

Georgia State University  
College of Law, Room 653  
Spring 2015, 3 credits  
Mondays, 1:15 pm – 4:00 pm

Professor Charity Scott  
[cscott@gsu.edu](mailto:cscott@gsu.edu)  
404-413-9183  
[kpbutler@gsu.edu](mailto:kpbutler@gsu.edu)

**LAW 7414  
NEGOTIATION  
SYLLABUS & COURSE POLICIES**

**1. OVERVIEW**

Negotiation is one of the principal skills of all practicing lawyers, whether they are litigators or transactional lawyers. This course provides an introduction to the fundamentals of negotiation. It offers both a theoretical understanding of the negotiation process and the opportunity to learn the practical skills of an effective negotiator. The theory, concepts, and intellectual understanding of negotiation will be explored through assigned readings and written assignments and applied in class. In addition, practical negotiation skills will be developed in an active-learning classroom that is devoted to experiential learning opportunities, such as role plays, simulated negotiations, and other interactive exercises during weekly class times. You may not enroll in this course if you have taken Law 7060 (Alternative Dispute Resolution).

**2. MANDATORY ATTENDANCE**

Attendance at EVERY class for the entire class session every week throughout the semester is MANDATORY. Enrollment is purposely limited to 16 students in the class, and the weekly simulated negotiations will be done on a one-on-one basis or in teams of two-on-two (or other even-numbered configuration). Thus, all of the exercises and role plays depend on having at least one counterpart to negotiate with, and if you are absent, you leave your counterpart(s) without someone to do the role plays with. If you know now that you cannot attend every class, or cannot be in class from 1:15 – 4:00 pm for every weekly session, please do not take this class – let me know immediately and another student from the waiting list will be able to enroll.

**3. GRADING**

There is no exam for this course. Grades will be determined as follows:

1/3 = class participation (including preparation worksheets)

1/3 = six short essays

1/3 = final term paper

**4. CLASS PARTICIPATION**

Your class participation will be evaluated on the quality of (1) your preparation of weekly readings; (2) your preparation for the individual role plays, simulated negotiations, and exercises, including your preparation worksheets; and (3) your contributions to the class discussions. You are expected to come prepared every week having *carefully* read the assigned material, having

*fully* prepared for the simulated negotiation and role plays, and being ready to contribute *thoughtfully* to class discussions. Being absent or late or leaving early will negatively impact your class participation grade. You will NOT be evaluated on the outcome of your negotiations. You are encouraged to experiment with negotiation styles and strategies to learn what works well or poorly, and you should feel free to try new approaches without worrying whether the actual results of the negotiations will impact your grade. Your good-faith efforts to practice skills will be evaluated, not your outcomes.

## 5. PREPARATION WORKSHEETS

As in all good lawyering work, careful and thoughtful advance preparation is key. Beginning in February, we will review a preparation worksheet template, which you will have the opportunity to tailor to your individual styles and needs as a negotiator. The template will likely have more issues and factors for your consideration for each week’s role-play preparation than you have considered in your own previous personal or professional negotiations. This is deliberate, as the worksheet is designed to ensure that you have carefully thought through all the relevant issues in order to come prepared for your weekly role-plays. It is also a template that is recommended for your consideration for adopting and adapting as you enter professional practice. It is intended to instill strong habits of thorough preparation for negotiation in real-world law practice, not simply as academic guidelines for this course. While your completed worksheets will not be individually graded, they will contribute to your class participation grade.

## 6. SHORT ESSAYS AND DEADLINES FOR OTHER WRITTEN ASSIGNMENTS

An important attribute of a competent lawyer is the ability to be self-reflective. Reflection on experience is necessary for continual self-improvement and the ability to be a life-long learner. This course is designed to help you develop your abilities to be self-aware and self-reflective. Approximately every other week you will prepare a short essay, consisting of 2-3 double-spaced pages (unless otherwise noted) in 12-point font and normal margins of your reflections, thoughts, experiences, and observations as a negotiator in light of the concepts in the readings and discussions in class. These essays must be e-mailed by 12 pm noon on the specific due dates below (usually Mondays at 12 noon) to me at [cscott@gsu.edu](mailto:cscott@gsu.edu). The name of your document and the subject line on the e-mail should be (all one word): Essay1LastName, Essay2LastName, etc.

The schedule for your short essays and other written assignments is as follows:

ASSIGNMENT	DUE DATE	TOPIC
Essay 1	Jan. 26, 12 pm Monday	Discuss: your negotiation style in light of any ordinary or extraordinary negotiations you have had, which you should describe briefly; whether you agree or not with your own results of the Thomas-Kilmann conflict mode instrument and why; and your goals for this course.
Essay 2	Feb. 9, 12 pm Monday	Open topic

Class hand-in	Feb. 16, 12 pm, Monday	Your tailored (blank) preparation worksheet and come to class prepared to discuss your revisions. Also, fill in the worksheet in preparation for this week's role play. Please name your document and put in the e-mail subject line: "PrepworksheetLastName". For each weekly completed worksheet thereafter, also put the date in the document name and e-mail subject line (all one word; e.g., "PrepworksheetLastName2-23-15")
Essay 3	Feb. 23, 12 pm, Monday	Open topic
Essay 4	Mar. 9, 12 pm, Monday	(1) Reflect on your PowerScreen negotiation or any other negotiation you've had (you may consider this an "open topic"). Discuss your own perspectives and any experiences of the emotional and psychological issues described in the texts and how you coped. (2) Send an ABSTRACT/OUTLINE (2 pp.) of your final term paper topic (case study); name your document and put in the e-mail subject line "AbstractLastName"
Essay 5	March 30, 12 pm, Monday	Your reflections and thoughts on <i>Getting to YES</i> and analysis of its PROs and CONs; your adoption or not of its recommendations and your reasons (3-5 pp.) See specific questions below which you should address.
Essay 6	April 20, 12 pm, Monday	Review your five previous short essays, reflect on your subsequent experiences, and discuss the primary lessons you have learned about negotiation and yourself during the course of this class (3-4 pp). Were your goals realistic? Were they met? Anything unexpected – positive or negative - that you learned or discovered this semester? Explain and analyze.
Final paper	May 11, 5 pm, Monday	Final paper due – hard copy to my mailbox on 4 <sup>th</sup> floor; e-mail electronic version to me; 8 – 12 double-spaced pages.; document name and subject line: "FinalPaperLastName"

When the topic is "open topic", the subject of the short essay should be some recent experience you have had with negotiation, whether in class or in your personal or professional life. *Feel free to experiment:* In the spirit of expanding your opportunities to use negotiation concepts and skills, you should experiment outside of class with trying out what you are learning. Try negotiating anything, big or small – e.g., a discount on a restaurant's wine or dessert, settlement of an unsatisfactory service provided (e.g., airline, dry cleaner), return of a security deposit, etc. You have nothing to lose, and it is all good practice and you may use these experiences in your short essays if you desire. We can discuss any notable experiences in class.

For Essay 5 on your analysis of *Getting to YES*, please address the following areas for analysis:

- Are the four principles good advice? Why or why not? What are the PROs and CONs of the authors' recommended approach? Is White's critique in the Nelson text (pp. 148-158) valid? Why or why not? Analyze. See also Bruce Patton, *Negotiation* article from Week 4, addressing the criticism of the GTY approach.
- What about the authors' other advice – e.g., regarding negotiation jujitsu, dirty tricks, etc. (Chapters 6, 7, and 8)? Is there any good advice in there or not? Why or why not? Analyze.
- Have you incorporated GTY advice into your own approach to negotiation? If not, why not? If yes, in what context? Has it worked? Why or why not? Explain.
- How would you improve on GTY advice? Explain.

## 7. EVALUATION OF SHORT ESSAYS

*Analysis* of your negotiation experiences is key to the quality of each short essay discussing them; do NOT simply describe what happened in your negotiations. Your analysis must incorporate references to relevant readings that illuminate some aspect of the negotiation you experienced. Your short essays will be evaluated on the quality of your analysis, which should demonstrate an understanding of how the concepts underlying negotiation theory apply to your simulation or real-life experiences. My grading scale is 1 to 4, with 3 being the typical grade (which is good, meets expectations). The factors I use in evaluation of your short essays are:

- Analysis and thoughtfulness (not just description)
- Application and understanding of the concepts discussed in class and in the readings
- Ability to draw conclusions and discern lessons learned
- Writing quality
- Other factors include adherence to deadlines; the genuineness and authenticity of your reflections; and your willingness to experiment in negotiation settings and get out of your comfort zone.

Your essays will NOT be evaluated on the particular subject that you chose to analyze (except where specific topics are assigned). For all of your essays, you should feel free to select the aspects that most interest you or that have had the greatest impact (positively or negatively) on your thinking, feelings, or actions. I will ensure the confidentiality of your essays.

## 8. FINAL TERM PAPER – CASE STUDY

An 8-to-12 page paper (double-spaced, 12-point font, normal margins, includes footnotes/endnotes) is due by 5:00 pm on Monday, May 11. Your paper should be delivered in hard copy to my 4<sup>th</sup> floor faculty mailbox as well as sent electronically to me at [cscott@gsu.edu](mailto:cscott@gsu.edu). Please indicate "FinalPaperLastName" as the document name and on the subject line of the e-mail. You should consult with me about your proposed topic, with a deadline of March 9 for a 1-2 pp. abstract/outline of the topic. The final term paper does NOT fulfill the College of Law's writing requirement.

The subject of the paper is your analysis of an actual court case or story about a negotiation recently publicized in the media which could have been negotiated better by applying the theories, concepts, and practices developed in this class. You may choose any court case or any recent media case where the parties to a conflict might have resolved it more effectively by undertaking the strategies and skills that have been explored in this class. Choose a case study where there is enough information from either court records or news reports to be able to determine the parties' positions, interests, strategies, styles, tactics, approaches and other negotiation elements and for you to be able to "re-wind the tape" and analyze when and how things might have developed differently if the parties had applied the lessons of this course (or could still develop differently if you have chosen an on-going negotiation or controversy). Choose a case or controversy where the parties would have been better off if it had been negotiated well. By "well," I mean using the skills, concepts, principles, and strategies explored in this course as appropriate to the individual circumstances of the case or controversy. Remember that some cases may be better off litigated to establish for important legal precedent (do not choose such a case). Focus on process, which will reflect our orientation in class: you'll find that we don't look for one "right" result of a negotiation in our classroom de-briefings, because a successful negotiation can encompass a range of outcomes in terms of meeting the parties' goals, interests, legitimacy of perspectives, etc.

The evaluation of your paper will primarily be based on the quality of your *analysis*. Spend no more than two pages giving the history and background to the case – do not waste space reciting unnecessary facts; give enough so that I can understand the context for your analysis. Your focus should be on how negotiation theories and concepts developed in this course apply to the case and to possible alternative approaches the parties could have undertaken (or might still undertake if it is an ongoing case). Explain why things happened as they did. Make recommendations (with explanation of reasons for them) as to alternative strategies, tactics and approaches that might have been used (or could be used if still ongoing). REPEAT: Give reasons for your observations and analysis. Your analysis should reflect originality, creativity, a solid understanding of negotiation theory and practice, thoughtfulness, and the ability to come to well-reasoned conclusions. Be well organized, conform to standard citation formats, and write with respect for the fundamentals of good writing. The only research needed for your paper should relate to the case itself; references to the assigned readings will suffice for authority on negotiation concepts, theories, and practices. The factors I use in evaluation of your final papers (based on the above) are:

- Case selection (10 points)
- Background and overall organization of paper (15 points)
- Quality of writing and citations (20 points)
- Research and use of readings (15 points)
- Analysis (40 points)

A good example of this kind of analytical "re-wind" of a case or controversy is Bruce Winick, A Legal Autopsy of the Lawyering in Schiavo: A Therapeutic Jurisprudence/Preventive Law Rewind Exercise, 61 U. Miami L. Rev. 595 (2007). For information about resources for getting the story behind a court case, see Paul Lombardo, Legal Archeology: Recovering the Stories Behind the Cases, 36 J. Law, Med. & Ethics 589 (2008). g

## 9. CONFIDENTIALITY, INTEGRITY & PROFESSIONALISM

This course requires the good-faith commitment of every student to participate fully in class discussions, simulations, exercises, and role plays. Due to the strongly experiential and experimental nature of the class activities, students will inevitably have new (and possibly disturbing) experiences, emotions, and thoughts. These reactions – both positive and negative – are all part of the learning process. To ensure that the class is a safe, open, and honest environment for experimenting with new ideas and behaviors, your respect for the confidentiality of your colleagues' comments and actions in this class is requested. While you may of course discuss your own experiences, behaviors, and reactions with anyone you wish, you are requested not to discuss those of your (identified) colleagues with anyone outside of the class. You are free to discuss the professor's comments and actions with anyone at any time. If a problem develops with a classmate, please address it directly with your classmate using the skills developed in the class. If that proves unsatisfactory or ineffective, please consult with me. How you comport yourself in this class (as in all professional activities) bears on your professional reputation – guard it most carefully.

In addition, because the role plays and simulations are time-consuming to develop and depend for their success on students not having prior knowledge about them, there are some confidentiality requirements for this class: (1) you may NOT copy, discuss, or share your or another student's confidential instructions for the roles in these exercises with anyone else in the class before the in-class de-briefing of the exercise, and (2) you may NOT copy, discuss, or share any aspect of the confidential instructions with other students outside of the class (in this semester or in future semesters). Such disclosure would significantly impair future students' experience of the simulations if they had advance knowledge of the exercises used in this class (and thereby seriously diminish their learning), and it would undermine your own and others' learning experience if you gave to or received from another student the confidential instructions for the roles of negotiation counterparts during the course of this class. (3) You may NOT discuss any aspect of your attorney-client interviews and other advance negotiation preparations with anyone else in the class (who is not part of your team) before the in-class de-briefing of the exercise. The requirements of confidentiality in this policy are subject to the GSU College of Law Honor Code, and violation of this confidentiality policy is considered a violation of the Honor Code.

## 10. READINGS & ROLE PLAYS

The role plays and exercises in this course have been carefully developed over the years by negotiation experts. Most are subject to copyright protection, and can be used for a modest fee. On the first day of class, **please bring a check made payable to “Georgia State University” in the amount of \$40.79** to cover the costs of these materials.

Readings are assigned from the following three required texts:

1. “GTY” = Fisher & Ury with Patton, *Getting to YES: Negotiating Agreement Without Giving In* (3<sup>rd</sup> ed. 2011)
2. “LBS” = Lewicki, Barry & Saunders, *Essentials of Negotiation* (5<sup>th</sup> ed. 2011)

3. “N” = Nelken, *Negotiation: Theory and Practice* (2<sup>nd</sup> ed. 2007)

Readings for this class are different than for typical law school doctrinal classes, and your approach to the readings should be adjusted accordingly. Instead of judicial opinions in appellate court cases, the readings in this class consist of popular texts and a variety of essays from the social sciences, business, and legal literatures. They provide the *context* for the exercises and the class discussion, rather than being the primary focus of the class-time activities. Because the readings provide the current theories and research related to the actual practice of negotiation, it is *essential* that you have read this background material in order to prepare for each week’s negotiations and class discussions.

## 11. SYLLABUS

Please note that your approximately every-other-week short essays are due the Monday BEFORE class by 12 noon. These short essays are indicated by Essay 1, Essay 2, etc. and their due dates below (the weeks when other written work must be handed in) are **BOLDED** below. Please send your written assignments to me by e-mail to me with the document name and e-mail subject heading worded as follows (all one word for every document):

- For short essays: Essay1LastName, Essay2LastName, etc.
- For the preparation worksheets: PrepworksheetLastName for the initial blank template you have tailored for your own use; thereafter for completed worksheets, add date (e.g., PrepworksheetLastName2-23-15)
- For the abstract for your final paper: AbstractLastName
- For the final paper: FinalPaperLastName.

DATE OF CLASS	TOPIC	READINGS	EXERCISE OR ROLE-PLAY PREPARATION	REFLECTION PAPERS & OTHER WRITTEN WORK DUE
1. Jan. 12	Introduction to negotiation	LBS: Ch. 1 N: pp. 1-4, 19-27 <u>In class:</u> Thomas-Kilmann conflict mode instrument	Prepare DILEMMA (available on course Web site)	Please bring a check payable to “Georgia State University” in the amount of \$40.79 for copyrighted materials used in this course.
<b>2. Jan. 26</b>	Distributive bargaining	LBS: Ch. 2 N: pp. 33-48, 61-77 <u>In class:</u> PHARMA	Prepare MODEL A	<b><i>DUE: Essay 1</i></b> By <b>Jan. 26</b> , 12 noon - discuss your negotiation experience and style (including Thomas-Kilmann results) and your goals for this class (see p. 2 above); document name and e-

DATE OF CLASS	TOPIC	READINGS	EXERCISE OR ROLE-PLAY PREPARATION	REFLECTION PAPERS & OTHER WRITTEN WORK DUE
				mail subject line: "Essay1LastName"
3. Feb. 2	Integrative negotiation	LBS: Ch. 3 GTY: Ch. 1	Prepare LAW LIBRARY	
4. <b>Feb. 9</b>	Integrative negotiation, con'd	N: pp. 91-102, 111-118, 124-137 GTY: Chs. 3, 4 Patton, <i>Negotiation</i> Available on Web <sup>1</sup> <u>In class:</u> discuss blank preparation worksheet	Prepare SALLY SOPRANO I	<b>DUE: Essay 2</b> By <b>Feb. 9</b> , 12 noon Open topic
5. Feb. 16	Strategy, preparation & planning	LBS: Ch. 4 GTY: Ch. 5 <u>In class:</u> discuss proposed revisions to worksheets	Prepare 67 FISH POND LANE	<b>DUE:</b> By Feb. 16, 12 noon, your own tailored (blank) preparation worksheet; use this worksheet to practice preparation for the role play and submit the completed form as well as the blank form; document name and e-mail subject line: PrepworksheetLastName
6. <b>Feb. 23</b>	Perception, cognition & emotion	LBS: Ch. 5 GTY: Ch. 2 <u>In class:</u> begin Powerscreen video	Prepare WEATHERS & EVANS	<b>DUE:</b> By <b>Feb. 23</b> , 12 noon: (1) <b>Essay 3</b> (open topic) (2) Completed preparation worksheets due this week and every week thereafter (add date to worksheet document name and e-mail subject line)
7. <b>Mar. 2</b>	Communication, relationships & trust	LBS: Ch. 6 GTY: Chs. 6, 7, 8 <u>In class:</u> finish Powerscreen video	Prepare POWERSCREEN	

<sup>1</sup> <http://www.vantagepartners.com/researchandpublications/viewPublications.aspx?id=402>

DATE OF CLASS	TOPIC	READINGS	EXERCISE OR ROLE-PLAY PREPARATION	REFLECTION PAPERS & OTHER WRITTEN WORK DUE
8. Mar. 9	Psychological aspects of negotiation; introduction to applied improvisation	N: Ch. 5 GTY: Sec. IV, V (pp. 149-194)	TBD	<b>DUE:</b> By <b>March 9</b> , 12 noon: (1) <i>Essay 4</i> ; reflect on your PowerScreen negotiation – your preparation, any emotional & psychological aspects of negotiation thus far (see p. 2 above) (2) <b>ABSTRACT</b> (1-2 pp.) of your final paper topic (case study); document name and e-mail subject line “AbstractLastName”
<b>Mar. 16</b>	<b>NO CLASS</b>	<b>SPRING BREAK</b>		
9. Mar. 23	Role of gender	N: pp. 262-266, 303-335 N: pp. 148-158 (White’s critique of GTY)	Prepare CASINO	
10. Mar. 30	Power and relationships in negotiation; applied improvisation continued	LBS: Chs. 7 & 9 N: 55-58	TBD	<b>DUE: Essay 5</b> By <b>March 30</b> , 12 noon – your reflections and thoughts on <i>GTY</i> , analyzing the PROs and CONs of its approach to negotiation (3-5 pp.) (see p. 3 above)
11. April 6	Lawyer-client relationship	N: Ch. 7	Prepare EAZY’S GARAGE – attorneys interview clients outside of class	
12. April 13	Ethics	LBS: Ch. 8 N: Ch. 8	Prepare DONS – attorneys interview clients outside of class	

<b>DATE OF CLASS</b>	<b>TOPIC</b>	<b>READINGS</b>	<b>EXERCISE OR ROLE-PLAY PREPARATION</b>	<b>REFLECTION PAPERS &amp; OTHER WRITTEN WORK DUE</b>
13. <b>April 20</b>	Litigation settlement negotiations		Negotiate in teams outside of class INTERNAT'L ROOFING	<i><b>DUE: Essay 6</b></i> By <b>April 20</b> , 12 noon – review lessons learned throughout semester (3-4 pages) (see pp. 2-3 above in syllabus)
14. April 27	Multi-party negotiation; improv, con'd; wrap up	LBS: Ch. 10	Prepare Chestnut Village	
<b>May 11</b> 5 pm	Final paper	See pp. 4-5 above in syllabus for criteria for your final paper		<i><b>DUE: final term paper;</b></i> by <b>May 11</b> , 5 pm -- hard copy to 4 <sup>th</sup> floor faculty mailboxes and electronic version to <a href="mailto:cscott@gsu.edu">cscott@gsu.edu</a> ; document name and e-mail subject line: “FinalPaperLastName”