

DISPUTE RESOLUTION
Fall 2014
Prof. Paula Marie Young

CONTACT INFORMATION:

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Please feel free to contact me at any time with any comments or questions.

You can reach the Westlaw student representatives if you have troubles with TWEN.

COURSE MATERIALS:

ROGER FISHER, WILLIAM URY & BRUCE PATTON, GETTING TO YES: NEGOTIATING AGREEMENT WITHOUT GIVING IN (3d ed., Penguin Books 2011).¹

Supplemental Materials.

Role-plays and other exercises

LEARNING OBJECTIVES:

During this course, students will:

1. Understand ADR options available to solve client's problems.
2. Gain greater awareness of the use of these options.
3. Learn several conflict diagnosis tools, including the Circle of Conflict, the Thomas-Kilmann conflict styles, the interests-rights-power triangle, the Enneagram, and the empirical evidence about the reasons people file suit.
4. Better understand the psychological needs of parties in conflict.
5. Put the litigation option in context, especially in light of the "Vanishing Trial" statistics and data on the cost of misjudging the litigation option.
6. Learn basic negotiation terminology.
7. Learn basic interest-based negotiation skills.
8. Learn basic communication skills – active listening, questioning, and paraphrasing.
9. Better understand the role of emotions in negotiation.

¹ For a comprehensive list of ADR-related books, see Barbara Brown, *A Practical Bibliography of Books for the Mediation Practitioner*, <http://www.mediate.com/pfriendly.cfm?id+4738>.

10. Understand the role of the legal representative in mediation.
11. Understand significant aspects of the mediation process, including
 - a. Styles of mediators
 - b. Core values of mediation
 - c. Stages of mediation, and
 - d. Selecting a mediator.
12. Engage in a simulated negotiation as counsel or client.
13. Evaluate whether your peers acted as effective negotiators in that simulated negotiation.
14. Understand the key elements of arbitration and begin to get a sense of the difference between it and mediation.
15. Work on a group exam and use the skills learned in the course to resolve conflicts that arise in that context.
16. Complete an exam individually that requires application of theory to new facts in a problem-solving context.
17. Do exercises requiring the use of the right-side of the brain (write a role-play, sing or write mediation song, or create a cartoon caption).
18. Overall, become more sophisticated problem-solvers.

SUMMARY OF STUDENT GRADING:

Any student who needs special accommodations based on a legally protected disability must contact Professor Young as early as possible so I can make appropriate arrangements.

I will determine your final course grade by your point totals from the activities listed below. The maximum possible points for each course component are:

Creative Presentation:	40 points
<ul style="list-style-type: none"> • “Fishbowl” Role-play, or • Written Role-play, or • Mediation Song Writing or Presentation, or • Serving as a party in the 3l final co-mediation simulation in my Certified Civil Mediation course. 	
Class Participation:	
<ul style="list-style-type: none"> • Other in-class participation • Capstone Negotiation Simulation 	50 points 75 points
Exam I (graded individually)	300 points
Exam II (graded as a group)	200 points
 TOTAL Possible Points:	 665 points

Thus, a part of your grade will depend on the ability of your Buzz Group members to work effectively together and quickly resolve any conflicts that arise during the course of your interaction on the second Exam.

TWEN SITE:

I have set up a virtual classroom on Westlaw called TWEN. You may access this website through the www.lawschool.westlaw.com home page.

You must register at the site before August 31, 2014. I WILL DEDUCT CLASS PARTICIPATION POINTS IF YOU ARE NOT SIGNED UP BY THAT DATE. THE TWEN SITE WILL CLOSE TO REGISTRANTS AFTER THAT DATE.

COURSE OVERVIEW:

For top-down learners who need to see the big picture, the course is divided generally into three modules: (1) understanding the nature of conflict, analyzing disputes, and choosing dispute resolution options; (2) negotiation; and (3) mediation representation.

COURSE OBJECTIVES:

1. Develop students' skills in analyzing the nature and source of the conflict.

The course begins with classes discussing conflict, its causes, and possible interventions. You also evaluate your personal approaches to conflict and the way that approach may affect your approach to negotiation and conflict resolution. Throughout the course, we will discuss the role of context in resolving disputes and how it affects analysis and practice. For example, it may make a real difference whether a negotiation involves public or private players, repeat players or one-time participants; whether it occurs in the commercial, tort or family context; whether the parties see the negotiation context as a "deal" or a "dispute." Many practitioners and analysts would argue that differences in culture, gender, race, and personal styles have a pervasive and profound effect on bargaining dynamics and outcomes.

2. Introduce students to the different dispute resolution processes. During Class 4, I will provide a conceptual framework for thinking about the various dispute resolution processes. During later classes in Module 1, we will discuss the increasingly more limited role litigation plays in resolving disputes. Throughout the course, we will discuss the limits a traditional western litigation or "rights-based" approach poses to solving simple, two-party disputes, as well as complex, multi-party disputes. Many of the problems people face today involve many different parties with conflicting interests and needs. The traditional lawsuit is a "binary," typically two-party approach that often results in a narrow solution to a narrowly defined problem. The traditional adversary system of litigation makes one party the "loser" and the other party the "winner." One party is "wrong" and the other party is "right." It also places into narrow legal pigeonholes – defined by the *prima facie* elements of a cause of action -- problems with social, political, relationship, and financial origins. Moreover, the traditional lawsuit gives little consideration to the interests of parties whose names do not appear in the caption to the case, for example, children and grandparents affected by divorce or

neighbors affected by land use disputes. Most problems should be more broadly defined and approached first through “interest-based” processes.

3. Expand the tools in your toolbox. Until the last fifteen to twenty years, law schools typically taught only a rights-based approach to resolving conflict. Some scholars argue that this focus on litigation as the principle problem-solving technique used by lawyers led to the increase in “adversarial legalism” in the U.S. legal system. In other words, when the only tool in your toolbox is a hammer, everything looks like a nail. More recently, law schools – including ASL -- have begun to teach “interest-based” approaches. This class recognizes that lawyers need greater skill in solving problems creatively, quickly, and cost effectively using all the tools available to them.

Sixteen of the classes in the course will focus on negotiation. Your ability to participate successfully in negotiation rests on a combination of analytical and interpersonal skills. Analysis is important because negotiators cannot develop promising strategies without a deep understanding of negotiating theory, the context of the situation, the interests of the other parties, the opportunities and barriers to creating and claiming value on a sustainable basis, and the range of possible moves and countermoves both at and away from the bargaining table.

Interpersonal skills and emotional intelligence are important because negotiation is essentially a process of communication, relationship and trust building (or breaking), and mutual persuasion. These classes should make you a more reflective, analytically savvy, effective, and, in all senses of the term, better negotiator with a broader understanding of the ADR options available to solve client problems. You will get basic instruction in negotiation skills in this class. The **Advanced Negotiation** practicum (when offered) will examine advanced negotiation theory and will give students intensive negotiation simulation experience.

The **Insurance Practice and ADR** practicum (when offered) and the **Advanced Negotiation** practicum (when offered) also cover distributive bargaining over money. In addition, **the Insurance Practice and Environmental Dispute Resolution** courses cover the use of neutral fact-finders and legal neutral evaluators.

4. Prepare you to represent clients in mediation. Several classes at the end of the semester will focus on mediation representation. Most of you have not planned to become certified mediators at this stage in your careers, but it is quite possible that within the first three or five years of practice, a court, a supervising partner, or your client may wish you to participate in mediation. Accordingly, I have designed the course to focus on the role of the lawyer as a representative and strategist in a mediation.

Professor Young’s practicum course on **Certified Civil Mediation** allows those of you with an interest in becoming mediators to take the first step towards becoming a certified mediator (which, incidentally, looks good on your resume). The practicum class also covers advanced topics in mediation and would make you an even more skillful representative in mediation.

5. Give you a very brief introduction to arbitration. If you have decided, or later decide, to become an arbitrator or a more skillful advocate in arbitration hearings, Professor Young's **Arbitration and Dispute Resolution System Design** seminar (when offered) would be a step towards that goal. I will spend only one class in this course discussing arbitration.

ACTIVE LEARNING

First, this class is unlike many classes you have taken so far. Students typically have trouble at first shifting from the black letter law focus of other classes to the more conceptual, cross-disciplinary approach required in this skills-oriented course. As we discuss in the first class, we are also asking you to use more of the creative right-side of your brains rather than the analytical left-sides of your brains.

Second, in this course, you will not get by in a passive learning role. Most days you will be doing something other than sitting in your seats taking notes. In fact, you will have copies of the overheads in the Supplemental Materials or copies of the lecture slides, so note-taking definitely plays a smaller role in your learning. For the kinetic learners, we will have several moments in most classes when we will all be moving around the room or watching movement in the room. For the tactile learners, we use structured exercises and role-plays to isolate and emphasize specific analytic points and essential skills. A few of you will perform some role-plays before the whole class in "Fishbowl" exercises. You will perform most of the role-plays, however, in negotiating pairs or four-somes involving all members of the class. For visual learners, we will use visual images, cartoons, and video to illustrate points. For oral and aural learners, we will have class discussions and opportunities for you to interact with your Buzz Group. For verbal learners, you will do what makes you most successful in class – you will read the materials. For people who want to think more deeply about a topic before offering us your insight about it, I have created the Extended Class Discussion tab on the TWEN site (at the Forums button) for that delayed, and we hope more thoughtful, communication.

Third, I try to make the class as relaxed and risk-free as possible. You are learning new skills, and we should be gentle with each other as you do so. You will work hard in the class, but I also expect you will have some fun.

Assigned Readings

Your thorough preparation of the assigned readings is essential for us to engage in rigorous class discussions and effective simulation. Simulations, role-plays, and other exercises are an integral part of the course. These exercises will give you an opportunity to try out preparation tools and tactical moves, to experiment with new approaches, and to reflect on your performances. Because time is scarce, it is essential to read through the assigned readings, handouts, and role-play materials prior to class. Feel free to call or e-mail Professor Young. It may also be the type of inquiry that requires further comment from me on the TWEN site. Students may earn, or lose, points on the final grade through

consistent, intelligent contributions to class discussions and simulations, or the lack thereof. (See grading section above.)

Readings serve to provide the underlying theory supporting any type of negotiation move or ADR intervention. The readings will also help you develop intuition about more complex real-world situations. Most of the readings take the form of law review articles, Professor Young's columns published in the *St. Louis Lawyer*, and the narrative material in the text books. For some of you, the shift from the doctrinal courses you had first year (with their heavy emphasis on case law) to this class, may be a bit disorienting. Because ADR is still an emerging field, little case law exists on many of the issues we discuss. Thus, the focus of the articles and other readings will be more top-down than bottom-up learning. The articles will give you the bigger picture on a topic and we will then work more specifically with the concepts in class.

I generally treat the readings as the background information you need to participate in the exercises and role-plays. Also, you cannot perform well on the exams if you have not read the assigned material. I generally do not dissect the readings in class, so if you have a question about the readings, please raise it in class or on the TWEN site at the Extended Class Discussion tab.

“Extended Class Discussion” TWEN Postings

We have an additional forum to give people who are more reluctant to speak up in class an opportunity to earn class participation points. It also gives all of us the opportunity to extend the class discussion if we run out of time to answer your questions or to explore a topic. You can also post a comment about an ADR-related news story or a personal experience involving the skills you are learning in class. You may also comment about the representation of ADR in films and TV programs. Or, you can describe the use of ADR techniques in situations reported in news stories. Or, you might discuss how the use of an ADR process may have led to a different outcome in a situation reported in the news.

Keeping Organized

I also suggest that you organize the Supplemental Materials for this course in a large three-ring binder, by class, using number tabs for each class. If you throw all the readings and outlines in a box (one student's confession to Professor Young one year), you will not have the access you need to it to perform well on the exams.

Negotiation and Mediation Exercises

Nearly every week in Module 2, you will be assigned a role, paired with one or more counterparts, given instructions (often including confidential information), and asked to prepare and carry out an exercise before or during class. These exercises are an essential vehicle for learning in the class. One major requirement, therefore, is that you

conscientiously prepare for, carry out, and be ready to share insights from the exercises with the class.

In our class discussions, I am primarily interested in your faithful and creative participation, the quality and originality of your discussion of particular strategies, and your reflections on how you might have done better. Failure to prepare and carry out these exercises will adversely affect your class participation grade and will harm your assigned negotiation partners, whose learning experience depends on you being available and prepared.

Many of the exercises include confidential instructions. **Do not show these confidential instructions to others, unless otherwise instructed.** You may choose to discuss or reveal some of their content -- indeed, communicating your interests clearly is essential to effective negotiation or mediation -- but you must not physically show others your actual confidential instruction sheets. This rule largely mirrors reality because, for strategic reasons, in most situations you will not likely reveal all of your underlying interests and available information to your negotiating counterparts.

The instructions for the exercises are designed to be self-explanatory. **Please follow the instructions carefully.**

Though most of the negotiation and mediation exercises are extreme simplifications of reality, they intend to isolate and illuminate particular aspects that do arise in real negotiation situations. For those exercises that have fixed quantitative goals, you should take the numbers as representative of your true interests and try to do as well as you can, subject to whatever considerations of responsibility, reputation, and ethics you expect would shape your behavior in a similar real-world negotiation. For those exercises with more complex, less quantitative goals or mixed interests, you should think hard about what interests you would care about, and what trade-offs you would be willing to make, in the specified situation.

Some general rules for role players include the following:

1. Stay in the role. Each role is important and is intended to be a learning experience for the role player, the other participants, and observers.
2. If you have difficulty identifying with the role, ask for help and advice.
3. It is okay to be original and add to the four corners of the document -- just don't change the fundamental intent. Remember only you can make it real. Creativity counts for something.
4. Observers should be prepared to comment, raise questions, and provide answers to the various issues that the role-play introduces.

MORE ABOUT GRADING COMPONENTS:

CREATIVE PRESENTATIONS

Participation in 3L Final Mediation Simulation

Towards the end of the semester, I will need six to 12 volunteers to serve as parties in the 3L final mediation for the certified civil mediation course. You will play parties in a role-play, in which the 3L students will serve as the mediator. We typically hold the mediation at my home, over dinner, and the commitment of time is about 4.5 hours.

This opportunity provides the following benefits: (1) You can see the principles of interest-based negotiation put into practice, in the moment, by students who are mastering the skill; (2) You can get a glimpse of the learning available in this upper level course; (3) You get additional insight to the mediation process, which will help you on the final exam; and (4) You get a home cooked meal (usually baked chicken and other comfort foods) at a point in the semester when time to cook healthy meals and money to pay for them are running low in your life.

If you are interested, send me an email ASAP. “First-come” get this opportunity.

“Fishbowl” Role-plays

In the first module of the course (Understanding Conflict), I use student volunteers to play roles in one “Fishbowl” role-play (Fred & Mary parenting dispute). Later in the semester, I will need four volunteers for a listening exercise.

Students who volunteer for these roles earn up to 40 points and are exempt from writing the role-play required later in the course (see discussion below), singing to us, or writing an ADR-related song. I will tend to grade this portion of the class work liberally, but I expect you to be prepared. The in-class role-plays are typically about 15 minutes to 30 minutes in length.

I will plan to give the assignment to the role-players a week in advance of the assigned class. I may also provide some supplemental readings that may help students structure the presentation. Please check with me to make certain you have what you need to play your roles effectively. Fishbowl participants will typically take a position at a table at the front of the class.

Written Role-Play

If you do not volunteer to do a Fishbowl role-play before the class, to write a mediation song, to sing a mediation song, or create a cartoon caption, you will write later in the semester a role-play worth 40 points. I will submit the best of the role-plays to the ABA for use in the Representation in Mediation Competition. The ABA has used quite a few ASL role-plays in past competitions. This recognition will make a nice entry on the

students' resumes and a nice story on our website. If you like, you can begin drafting role-plays as soon as you think you understand the format. I have posted on TWEN some sample role-plays and the ABA guidelines for the role-plays. For more information see <http://www.abanet.org/dispute/mediationcomp.html>.

In drafting the role-plays, keep in mind the following guidelines:

- (1) The role-plays should contain three parts: (a) general information for both parties; (b) confidential facts for one party; and (c) confidential facts for the other party.
- (2) Draft them so either a man or a woman could play the role of the lawyer or the client, using gender neutral names like Marty, Chris, etc.
- (3) Make sure the negotiating positions of each side are reasonably balanced. In other words, don't make one side the clear winner.
- (4) Attempt to make the situation involve possibilities for integrative, "expanding the pie," interest-based negotiations, although you can put an item in the problem that requires more distributive negotiation.
- (5) Make sure both sides have the information they need to negotiate appropriately. In other words, don't disclose information about Team B to Team A, but then fail to give that same information to Team B. It can be confusing. At the same time, Team A may have information about itself that it does not want to disclose or will disclose only under certain situations to Team B and *vice versa*.
- (6) The role-play should be between three and six pages in length, although you can attach exhibits (like an excerpt from a contract).

Singing for Points

To open Module III, several students in the past agreed to sing for the class one to three mediation-related songs. Students enjoyed the songs and the singing so I will again give three or four students the opportunity to satisfy the Creative Presentation part of the class in this way. I have posted several examples of songs on TWEN. I have a hefty folder full of other examples if you want to look through it.

Other students can satisfy this requirement by writing an ADR-related song. In 2006, the ABA's *Dispute Resolution Magazine* published Andrew Call's song. When you turn in your song, be sure to include the original lyrics and the name of the performing artist.

CLASS PARTICIPATION

Your class participation grade will consist of three parts.

Other In-Class Participation

You will receive an individual grade for your class participation that does not fall within the types of class participation I have already described. I will base your "other" class

participation grade primarily on how well you contribute to the class discussions and on how enthusiastically you participate in role-playing exercises. Our goal is to learn from one another. For this approach to work, each of you must speak up in class, on a frequent basis. I expect you to make comments based on the readings and based on your prior experiences. I also expect you to ask questions of me and your fellow students. Often a good question is just as valuable as a good statement. You must be physically present to participate, so I will also factor unexcused lateness or absences into your participation grade. (See discussion of the attendance policy below.)

Capstone Negotiation Simulation

Towards the end of the semester, you will serve as the client or the client's attorney in a negotiation simulation. Your answers to the first exam will help you prepare for the negotiation. You will earn class participation points for your performance in this negotiation.

Buzz Groups

Much of the in-class work you will do in this class will be in your Buzz Group. You should choose a Buzz Group consisting of three or four persons (not five or more). You may wish to choose people you already know well, but you may also wish to associate with a person who has a different learning style, even if you do not know him or her well. By Class 4, please provide a list of the persons in your Buzz Group and a name for your group. This is your first opportunity to make your professor laugh. It is good to make your professor laugh.

The colleagues in this group will work together on various in-class exercises and on Exam II. At the end of the in-class exercises, I will ask a member of each Buzz Group to report some of the group's insights or conclusions. Students in the past said they rotated this "job" so each member of the Buzz Group earned class participation points.

EXAMS

Empirical research on learning shows that students prefer frequent, timely feedback. Unfortunately, most law school professors test once at the end of the semester. Students tend to "move on" after taking the final exam and rarely use their performance on that exam to improve their performance on the next exam. I use multiple exams, graded as quickly as I can, to provide you with early and frequent feedback. You will not have a final exam, but you will be working on Exam II prior to the exam week for this class. Each exam will be an open-book, take home exam.

I have posted sample answers to past exams on TWEN. I have also placed on reserve three things in connection with prior years' exams: (1) several of the exams that received top grades, (2) my sample answers, and (3) the grading sheets.

As a general matter, I will look for the extent to which you understand the concepts, skills and theories set out in the readings or discussed in class. I will consider how you analyze the fact pattern and apply these concepts, skills, and theories to it. Most years, the test questions do not change, but the factual scenarios do. All the exam questions will be based on the same set of facts.

When grading the exams, I am looking for the level of understanding students show in their answers. Students who apply the information, detail the analysis, and conclude do better than students whose work is merely descriptive with little detail. You should be sure to apply the theory and concepts you learn in class to the specific facts of the exam. See below.

Levels of Understanding

- Students reach a high level of understanding when they can
 - Apply the information,
 - Detail the analysis, and
 - Conclude.

- A lesser level of understanding occurs when students
 - Apply the information,
 - Come to conclusions, but
 - Give no detail in the analysis.

- An even lesser level of understanding occurs when students':
 - Work is descriptive, even if detailed.

- The lowest level of learning occurs when students':
 - Work is descriptive, but without detail.

To analogize this process to your LP experience, I give higher grades to students who do a detailed "Rule Statement," "Rule Explanation," then a detailed "Analysis," followed by a well supported "Conclusion."

Exam I

I will grade Exam I on an individual basis. You will work on this take-home exam alone, without collaboration. You will have at least four days to work on this exam.

Exam II

I will grade Exam II on a group basis. You may collaborate freely on this exam with your Buzz Group members. I encourage creative thinking in analyzing the factual problem I present. You will turn in one copy of your answers for Exam II with your Group Examination Numbers (more about this in the instructions to that exam). Most students liked the group exam and said they learned more and thought more creatively by

working with their Buzz Group members. The final work product tests not only your substantive knowledge and analytical skills, but it also tests your ability to work effectively in the group and to manage conflict. Most students felt they had developed sufficient conflict resolution skills by that time in the semester to make the process enjoyable.

However, I also heard that in a couple of groups, one member dictated the content of the final work product or assumed the role of typist and then made changes he or she did not pass by other Buzz Group members for approval.² One group inadvertently turned in an exam exceeding the page limit because the typist used the wrong font type or size. Because the group left no time for a final group proofreading session, the group had to strike about one-quarter of the exam answer from the text it had submitted to me to grade. So, the collaboration process extends right up to the time you turn in the exam. Plan to meet one more time after you have typed up the exam and before you file it, with a date/time stamp, in the drop box outside the second floor secretary's office, as specified in the exam instructions.

Here's another tip: Some groups tried to manage the time limit issue by delegating one exam question to one group member, then delegating another question to a second group member, and so on. The answers tended to be uneven in quality and not very creative. If you choose this approach, be sure you have your best writer create some uniformity in the writing style and make sure all group members vet all the answers before you turn in the exam. I have given you at least four days to work on the group-graded exam, so you should have the time to meet one more time as a group to complete final edits and improve the group effort.

Some groups worked instead as a group on each answer, jointly analyzing the question and brainstorming answers. They then had one person type up all the answers. Typically, the groups using the second approach had better scores overall, as long as one person did not dominate the group participation. The goal of this exercise is to see if you can make, in this case, four heads work better than one.

Exam Grading Penalties

In prior semesters, several students incurred exam grading penalties because they did not adhere to the margin, spacing, and font requirements I impose. These requirements appear in the instructions for the exam, and I will strictly impose them. You may not use any strategy that tries to squeeze onto more pages more text than the instructions allow. In the past, I allowed students to provide information in the form of double-spaced lists. Some students instead used single-spaced lists. In those situations, I did not grade one or two answers to the exam questions because they exceeded the page limit. Two students used 12-point fonts -- other than the permitted Times New Roman font -- that again pressed more text on to each line. In those situations, I did not grade the last answer to the exam questions. One or two students created narrower top, bottom, and side margins. They, too, incurred a grading penalty.

² This behavior could lead to an Honor Code complaint.

These violations are easy to spot because these exam answers stand out from the uniform form of the other students' answers.

Under-Performing Buzz Group Members

Any course component requiring group work raises the risk of "social loafing" by one or more members of the group. If you have an under-performing member, please follow the following protocol to attempt to resolve the problem:

1. Give the under-performing member explicit feedback that his/her performance is unacceptable;
2. Give the under-performing group member a fair chance to improve or remedy the unacceptable performance;

It will require you to manage any conflicts in the group early, frequently, and effectively, using any of the dispute resolution skills we learn in class. I will play a part in this process as needed, so contact me if you have concerns about a group member.

ATTENDANCE POLICY:

Attendance is mandatory. I will take attendance every day. If you miss more than four classes, I will either dismiss you for excessive absences or fail you. I will also factor tardiness and absences into your class participation grade. If you do need to miss a class and you have a valid excuse, please write me a note or send me an e-mail in advance of class. Excused absences will still count against the four-class absence.

I treat non-preparedness as an absence. If I call on you and you are unprepared you will also be marked absent.

In addition, a student will violate the Code of Academic Conduct when:

- (7) requesting that another person sign a student's name on the attendance sheet during a class that he or she did not attend, arrived late for or left early for, or signing another student's name on an attendance sheet.

OTHER CLASSROOM MATTERS:

Use of computers in class: The law school faculty adopted a provision of the Academic Standards providing that:

Use of computers during class periods for any purpose other than note-taking is prohibited. The instructor may establish a more restrictive computer use policy.

This rule, as I interpret it, includes smart phones and tablets.

In keeping with this policy, not only will I refer any violator of this rule to the Dean for appropriate disciplinary action, but I will also count any violator as absent for the day. Please note that Article III, B of the Academic Standards provides: “Any student who has reason to believe a violation of the Code of Academic Conduct has occurred must report that belief to the Dean. Failure to do so is a violation of the Code of Academic Conduct.”

As a pedagogical and career matter, you have a strong interest in ensuring that the school maintains its ABA accreditation to increase the value in the marketplace of your degree from this school. During an ABA site inspection, the inspector expressed great distress at the number of students surfing the net, playing games, downloading music, and engaging in extended e-mail conversations with friends during class. This behavior puts this institution and your career opportunities at risk. Please don't do it in our class.

BIOGRAPHICAL INFORMATION:

I think you should know your audience. If you want to learn more about me, please see my resume on TWEN.

I also ask that you complete the Biographical Information Sheet that I included in the reading assignment for the first class. A copy of it appears at the end of the syllabus. It gives me more information about my audience. Please return that information sheet to me during Class 5.

OFFICE HOURS:

I will hold official office hours on **Monday and Wednesday, 10 a.m. to noon** Other times by appointment. My door is usually open, so please feel free to talk with me if I am in my office at other times. I am also available by e-mail and home phone.

LAWYER AS PROBLEM SOLVER CURRICULAR PROGRAM:

ASL offers a curricular program called the Lawyer as Problem Solver. This program has a broader reach than programs at some other schools that focus only on alternative dispute resolution. The Lawyer as Problem Solver program focuses on the role of the modern attorney in facilitating problem solving for clients both inside and outside of the courtroom. The program seeks to provide students with the skills they need to effectively serve their clients, including skills in oral and written communication, interviewing and counseling, negotiation, dispute resolution, coalition-building, decision-making, teamwork, and leadership.

The requirements for the certificate appear in the Module I Supplemental Materials and on the TWEN site. If the faculty makes any changes in them, I will let you know.

About 20 percent of each graduating class has earned the certificate since its inception.

For more about the certificate program and the ADR opportunities at ASL, see my blog postings:

<http://the-red-velvet-lawyer.blogspot.com/2013/08/back-to-school-asls-unique-dispute.html>

<http://the-red-velvet-lawyer.blogspot.com/2013/10/student-organizations-adr-society.html>

WEBSITES YOU MAY FIND USEFUL:

Quite a few web sites are devoted to ADR. Some examples include:

Virginia:

<http://www.courts.state.va.us/drs/> (main webpage for court-connected programs)

<http://www.courts.state.va.us/drs/training/home.html> (information about certification requirements in Virginia)

<http://www.courts.state.va.us/drs/forms/home.html> (Virginia related mediation forms)

<http://www.courts.state.va.us/cmcl/cmcl.htm> (forum for Virginia related mediation networking)

<http://www.nvms.us/> (family mediation training programs)

<http://www.vamediation.org/> (Virginia Mediation Network – state mediator organization)

<http://rjav.org/> (Restorative Justice Association of Virginia)

Tennessee:

<http://www.tsc.state.tn.us/geninfo/Programs/ADR/adrdir.asp> (about court-connected program)

http://www.tsc.state.tn.us/OPINIONS/TSC/RULES/TNRulesOfCourt/06SUPCT25_end.htm#31 (Rule 31 roster requirements)

Kentucky:

<http://courts.ky.gov/stateprograms/mediation/> (main webpage for court-connected programs)

<http://courts.ky.gov/stateprograms/mediation/mediationforms.htm> (roster forms and information)

West Virginia:

<http://www.state.wv.us/wvsca/familyct/cover.htm> (family mediation program)

North Carolina:

<http://www.nccourts.org/Courts/CRS/Councils/DRC/Default.asp> (North Carolina Dispute Resolution Commission main webpage)

<http://www.nccourts.org/Courts/CRS/Councils/DRC/MSC/Rules.asp> (mediation program rules; Rule 8 provides certification requirements)

South Carolina:

<http://www.sctbar.org/member/adr/training.asp> (training)

<http://www.judicial.state.sc.us/courtReg/displayRule.cfm?ruleID=15.0&subRuleID=&ruleType=ADR> (certifications requirements)

Maryland:

<http://www.courts.state.md.us/macro/> (main web page for court-connected mediation programs)

http://www.peoples-law.org/core/mediation/how_do_I_become.htm (information about becoming a mediator)

Georgia:

<http://www.godr.org/odr.html> (main webpage with links to roster requirements, training, and ethics rules)

<http://www.godr.org/forms.html> (roster/registration forms)

Florida:

http://www.flcourts.org/gen_public/adr/index.shtml (main webpage with links to certification requirements and ethics rules)

Pennsylvania:

<http://www.courts.state.pa.us> (main web page with searchable links to mediation related information)

http://www.divorcenet.com/states/pennsylvania/evolution_of_mediation (article about history of mediation in state)

<http://www.pacode.com/> (Civil Procedure Rules Title 231 sections 1940.1 to 1940.8 governing custody mediation, including mediator qualifications)

<http://www.pacode.com/secure/data/231/chapter1940/s1940.4.html> (mediator qualifications)

<http://www.courts.state.pa.us/index/aopc/pressreleases/prrel06o06.asp> (press release about appellate mediation program)

Ohio:

<http://www.disputeresolution.ohio.gov/resources.htm> (main web page for Ohio Commission on Dispute Resolution & Conflict Management)

National & International Organizations:

<http://www.acresolution.org> (Association for Conflict Resolution (ACR))

<http://www.mediate.com/acrfamily/> (ACR Family Section with links to approved family mediation training programs)

<http://www.abanet.org/dispute/home.html> (ABA Dispute Resolution Section)

<http://www.nafcm.org/> (National Association for Community Mediation (NAFCM))

<http://www.afccnet.org> (Association of Family and Conciliation Courts (AFCC))
<http://www.aaml.org/i4a/pages/index.cfm?pageid=1> (American Academy of Matrimonial Lawyers)
<http://www.iamed.org/index1.cfm> (International Academy of Mediators)
<http://www.iccwbo.org/> (International Chamber of Commerce)
<http://www.voma.org/> (Victim-Offender Mediation Organization)
<http://www.attorney-mediators.org/> (Association of Attorney-Mediators)

Other ADR Resources:

<http://www.cardozo.yu.edu/kukin/ADRResources.asp> (ADR resource list, including graduate ADR programs)
<http://www.apeace maker.net> (National Conference on Peacemaking and Conflict Resolution)
<http://www.igc.apc.org> (Conflict Resolution Center International)
<http://www.mediate.com> (gathering spot for mediators with articles of interest)
<http://www.Colorado.EDU/conflict/> (collecting ADR resources)
<http://www.cpradr.org/> (Center for Public Resources)
<http://www.adrworld.com/> (source of news about use of ADR, court decisions, legislative and rule development)
<http://www.caadrs.org/index.htm> (source of research about ADR)
<http://www.emu.edu/ctp/contact.html> (Eastern Mennonite peace building program)
<http://www.hamline.edu/law/adr/index.html> (Hamline webpage with links to ethics video clips and mediation case law project)
<http://www.ictj.org/en/index.html> (International Center for Transitional Justice)
<http://www.josseybass.com/WileyCDA/Section/id-131471.html> (publisher's list of ADR books)
<http://www.nccusl.org/Update/> (site for drafts and final version of Uniform Mediation Act; legislative adoption information)
<http://www.ncsconline.org/WC/Publications/ADR/SearchState.asp> (National Center for State Courts database on state court ADR programs – data may not be current)
<http://www.pon.harvard.edu/> (Program on Negotiation – Harvard Law School; has training videos (mostly dated) and role-plays)
<http://www.law.missouri.edu/llm/> (LL.M. program at University of Missouri)

Third-Party Providers:

<http://www.jamsadr.com> (a dispute resolution organization)
<http://www.adr.org/> (American Arbitration Association)
<http://www.arb-forum.com> (National Arbitration Forum)
<http://www.dr.bbb.org/> (Better Business Bureau dispute resolution program)
<http://www.mccammongroup.com/> (The McCammon Group – Virginia)

Semester: _____ Year: _____

DISPUTE RESOLUTION
Biographical Information Sheet

You will complete this two-page sheet over the course of two class periods-- Classes 1 and 5 -- as you read about and complete two self-assessment exercises. Plan to return the completed form to Professor Young at the end of the second class.

I will keep the information in this survey confidential, other than to report aggregate numbers. For instance, I might mention in class or in an article that one-third of the students in the class identify themselves as tactile learners.

* * *

Name:

Hometown:

Undergraduate major:

College or university:

Any advanced degrees or special training:

Prior occupations and work expertise:

Hobbies:

Biographical Information Sheet (cont.)

Name: _____

Social, political, or religious interests you choose to share with me (you are not required to disclose this information):

Class 1 Materials: Information Absorption Style (indicate by using the number 1 and 2 for your dominant (1) and secondary (2) absorption style) (**choose only 2**):

_____ verbal _____ visual _____ oral
_____ aural _____ tactile _____ kinesthetic

Information Processing Style (**choose one in each pair**):

_____ left-brained _____ right-brained
_____ holistic _____ serialist
_____ top-down _____ bottom-up
_____ reflective _____ impulsive

Motivation (**choose one in the pair**):

_____ extrinsic _____ intrinsic

Class 5 Materials: Score on Thomas-Kilmann Conflict Mode Instrument (p. 6)(transfer to this sheet the numerical scores for each column):

Competing:___ Collaborating:___ Compromising:___ Avoiding:___ Accomodating:___

Enneagram Type: _____ Wing (if you could determine): _____

Thank you.

**Dispute Resolution
Fall 2014
Class Points Checklist**

Individual Point Accumulation:

Creative Presentation	40 points
Party in 3L Co-mediation Simulation <u>or</u>	
Fishbowl role-play <u>or</u>	
Written role-play <u>or</u>	
Mediation-related song performance <u>or</u>	
ADR-related song composition	
Due Date: Final exam turn-in day.	
Class Participation:	
- Other in-class	50 points
- Capstone Negotiation Simulation	75 points
Due Date: Last day of classes.	
First Exam (individual)	
Due Date: 4:30 p.m. as indicated in class calendar	300 points
Second Exam (group)	
Due Date: 4:30 p.m. as indicated in class calendar	200 points
TOTAL Possible Points:	665 points

Dispute Resolution
Professor Paula Marie Young

Fall 2014
Class Key

All classes meet in Trial Courtroom unless otherwise indicated or announced.

Make-up Classes: Sept 29, 2014 by webinar. We may have additional webinar make-up classes if I am assigned to an Admissions recruiting trip later in the semester.

Module 1: Understanding Conflict

Class 1: Monday, Aug. 18, 2014: Introduction to Course

Class 2: Wednesday, Aug. 20, 2014: Personal Conflict-Handling Styles

Class 3: Monday, Aug. 25, 2014: Approaches to Conflict

Class 4: Wednesday, Aug. 27, 2014: Overview of Available Dispute Resolution Processes

No Class: Monday, Sept. 1, 2014, Labor Day Holiday.

Class 5: Wednesday, Sept. 3, 2014: Naming, Blaming & Claiming

Class 6: Monday, Sept. 8, 2014: Sphere of Conflict

Class 7: Wednesday, Sept. 10, 2014: Role of Litigation in Dispute Resolution

Class 8: Monday, Sept. 15, 2014: Role of Litigation in Dispute Resolution (cont.)

Class 9: Wednesday, Sept. 17, 2014: Role of Litigation in Dispute Resolution (cont.)

Module 2: Interest-Based Negotiation Theory & Techniques

Class 10: Monday, Sept. 22, 2014: Styles of Negotiation

Class 11: Wednesday, Sept. 24, 2014: Clear Communication – Active Listening Skills
- Will need four fish-bowl volunteers

Class 12: Monday, Sept. 29, 2014: Clear Communication – Active Listening Skills (cont.)
- Watch webinar and complete quiz. See handouts for quiz. I will be returning from the Fall Conference of the Virginia Mediation Network.
o Link to webinar:
<http://webinarjam.net/webinar/go/replay/3339/dcc35d7623/accessork/>

- Class 13:** *Wednesday, Oct. 1, 2014: Getting to Yes, Part I: Clear Communication Questioning*
- Class 14:** *Monday, Oct. 6, 2014: Negotiating Games and Techniques; Psychological Entrapment*
- Class 15:** *Wednesday, Oct. 8, 2014: Preparing to Negotiate; Negotiating Terminology and Developing BATNAS*
- Class 16:** *Monday, Oct. 13, 2014: The Preliminary Stage*
- Class 17:** *Wednesday, Oct. 15, 2014: Informational Stage; Focus on Interests, Not Positions*
- Class 18:** *Monday, Oct. 20, 2014: Cooperative-Integrative Stage; Focus on Interests, Not Positions (cont.)*
- Class 19:** *Wednesday, Oct. 22, 2014: Standing in the Other Person's Shoes; Clear Communication – Paraphrasing; Three Kinds of Empathy*
- Class 20:** *Monday, Oct. 27, 2014: Generate a Variety of Options*
- Class 21:** *Wednesday, Oct. 29, 2014: Insist on Using Objective Criteria*
- Exam I distributed: Wednesday, Oct. 29, 2014 at 9:00 a.m., by e-mail and via TWEN.*
- Class 22:** *Monday, Nov. 3, 2014: Closing Stage; Negotiation Wrap-up*
- Exam I Question Cut-off Deadline: Monday, Nov. 3, 2014 at 5 p.m.*
- Class 23:** *Wednesday, Nov. 5, 2014: Emotions in Negotiation*
- EXAM I DUE: Friday, Nov. 7, 2014 by 4:30 p.m. in drop box outside the 2d Floor secretarial station, along with required certification and date-stamped.*
- Class 24:** *Monday, Nov. 10, 2014: Capstone Negotiation*

Module 3: Representing Parties in Mediation

Class 25: Wednesday, Nov. 12, 2014: Ground Rules; Stages of Mediation

Class 26: Monday, Nov. 17, 2014: Mediator Approaches and Orientations

Class 27: Wednesday, Nov. 19, 2014: Mediator Approaches and Orientations (cont.)

Exam II Question Cut-off Deadline: Friday, Nov. 21, 2014 at 5 p.m.

No Class: Thanksgiving Break: Nov. 24-26, 2014.

Class 28: Monday, Dec. 1, 2014: Post-Negotiation Assessment; Capstone Negotiation De-Briefing/Awards

EXAM II DUE: Monday, Dec. 1, 2014 by 4:30 p.m. in drop box outside the 2d Floor secretarial station, along with required certification and date-stamped.

*Dispute Resolution
Fall 2014
Class Assignments List*

*Please refer to the “Class Key” for the specific dates of each class,
including make-up classes, and exams.*

MODULE 1: Understanding Conflict

Class 1:

Introduction to Course.

Readings: Supplemental Materials, pp. 1-1 to 1-40.

- Press Release, *Unique Aspects of ASL’s Alternative Dispute Resolution Program Highlighted on ABA-Sponsored Website* (2013).
- Paula Marie Young, *Law Practice Areas: What’s Hot and What’s Not in the Legal Profession (2007-2013)*, THE RED VELVET LAWYER (Dec. 4, 2013).
- Excerpt from RICHARD SUSSKIND, TOMORROW’S LAWYERS (2013).
- Jill Chanen, *Is there a Specialist in the House?*, ABA JOURNAL, July 2008, at 11.
- Outline of thesis from DANIEL PINK, A WHOLE NEW MIND: WHY RIGHT-BRAINERS WILL RULE THE FUTURE (2008).

Planned Activities:

- *Discuss perceptions about class and ADR;*
- *Discuss ADR in law schools;*
- *Discuss of left-mode/right-mode brain characteristics.*

Class 2:

Understanding Conflict, Part III: Personal Conflict-Handling Styles.

Readings:

- **Module 1 Supplemental Materials.**

Additional Class Prep:

- *Read and complete Thomas-Kilmann Conflict Mode Instrument before class.*
- *Transfer data to Biographical Information Sheet (at end of Syllabus or at the end of Class 1 Supplemental Materials); turn in sheet at end of class.*

Planned Activities:

- *Discuss personal conflict styles;*
- *Buzz Group exercise applying conflict styles to factual situation.*
- *Discuss use of Sample Ground Rules for Effective Groups*

Class 3:

Understanding Conflict, Part I: Approaches to Conflict

Readings:

- **Module 1 Supplemental Materials.**

Planned Activities: Choose Buzz Group members and name for Buzz Group

- **Short lecture on power-based, rights-based, and interest-based approaches to conflict;**
- **Watch and analyze movie clip from John Q.**

Class 4:

Overview of Available Dispute Resolution Processes.

Readings:

- **Module 1 Supplemental Materials.**

Planned Activities:

- **Lecture on dispute resolution processes;**
- **ADR “Tools and Toys” show.**

Class 5:

Understanding Conflict, Part II: Opportunities Inherent in any Crisis or Conflict; Naming, Blaming, Claiming.

Readings:

- **Module 1 Supplemental Materials.**

Planned Activities:

- **Provide list of Buzz Group members and name for group;**
- **Obtain volunteers for first fishbowl role-play exercise (Fred & Mary divorce dispute for Class 6);**
- **Identify student attitudes about conflict;**
- **Discuss benefits and downside risks of conflict;**
- **Short lecture on naming, blaming, claiming;**
- **Discuss concepts;**
- **Short lecture on dispute pyramids.**

Class 6:

Understanding Conflict, Part IV: Sphere of Conflict.

Readings

- **Module 1 Supplemental Materials.**

Planned Activities:

- **Fish bowl role-play with Fred and Mary (unfacilitated positional/adversarial negotiation), with de-briefing.**

Class 7:

Role of Litigation in Dispute Resolution; Choice of Process.

Readings:

- **Module 1 Supplemental Materials.**

Planned Activities:

- **Lecture on role of litigation in dispute resolution;**

Class 8:

Role of Litigation in Dispute Resolution (cont.)

Readings:

- **Module 1 Supplemental Materials.**

Additional Class Prep:

- **Please read the Vanishing Trial Discussion Questions before class. I have assigned each Buzz Group one or more sets of questions. You should plan to discuss your answers to those questions in Classes 8 and 9.**

Planned Activities:

- **Buzz Group discussion of the Vanishing Trial questions.**

Class 9:

Role of Litigation in Dispute Resolution (cont.)

Readings:

- **Module 1 Supplemental Materials.**

Planned Activities:

- **Continued Buzz Group discussion of the Vanishing Trial questions.**

MODULE 2: Interest-Based Negotiation Theory & Techniques

Class 10: *Styles of Negotiation*

Readings:

- **Getting to Yes, pp. 19- 41 (separate the people from the problem); 159-170 (Q4, Q5 & Q6); 181-185 (Q10 - good working relationship as source of power).**
- **Module 2 Supplemental Materials.**

Planned Activities: Lecture on Schneider study of effective negotiators.

Class 11: *Getting to Yes, Part I: Clear Communication - Active Listening Skills.*

Readings:

- *Getting to Yes*, pp. 35-39 (review communication), 55-56 (soft on people; listening as a response to attacks); 185-188 (communication as a source of power).
- *Module 2 Supplemental Materials.*
- **Additional Class Prep:** Complete listening skills tests from Madelyn Burley-Allen, *Listening: The Forgotten Skill* (1995) in the Supplemental Materials.
- **Other Optional Resources:**
 - o http://humanresources.about.com/od/interpersonalcommunication/a/nonverbal_comm.htm (regarding non-verbal communication)

Planned Activities: Discussion of listening skills self-tests. Short lecture on essential components of good listening skills. Exercise with four fishbowl volunteers designed to highlight listening skills.

Class 12: *Clear Communication - Active Listening Skills (cont.)*

Readings:

- **Module 2 Supplemental Materials.**
- Additional Class Prep:*
- **Watch webinar.**
 - o **Link to webinar:**
<http://webinarjam.net/webinar/go/replay/3339/dcc35d7623/accessok/>
 - **Complete listening skills quiz from Madelyn Burley-Allen, *Listening: The Forgotten Skill* (1995), in *Supplemental Materials.***

Planned Activities: Short webinar lecture on listening skills. Short webinar lecture on empathetic listening. Quiz.

Class 13: *Getting to Yes, Part I: Clear Communications – Questioning.*

Readings:

- **Getting to Yes, pp. 113-114 (ask questions and pause).**
- **Module 2 Supplemental Materials.**

Planned Activities: Film clip from 40-Year Old Virgin. Short lecture on four communications skills need in negotiation (overview). Short lecture and exercises on questioning techniques.

Class 14: *Negotiating Games and Techniques; Psychological Entrapment*

Readings:

- **Getting to Yes, pp. Introduction, 1-15 (don't bargain over positions) & 131-145 (taming the hard bargainer).**
- **Module 2 Supplemental Materials.**

Planned Activities: Short lecture on hard-bargaining tactics. Video negotiation of the Hollywood Divorce. De-briefing of video.

Class 15: *Preparing to Negotiate; Negotiating Terminology and Developing BATNAs.*

Readings:

- **Getting to Yes, pp. 99-108 (re BATNA); 181 & 190-191 (BATNA as source of negotiating power).**
- **Module 2 Supplemental Materials.**

Planned Activities: Definitions – ZOPA, reservation value, zero sum or distributive negotiation, BATNA, WATNA, & MLATNA. Sara & Jim's car negotiation. Pretty Woman film clip. De-brief clip.

Class 16: *The Preliminary Stage*

Readings:

- **Getting to Yes, pp. 170-175 (Q7).**
- **Module 2 Supplemental Materials.**

Planned Activities: Lecture on four-part recipe for negotiating success & criteria for judging a successful negotiation. Fred & Mary mediation.

Class 17: *Informational Stage; Focus on Interests, Not Positions*

Readings:

- **Getting to Yes, pp. 42-57, 153-155 (Q1).**
- **Module 2 Supplemental Materials.**

Planned Activities: Pulp Fiction clip. De-briefing clip. Cake dispute negotiation exercise. De-briefing exercise.

Class 18: *Cooperative-Integrative Stage; Focus on Interests, Not Positions (cont.)*

Planned Activities: For Love or Money interest-identification exercise. De-brief exercise. Discuss Axelrod's tit-for-tat strategy.

Class 19: *Standing in the Other Person's Shoes; Clear Communication -- Paraphrasing.*

Readings:

- **Getting to Yes, pp. 35-39** (review communication); 55-56 (review *hard on the problem, soft on the people*); 78-81 (make their decision easy); 109-130 (negotiation jujitsu); 186-188 (review paraphrasing as source of power).
- **Module 2 Supplemental Materials.**

Planned Activities: **Finish de-briefing of For Love or Money interest-ID exercise (if needed).** Short lecture on standing in the opponent's shoes. **Film clips: Thirteen Days & Fog of War.** Discussion of film clips. **Paraphrasing exercise involving all class members.**

Class 20: *Generate a Variety of Options.*

Readings:

- **Getting to Yes, pp. 58-77** (inventing options for mutual gain) & 175-181 (Q8 & Q9).
- **Module 2 Supplemental Materials.**

Additional Class Prep: **Review For Love or Money Role-play (Classes 16 & 17)**

Planned Activities: **Short lecture on brainstorming ground rules. Apply brainstorming techniques to For Love or Money role-play.**

Class 21: *Insist on Using Objective Criteria.*

Readings:

- **Getting to Yes, pp. 82-95; 155-159 (Q2 & Q3).**
- **Module 2 Supplemental Materials.**
- *Internet:*
 - o <http://www.nalp.org> (go to Research & Directories to find data on law salaries)
 - o <http://www.juryverdicts.com> (just look at this site to see what's there; you will not be specifically tested on its content)

Planned Activities: **Lecture on Jury Verdicts material; Plumber's Storefront role-play.**

Exam I distributed by e-mail and via TWEN. See Class Key for exact date and time.

Class 22: *Closing Stage; Negotiation Wrap-Up*

Readings:

- **Getting to Yes, pp. 149-150 (in conclusion).**
- **Module 2 Supplemental Materials.**

Planned Activities: Lecture on risks of bargaining styles, information disclosure, choosing an approach, leading the way (some examples), and realistic optimism. Film clip: Intellectual Property Conflict (if time). Discussion of clip.

Exam I Question Cut-off Deadline. See Class Key for exact date and time.

Class 23: *Emotions in Negotiation.*

Readings:

- **Getting to Yes, pp. 31-35 (emotion); 50-51 (review basic human needs); 159-163 (review Q4).**
- **Module 2 Supplemental Materials.**

Planned Activities: Discussion of the role of emotions in conflicts and negotiations. Skills in managing emotions. Silent negotiation exercise involving all class members.

EXAM I DUE in drop box outside the 2d Floor secretarial station, along with required certification and date-stamped. See Class Key for exact date and time.

Class 24: *Capstone Facilitated Negotiation.*

Readings:

- **Module 2 Supplemental Materials.**
- **Exam Facts will serve as the basis for the negotiation simulation.**

MODULE 3: Representing Parties in Mediation

Class 25: *The How of Mediation: Ground Rules and Stages of Mediation.*

Readings:

- **Module 3 Supplemental Materials.**
 - *Dispute Resolution Spectrum*
 - *Definitions of Mediation*
 - *Paula M. Young, The “What” of Mediation: When is Mediation the Right Process Choice? (2007).*
 - *Virginia Mediation Statistics (2004-05)*
 - *Core Values of Mediation*
 - *Stages of Mediation Process*
 - *Sample Mediation Ground Rules*
 - *Red Devil Dog Lease Mediation Role Play*
 - *Process Analysis Questions*

Planned Activities: Lecture on ground rules and stages of mediation; video demonstration of mediation in Red Devil Dog dispute; de-brief video.

Class 26: *The Who of Mediation: Mediator Approaches and Orientations.*

Readings:

- **Module 3 Supplemental Materials.**

- *Paula M. Young, The Who of Mediation – Part II: Wisely Choosing a Mediator (2006).*
- *Leonard Riskin, Replacing the Mediator Orientation Grids, Again: Proposing a “New New Grid System,” 23 Alternatives 127 (2005).*
- *Styles of Mediation*
- *Strategies and Techniques of Mediator in Various Orientations*
- *What Mediator Questions May Reveal About his/her Style*
- *Evaluation in Mediation in Virginia*

Planned Activities: Mediation songs; lecture on old and new Riskin grids.

Class 27: *The Who of Mediation: Mediator Approaches and Orientations (cont.).*

Planned Activities: Continue discussion of mediator styles.

Exam II distributed: See Exam I for questions. See Class Key for exact date and time.

- *Be sure to get a Group Exam Number from Student Services.*

Exam II Question Cut-off Deadline. See Class Key for exact date and time.

Class 28: *Post-Negotiation Assessment; Capstone Negotiation De-briefing/Awards*

Planned Activities: De-brief capstone experience. Give out awards for best outcomes.

EXAM II DUE in drop box outside the 2d Floor secretarial station, along with required certification and date-stamped. See Class Key for exact date and time.