

MULTIPARTY MEDIATION CLINIC

Law 8189.06

Fall 2014

Professors:

Dr. Joseph B. Stulberg

Erin Archerd

Class Meetings: Monday/Tuesday - 8:20 a.m. – 10:00 a.m.
Place: Room 345

Contact Information:

Stulberg: Office: Room 312
Telephone: (614) 292-8638
E-Mail: stulberg.2@osu.edu
Office Hours: M/T: 10:00 - 11:00 a.m. or by appointment

Archerd: Office: Room 452
Telephone: (614) 688-4192 (office)
(510) 604-3003 (cell/text)
E-mail: archerd.1@osu.edu
Office Hours: Th: 10:00 a.m.-12:00 p.m. or by appointment

Required Texts:

1. Alfini, Press, and Stulberg: Mediation Theory and Practice (3d ed. Lexis: 2013)
2. Stulberg, Love. The Middle Voice (2d ed)(Carolina Academic Press 2013)
3. Robert's Rules of Order (on-line – available at no charge)

COURSE DESCRIPTION

Disputes vary in shape, intensity and complexity. They arise in multiple settings. We transform some disputes into lawsuits and attempt to resolve them; for others, we develop other “angles of vision” to examine and address them. Whatever the dispute’s format, lawyers strive to help persons resolve differences in ways that are effective, responsive to participant interests, and consistent with fundamental conceptions of fairness and dignity.

Mediators make a special contribution to the resolution of disputes. They create a suitably dignified forum for addressing conflicts; they establish conversational guidelines for the informed, spirited exchange of information and ideas; they help disputants examine their interests and reduce their rhetoric to proposals; they capitalize on inconsistencies or latent possibilities to develop a framework for settlement; and they infuse the negotiation process with an energy and passion targeted to ensure that efforts to secure a workable, fair resolution will not fail for lack of trying.

Lawyers have particular contributions to make as mediators. They are steeped in traditions of due process. They appreciate the central contributions that capable advocates can make to a search for a resolution. They are comfortable with ambiguity. And they are problem solvers.

This course examines the mediator's role-and the contributions law-trained persons can make-in the resolution of complex, multi-party disputes. Any human drama is "complex," but this course focuses on educating and training students to serve as mediators in settings in which legal issues lace the controversy, advocates assume a central role, or social policy controversies erupt and carry consequences for various dimensions of the legal process.

ASSIGNMENTS

All reading assignments are to the texts noted above or to materials that will be distributed. Submission dates for writing assignments are noted below. Professor Archerd will assign mediation time slots at the Franklin County Municipal Court Small Claims Division and the Prosecution Resources Unit, and mediations will be observed by Professors Stulberg and/or Archerd. Students will be expected to complete at least 3 mediation sessions and write reflections on their experiences as mediators.

MEDIATOR TRAINING SESSION – SEPTEMBER 5-7, 2014*

The Role of 3rd Party Intervenors in Shaping Conversation

DATES:

Friday, September 5, 2014
Saturday, September 6, 2014
Sunday, September 7, 2014

4:00 p.m. – 7:30 p.m.
9:00 a.m. – 5:00 p.m.
9:00 a.m. – 5:00 p.m.

PLACE:

Room 245 (primary room)

TOPICS INCLUDE:

**Beginning a Mediation;
Accumulating
Information; Identifying
Issues and Structuring
Discussion; Generating
Movement; Conducting a
Caucus; and Closing a
Mediation**

GRADING

The student's course grade will be based on the following elements with the designated weights:

1.	Simulated Mediation Tape	15%
2.	Mediation Journal Reflections	15%
3.	Cornell Mediation Simulation	10%
4.	Class Presentation	15%
5.	Mediation Analysis	30 %
6.	Class Participation	15%

An explanation of each component follows.

1. Simulated Mediation Videotape

Each student shall assume the mediator's role and conduct a simulated mediation conference, beginning with a mediator's opening statement and proceeding as far as possible within a maximum 40 minute period. Role plays for the mediation will be provided in class following the Mediation Training Session. The simulation must be recorded (recording equipment will be provided through the law library services).

2. Mediation Journal Reflections

Each student shall write a reflective analysis of each mediation case in which s/he participates as a mediator or co-mediator. Each paper must be submitted to Professor Archerd within 3 *calendar* days of the completion of the respective mediation session.

Suggested length: 2 pages**

3. Cornell University Mediation Collaboration.

Each student shall write a reflective analysis examining a selected aspect of the simulated mediation that will be conducted between Ohio State and Cornell University mediation courses. The primary target of analysis must be either examining advocate conduct in the mediation – behaviors and locutions that contributed positively or negatively to the conversation – or mediator conduct that guided or shaped effective advocate conduct.

Suggested length: 3 pages**

4. Class Presentation

Members of the class will be divided into teams to examine a particular multi-party dispute. Each project team will make a "conference" presentation to the class in which members discuss targeted elements of the controversy they examined, including stake-holder identification, party contact, issue development, and intervener strategies and challenges.

Class presentation: 50 minutes

5. Mediation Analysis

Critique and evaluation of selected videotaped mediation conducted by professional mediator. Analysis will focus on selected aspect of mediator's performance, with insights informed by the application of classroom materials/readings/analyses.

Maximum length: 6 pages**

6. Class Participation

One goal of the Multi-Party Mediation Clinic is to foster a high degree of interaction and dialogue among fellow students. Various interactive exercises and applied problems require the active participation of all class members. While it is understood that unanticipated developments sometimes compel a student to miss class, class attendance and preparation is expected. Likewise, we expect students to let us know why they will or have missed a class or mediation session as soon as possible. The "Class Attendance Policy" announced in accordance with College Rule 9-08 governs this course.

We will create a TWEN-page for this class; we expect all students to sign up for access to it. We will use this form of communication primarily for purposes of inviting and answering questions that we were not able to entertain in class, to distribute questions/hypotheticals designed to facilitate our appreciation of the applied context of various assigned readings, and to handle logistical arrangements for various course projects.

***Required attendance. All sessions held at Moritz College of Law. Class meetings during the remainder of semester are adjusted to accommodate "front-loading" of training hours.**

****All written assignments must be typed. Page lengths are calculated at double-spaced, standard font (12) with Times New Roman type on 8 ½ x 11" paper. Given the nature of the written assignments and their integration into course materials and discussion, grades for any paper submitted after the designated due date will automatically be reduced by one full letter grade.**

COURSE SCHEDULE

Classes meet Monday/Tuesday of each week unless otherwise noted.

Unless otherwise noted, all reading assignments are to required course texts. (1) denotes Alfini, et al, Mediation Theory & Practice; (2) denotes Stulberg & Love, The Middle Voice; and (3) denotes Robert's Rules of Order.

WEEK OF	SUBJECT	ASSIGNMENT
August 25	(8/25) Introduction, Course Overview, and Clinic Orientation	(1)Chapter 1
	(8/26): Visit to Franklin County Small Claims Court <i>Meet in Courtroom 11D at the FCMC</i>	(2)Chapters 1-3
September 1	(9/1) <i>Labor Day – no class meeting</i>	(2)Chapters 4, 6-12
	(9/2): Guest Presentation by City Prosecution Resources Unit	
	(9/5 – 9/7) Mediation Training Session*	
September 8	Drafting Agreements	(1)Chapter 8, Appendices A and B
	Ethical Issues for Mediators	(2)Chapters 13-14
	<i>Distribution of role plays and group assignments for Simulated Mediation Videotape</i>	
September 15	Diversity in Dispute Resolution	(1)Chapter 7
	Legal Issues in Mediation	(1)Chapter 5: pp. 206-10; Appendix F
September 22	Mediation Theories and Style	(1)Chapter 4
	Mediating a Social Policy Dispute (Intro)	
	Simulated Mediation Videotape due: Monday, September 22, 2014 – 8:20 a.m.	
September 29	Mediating a Social Policy Dispute	(2)Chapter 5

	<i>(9/30) Lawrence Lecture with Director of Community Relation Services Grande Lum: Noon in Saxbe</i>	
October 6	Facilitating Public Meetings Mediating in Teams	<i>Materials to be distributed</i>
	Team Project Consultations with Professors Stulberg and Archerd	
October 13	Design and Institutionalization of Mediation	(1)Chapter 9
	<i>Distribution of Materials for Cornell Mediation Exercise</i>	
	<i>(10/13) Transformative Mediation Lecture with Tom Wahlrab: Noon in Saxbe</i>	
October 20	Mediation and the Advocate's Role	(1)Chapter 10
October 27	(10/27) \no class meeting	
	(10/28) Mediation Collaboration with Cornell University***(**Class meets on Wednesday afternoon, not morning. Precise time to be established in consultation with Cornell)	1. <i>Materials to be distributed prior to mediation exercise</i>
November 3	<i>No classes scheduled</i>	
	Cornell Mediation Analysis due on Friday, November 7, 2014 by 5:00 p.m.	
November 10	<i>No classes scheduled</i>	
November 17	<i>No classes scheduled</i>	
November 24	Student Team Presentations	(1)Chapter 11
	Careers in Mediation Perspectives on Mediation	
December 1	<i>No classes scheduled</i>	
	Mediation Analysis due Friday, December 5, 2014 by 5:00 p.m.	

