



**Alternative Dispute Resolution
Law 213
Spring 2015**

**Tuesdays 12:00 – 2:00 & Wednesdays, 12:00 – 1:00
Seminar Room 402**

Professor Victoria Shannon

Contact Information

My email address is ShannonV@wlu.edu, and I am located in Office 445. Please feel free to email me, make an appointment, or stop by my office anytime if you have a question that you have not been able to answer for yourself through your own careful research. Learning the skill of careful research is part of becoming a good lawyer.

Purpose and Scope of This Course

This survey course will give you a comprehensive overview of the use of alternative dispute resolution (“ADR”) methods in lieu of court litigation. The course will introduce the law and theory of arbitration, negotiation, mediation, conciliation, and other alternatives to litigation in both domestic and international contexts. In addition, the course will provide a practical introduction to ADR techniques through simulations in order to help prepare students for future participation in advanced ADR courses, practicums, clinics and competitions. There are no prerequisites.

The overarching goal of this course is to introduce you to the idea that there are viable alternatives to court litigation in hopes that, as practicing attorneys, you will help your clients explore all available dispute resolution options. This is a crucial aspect of legal education that is intended to help you think outside of the litigation “box” that forms the foundation of the first year. You will become conversant in the general language of ADR (e.g., vocabulary, procedural steps, the role of the neutral, etc.) and will be armed with the tools to research and understand the nuances of whichever ADR methods are used in the jurisdictions in which you will ultimately practice. Class time will include exercises, simulations, lectures, and group discussions.

This course is not intended to delve too deeply into any particular method of ADR, as the law school’s curriculum already contains several advanced courses exploring specific ADR methods in depth. Instead, this course will give you a sampling of the theories, vocabulary and simulated techniques that represent the essence of each ADR method. The hope is that you will choose to delve deeper into the study of a particular method or methods in future coursework and activities.

Course Website

Our course website is on Sakai. You can log in using your W&L username and password.

Course Texts

Required Text

GOLDBERG, SANDER, ROGERS & COLE, DISPUTE RESOLUTION: NEGOTIATION, MEDIATION, ARBITRATION, AND OTHER PROCESSES (Wolters Kluwer, 6th ed. 2012)

The readings are sequential, so they should be easy to follow. We will discuss roughly 40-45 pages per week. On Tuesdays, we will conduct simulations, debrief them, and begin discussing the readings. On Wednesdays, we will finish discussing the readings for that week.

Simulation materials will be emailed you. I will randomly pair or group you with other students in the class in order to complete the simulations. This is why class attendance is mandatory, so that everyone will have a partner or group for the simulations.

I may also occasionally assign additional required readings, which will be posted on Sakai.

Optional Texts

We will not discuss these optional texts in class, but they are quoted extensively in the required text. In addition, they are seminal books in the field of ADR, so you might want to skim them. **You will not be tested on these optional texts.**

1. ROGER FISHER, WILLIAM URY & BRUCE PATTON, GETTING TO YES: NEGOTIATING AGREEMENT WITHOUT GIVING IN (Penguin Books, 3rd ed. 2011)
2. DOUGLAS STONE, BRUCE PATTON, SHEILA HEEN & ROGER FISHER, DIFFICULT CONVERSATIONS: HOW TO DISCUSS WHAT MATTERS MOST (Penguin Books, 2nd ed. 2010)

Electronic Device Policy

I will allow you to use laptops, tablets and other similar electronic devices in my classroom subject to two rules. If I determine that multiple students are breaking these rules, then I reserve the right to ban all electronic devices from my classroom.

Rule 1. Your electronic device(s) must not make any sound or noise during class time (i.e., no ringing, beeping, music, etc.) including the sound of vibration (i.e., no vibrating). Any sound or vibration must be disabled or turned off. If I or your classmates hear your device in class, then I reserve the right to ban your device from class.

Rule 2. Your use of your electronic device(s) during class must not disturb or distract you, your fellow classmates, or me from engaging together in our learning experience.

Grading

Response Papers (70% of your grade)

Every week by 5:00pm on Friday, you must submit a two-page response paper (more than one page, but less than three pages) to Professor Shannon via email at shannonv@wlu.edu. Write at least one page but no more than three pages reflecting on that week's readings, class discussions, and simulation exercise. The response paper will be graded pass (if you turn it in) or fail (if you don't). You get one (and only one) free pass, meaning that you can skip the response paper during **one** week of your choice. After you have used your free pass, if you miss turning in a response paper, it will be graded as a "fail." I will return the response papers with comments before the beginning of the next Tuesday's class.

Final Examination (30% of your grade)

There will be an examination at the end of this course **on arbitration only**. All of the assigned arbitration readings, as well as anything we discuss in class regarding arbitration, may be tested on the final examination. More information about this examination will be provided during the semester.

Class Attendance

Attendance is mandatory for each class and will be taken daily. Coming to class regularly and on time is essential in this class because of the simulations scheduled throughout the semester. **If you miss a class, you let down a fellow student who has no one with whom to negotiate, mediate, or arbitrate.** It is in everyone's interest to attend and participate.

I expect you to attend class regularly and arrive on time; I will take attendance at the start of each class. When possible, please contact me before class to receive an excuse for class when there are reasonable exigent circumstances. Absences may also be excused afterwards, when unforeseeable and prior notice was not reasonably possible, at the discretion of the professor. **Please always e-mail me at ShannonV@wlu.edu** rather than speaking orally about absences to assist me in creating a written record.

Unexcused absences for more than 15% of the semester (consistent with the policy of the American Bar Association) may, at the discretion of the professor, result in exclusion from submitting the final exam and, therefore, in a failing grade for the course. Unexcused absences for less than 15% of the semester, poor class preparation, excessive tardiness or disrespectful or offensive behavior (to other students or the professor) may, at the discretion of the professor, reduce the overall course grade by 20 to 35%.

Class Participation

Thoughtful participation is vital to understanding the topics in this course. As a result, all students must read the assigned material before each class and be prepared to meaningfully discuss it. I reserve the right to increase or decrease your final grade up to one-half grade level (e.g., A- to A, or A- to B+) based on

excellent or subpar class participation, respectively. In addition, I may assign additional exercises or projects during the semester that will be considered part of your class participation.

Recording of Classes

Students may not make an audio or video recording of a class without receipt of written permission from the instructor in advance of class. Subject to such receipt and terms of the permission, students may use such recording only for course purposes, may not distribute the recording, and are expected to destroy any such recording at the conclusion of the course.

Students should be aware that class may be recorded from time to time (and that recordings contain not only instructor comments, but also student comments as well). A student with an excused absence (see absence policy above) may view the class recording(s) that took place during that excused absence upon the permission of the professor. Please ask for this permission by emailing me at ShannonV@wlu.edu.

Alterations to the Class Plan

This syllabus is meant to provide a general framework to ensure a positive working relationship both inside and outside the classroom this semester. This syllabus does not cover every possible circumstance or event that may occur during the semester. I may modify assignments, readings or policies in order to improve your experience of learning civil procedure. Please keep an open mind and come prepared to learn and try new things in class.

ASSIGNED READINGS

We will cover roughly 40-45 pages per week. Any additional readings or simulation materials will be posted on Sakai or emailed to you. This list of topics and page numbers to be covered is an approximation and is subject to change.

Week #	Date	Reading
Week 1	Tuesday, January 13, 2015	Chapter 1: Disputing Procedures “What is ADR?” by the Chartered Institute of Arbitrators Negotiation Simulation Role
	Wednesday, January 14, 2015	Mediation Simulation Role
Week 2	Tuesday, January 20, 2015	Chapter 2: Negotiation - pages 15-51
	Wednesday, January 21, 2015	Same as above.
Week 3	Tuesday, January 27, 2015	Chapter 2: Negotiation - pages 51-93
	Wednesday, January 28, 2015	Same as above.
Week 4	Tuesday, February 3, 2015	Chapter 2: Negotiation - pages 93-99
	Wednesday, February 4, 2015	Chapter 3: Practice of Mediation - pages 121-153
Week 5	Tuesday, February 10, 2015	Chapter 3: Practice of Mediation pages 153-169
	NO CLASS on Wednesday, February 11, 2015	<i>none</i>
Week 6	Tuesday, February 17, 2015	Chapter 4: Fairness and Quality in Mediation - pages 185-209
	Wednesday, February 18, 2015 @ 12:00-4:00pm starting in C (moving to A at 3:30pm)	Chapter 4: Fairness and Quality in Mediation - pages 209-242; Chapter 5: Mediation Confidentiality - pages 247-258
Week 7	Tuesday, February 24, 2015	Chapter 5: Mediation Confidentiality - pages 258-277
	Wednesday, February 25, 2015 @ 12:00-2:00 in E	Chapter 6: Representing a Client in Mediation - pages 281-301

Week 8	Tuesday, March 3, 2015	Chapter 7: Arbitration - pages 303-342
	Wednesday, March 4, 2015	Same as above.
	NO CLASS - Tuesday, March 10-11, 2015 – SPRING BREAK	<i>none</i>
Week 9	Tuesday, March 17, 2015	Same as above.
	Wednesday, March 18, 2015	Same as above.
Week 10	Tuesday, March 24, 2015	Same as above.
	Wednesday, March 25, 2015	Same as above.
Week 11	NO CLASS on Tuesday, March 31, 2015	<i>none</i>
	Wednesday, April 1, 2015	Chapter 7: only 343-357, 396-397, and 400-405
Week 12	Tuesday, April 7, 2015	Chapter 7 Supplement (download from course website)
	NO CLASS on Wednesday, April 8, 2015	<i>none</i>
Week 13	Tuesday, April 14, 2015	Chapter 8: only 417-418, 439-452, and 483-496
	Wednesday, April 15, 2015	Chapter 10: only 558-565

Optional Reading

Chapter 8: Designing Dispute Resolution Processes (remainder of chapter)

Chapter 9: Dispute Resolution and the Justice System

Chapter 10: The Future of ADR (remainder of chapter)