exercise in question and assign that average score to each of the non-offending parties. Everyone has an affirmative duty to immediately correct any and all known misrepresentations made by a partner or face the same penalty as the offender if charged. If any rule violation is found, the class may impose alternative or additional appropriate sanctions by majority vote.

6. Both sides to a negotiation exercise must jointly prepare a written summary of any agreement achieved, which must be **signed by each participant**. If a person has **meaningfully** participated in the negotiation but was not present when the final agreement was achieved, that individual's **proxy** authorizing his/her partner to negotiate for him/her must be attached. If a person does **not meaningfully** participate, that individual's partner may note that fact in the agreement.

If a person does not meaningfully participate in a negotiation exercise, the student will receive the lowest rank for that exercise.

Any proxy given to a partner will automatically be regarded as a **general proxy** despite any limiting language. Even if the agreement achieved exceeds the specified authority in the proxy, both partners will be bound by the final result.

7. Each side must prepare a **scoring evaluation** for their agreement, with the appropriate points corresponding to each item being separately indicated next to that item. Such scoring evaluations must be turned in with the agreement.

8. All negotiations **must be completed** by the **scheduled time**. You may **not** conduct any further discussions or negotiations with your opponents after the specified time. Limited extensions may be granted by Professor Schultz at her discretion in the event of a genuine emergency. No extension beyond one hour will be granted under any circumstances.

9. All agreements and scoring evaluations must be turned in. If an agreement is not turned in by the scheduled time, it will be regarded as **void**, and the parties will be treated as if **no settlement** were achieved. Professor Schultz has the discretion to accept late agreements for good cause.

10. If a student does not attend a class, it is that student's obligation to find out who the student's group members are and to set a meeting schedule with them within 24 hours of the missed class.

11. Failure to attend a negotiation meeting, without making a reasonable attempt at giving reasonable prior notice of the need to reschedule to negotiation group members, or without a compelling justification for failure to attend that precluded the opportunity to give notice, will result in a \$10.00 fine.

In compliance with ADA guidelines, students who have any condition, either permanent or temporary, that may affect their ability to perform in this class are encouraged to contact Associate Dean of Student Affairs and Administration Jayne Kacer or the

University Disability Services Office. Dean Kacer is located in the law school Dean's Suite and can be reached at kacer@chapman.edu or 714-628-2641. You also may contact the Office of Disability Services at 714-516-4520 or www.chapman.edu/disabilities. If your request for an accommodation is granted, please discuss with your professor *only* those accommodations that relate to classroom learning, e.g., the need to sit in a special location, audio taping, etc. Because exam grading is anonymous, please do not discuss with your professors any accommodations related to exams. These accommodations will be handled by the Registrar's Office. The granting of any accommodation will not be retroactive and cannot jeopardize the academic standards or integrity of the course.

Equity and Diversity:

Chapman University is committed to ensuring equality and valuing diversity. Students and professors are reminded to show respect at all times as outlined in Chapman's Harassment and Discrimination Policy: <http://tinyurl.com/CUHarassment-Discrimination>. Any violations of this policy should be discussed with the professor, the Dean of Students and/or otherwise reported in accordance with this policy.