

July 21, 2019

FR: Professor Marjorie Corman Aaron
TO: Students in the Negotiation Course
RE: Attendance, Participation, Reading, Grading and the Journal

I look forward to working with you in the Fall 2019 Negotiation Course. Now that you've enrolled, it seems appropriate to review grading, writing requirements, and other important policies relating to the course.

Attendance and Participation

It is absolutely essential that you come to class, and that you are *ready, willing, and able to participate fully each week*. Because we meet for weekly three-hour class sessions, missing one class is missing two or more traditionally timed classes. If you *must* be absent, please let me (the professor) know in advance.

Absences will be "excused" for things like serious illness and extreme family emergencies. Unexcused absences will **dramatically and negatively** affect your grade. Even if an absence was excused, you will be expected to "make up" any missed class. The make-up assignment generally involves our figuring out an alternative way for you to experience the missed in-class negotiation. At some point, even excused absences (generally two or more), will make it impossible for you to pass the course. In short, in order to negotiate, you have to be there.

If you are absent, whether excused or not, **you are responsible for obtaining any handout of your assigned negotiation role information for the next week's class and completing necessary preparation**. If at all possible, please try to arrange this with a classmate who can pick up your role in class and get it to you. **PLEASE DO NOT LEAVE THIS TO THE MORNING BEFORE CLASS**, and come to my office looking for a copy. What if I'm not there? Plus, then I'll know you weren't terribly well prepared.

"Ready, willing, and able" to participate fully means prepared for your role in the week's negotiation, including having conferred with a partner or team, if that was part of the assignment. Unprepared students diminish their classmates' opportunity to learn from in-class negotiation.

What is participation (in addition to being there)? Participation means being fully engaged in any in-class exercises or negotiations, as well as subsequent class discussion. When you negotiate, you should "take on" the assigned role. If you do not take it seriously, the value of the negotiation is lessened for all. When we are debriefing a negotiation or discussing the readings, participation means talking, disagreeing, or expressing criticism or your own frame on the topic. (If you have done the reading, you are far more likely to make a valuable contribution.) Class comments incorporating and referencing the reading will be positively noted! The quantity and quality of your class participation will be recorded as the course progresses.

Good participation requires and includes preparation, **particularly preparation with your negotiation team and with your client, when we move into the latter portion of the course.** During the month of November, you will be required to prepare with a REAL FAKE client and then to participate in a negotiation session with your client, and opposing counsel and his/her/their client. Depending upon whether you are working as co-counsel or solo counsel, this will mean coordinating two to three and then four to six people's schedules. The client prep meeting and the negotiation are part of required participation.

Note: there will be an extended class session October 23, to 7:30ish. I am happy to orchestrate a "pizza pool" (or other food the class elects). Please do clear your calendars for that evening, and arrange for childcare, substitute soccer coaches, whatever is necessary. [If it turns out that class members have a conflict with another UC Law course on Tuesday evenings, we will come up with a Plan B. But I very much hope that those evenings will work for all.]

Class participation will "count" as up to 20% of your final grade.

Reading

The bad news: the reading is "required" unless listed as optional. The good news: the reading is generally practical and interesting, REALLY!

What does "required" mean? I would be lying if I said that in each week's class, someone will be asked recite the thesis and argument stated in an article, similar to recitation of case facts and holding in many law school courses. During some weeks, readings will be explicitly discussed. Many other weeks, this will not be true. However, your ability to speak well in class (even referencing an article or two) will be enhanced if you have read them. Just as important, your journal should include discussion of the readings and how these did or didn't relate to the negotiation analyzed in your journal entry.

So why does the syllabus say required, if we may not directly discuss a particular reading? The readings are designed to assist your effective participation in negotiation exercises and in journal analysis. Also, to be a negotiation student of any seriousness, you should have encountered certain authors and concepts. When the course is done, and someone asks if you have heard of Howard Raiffa, Roger Fisher, William Ury, James Sebenius, Michael Watkins, Michael Wheeler, Max Bazerman, Margaret Neale, Jeanne Brett, or Charles Craver, to name a few, I want you to be able to say "yes." You might view this course as a chance to dabble a bit in negotiation literature. Some of it will be good cocktail party filler, and who knows, it might help you negotiate better!

Access to the readings:

The required course text is Deepak Malhotra and Max Bazerman, *Negotiation Genius* (Bantam, 2008). This book should be available at the bookstore or through any popular website: Amazon, Barnes and Noble, etc.

As detailed in the syllabus, the other reading will be available on TWEN in pdf, coded by the week. Alternative readings are available from two additional books on closed reserve, just in case you'd like to veer off the common path. Again, see the syllabus for details.

Required Submissions – Also Known as the Basis for Your Grade (in addition to up to 20% for class participation, or lack thereof).

1. Six Negotiation Journal Entries – at least 40% of Final Grade

Your Final Analytical Negotiation Journals Should Consist of 7 entries linked to specific classes and their negotiation exercises, including:

- Three entries, **one for each of Classes 1, 2, 3, covering themes raised by** the simulations/exercises, in class discussion, and in related assigned reading. These entries should be annotated before final submission to include subsequent insights. (Your first versions of these three entries will be due **in class on September 12**. I will provide comments and feedback and return them to you as soon as possible.)
- A fourth “your choice” entry focusing on the themes, experience and readings from any one of Classes **4, 6, or 7**. This entry should be annotated before final submission to include subsequent insights.
- A fifth entry focused on MAPO (covering group process/planning lessons from Lego and applied in MAPO, the MAPO negotiation, and the aftermath – your negotiation strategies, process, results, insights from reflection, discussion, readings, etc. This entry should be annotated before final submission to include subsequent insights.
- A sixth entry, focused on all of Bio-Con Microtex (covering client preparation, your negotiation process, strategies, progress, and the aftermath – results, insights from reflection, discussion and readings, etc.).

The suggested length for the first four entries is 2-3 pages (likely closer to 3 after annotation); the last two entries are likely to be in the 4-5 page range.

The first three Journal Entries are due on Friday, **September 7**. I WILL REVIEW AND MARK THEM UP, PROVIDING COMMENTS, CRITIQUE and GUIDANCE. I will not GRADE these submissions. Note, only those students who turn in journal entries on time will receive this early feedback. All students are advised to annotate these initial entries based upon what they learn later in the course.

Because your “analytical journal” entries will be a major component of your grade (40%), it seems only fair to explain my expectations. There is no single format to a successful journal. Here are some guidelines:

- *Do* write in your journal as the course progresses.
- The journal should be self-reflective: reflecting on your negotiation experience in the particular week's exercise as well as what you learned from class discussion and the readings. (If applicable, you may also incorporate discussion of a "real life" negotiation that presented a similar structure or problem).
- WHILE YOU NEED NOT INCLUDE A BLOW-BY-BLOW DESCRIPTION OF EVERYTHING THAT HAPPENED DURING A PARTICULAR NEGOTIATION, YOU SHOULD PROVIDE ENOUGH DETAIL ABOUT YOUR NEGOTIATION PROCESS FOR ME TO UNDERSTAND THE BASIS FOR YOUR REFLECTIONS AND CONCLUSIONS. In other words, it is not helpful for you to write: "I did a good job in this negotiation because I ended with X deal." Or "I settled for \$Y and that was low. I could have done better." Rather, the journal should enable me to see how you arrived at that end. Most important, you should analyze and discuss:
 - What worked well, and why;
 - What you could/should have done differently that might have been more effective, and why (based on the readings, discussion), and what impact that might have had;
 - Obstacles to progress or a good outcome and how you overcame (or wished you had overcome) them.
 - What prescriptive advice you would give someone about to undertake a similar "real life" negotiation.
- **YOUR JOURNAL ENTRIES SHOULD BE ANALYTICAL, AND SHOULD REFERENCE, INCORPORATE, AND APPLY THE TERMINOLOGY AND IDEAS FROM THE READINGS AS WELL AS CLASS DISCUSSION. THEY SHOULD BE WELL-ORGANIZED AND WELL-WRITTEN.**
 - *As a rule of thumb, each entry should integrate discussion of a minimum of two of the shorter articles plus any required text assignment. (The minimum is a rough average. Some weeks' reading assignments include many shorter articles and you might want to discuss more than two. In another week, you might find a longer article to be fascinating and choose to discuss it more extensively in the context of that week's negotiation.) You don't have to AGREE with all of the articles. Some are included to be provocative. Critical reflection is fine!*
 - A journal that consistently and intelligently references and incorporates the central points of many readings into its text will earn a better grade. A journal that is too "light" on discussion of articles will receive a lower grade.

- On the topic of incorporating the readings: you will note that the readings listed sometimes relate to the previous class session (to avoid giving away a punch line before the negotiation). You may also notice that some readings listed early in the syllabus involve themes that arise later or often. Don't worry about precise placement in the syllabus.
- Remember (and please be assured that I am aware) that your negotiation or our class discussions may NOT hit the theme of a particular article in the syllabus on a given week. Life and negotiation are like that: not always predictable. Don't worry. Just reference the article where it fits, if at all.
- You may use the journal to raise questions (from class exercises, debriefing and readings) and to consider why these questions persist and how you might to address them.
- You should feel free to use the journal to critique any or all ideas discussed in class.
- *The journal should be a progressive and cumulative discussion of the analytical and skill-based lessons you want to retain for negotiations in the future.* You should reflect upon your own strengths, weaknesses, and tendencies, and how you can capitalize on those strengths, overcome weaknesses, and expand your repertoire. You should relate these observations and aspirations to the themes and prescriptions in the readings and from class discussion.
- **ANNOTATE!!!!** As the course proceeds and after it is concluded, you should "annotate" the journal entries. This means that, with the benefit of the "full wisdom" of your experience in the course, you should go back and comment on any or all of your original entries. These annotations should be in a different typeface or italicized.
- **Final Analytical Journals are due on December 7.**

2. Options A, B, or C: Negotiation Video (with analysis) Or Negotiation Simulation (with analysis) -- at least 40% of Final Grade OR Participation in Email Negotiation Exercise with the University of Saskatchewan and Post Negotiation Written Analysis (It's arguable that this should shift to approx. 30% of final grade, with Journal shifting to 50%, though nothing is quite that precise and I'm open to negotiation on this issue.) All are due on Friday, December 7.

Options:

- A. **An edited negotiation video with short written analysis (not more than 3-5 pages) of successful and unsuccessful strategic choices or negotiator skills demonstrated on the video. (Please edit the video to not more than 30 minutes, if possible, but shorter is fine), (I will be happy to supply a choice of pre-existing simulations to use for this video. Two or more students may create these videos collaboratively, but your analysis must be separately written.)**

If you plan to create a negotiation video, please see me by November 16 (earlier would be better). I will supply you with choices of simulations to use. (I will also try to make some choices available to all, as early as pre-fall break.) The video should demonstrate at least two great strategic choices or skills done very well, and at least two strategic choices or skills that are NOT done well. It is fine (but not required) to work in groups to create and edit the video. However, each student (from this class) who appears in the video should individually demonstrate the two skills or choices “done very well” and “not so well” on the video.

Your brief paper should analyze focus on strategic choices and skills that were done effectively and ineffectively in the video – by you and by others. I would greatly appreciate your excerpting clips for this analysis, or at least directing me to the specific times within the video within which these occurred.

While students are welcome (indeed encouraged) to collaborate in the creation of video, you should not consult with each other or work together on their written submissions.

- B. A brief original negotiation simulation, with analytical memorandum.** The total submission, including the simulation itself, should be approximately 7-9 pages, depending upon how many roles are involved. (It may have only two party roles, or a role for two parties and their attorneys or agents.)

The analytical memorandum would be a MAJOR component of your final product. (If your simulation consists of a general information page and 2-two page sets of confidential information, I would anticipate a 3 page analytical memorandum. It should describe the structure of your negotiation simulation, what negotiation strategies will be required for a negotiator to achieve a good outcome, and why. In other words, what details or aspects of the simulation create the challenge for the negotiators? What negotiation strategies would fail? Do reference sources (from the course) for this analysis.

Please submit your simulation ideas to me for approval by November 18.

OR

- C. Participation in Email Negotiation Exercise with the University of Saskatchewan (or an alternative, exercise, still in process) and Post-Negotiation Written Analysis.** For this email negotiation, you will be paired with a counterpart (or team) from the University of Saskatchewan’s law school. You will be required to create and submit a very brief preparation memorandum, to negotiate via email, likely in mid-October, and then to provide feedback comments and to your counterparts. (As soon as I have the precise dates from my counterpart at U Saskatchewan, I will let you know.) For phase two of the exercise, you must save and provide a transcript of the emails in your negotiation and then provide a brief written review of another team’s negotiation transcript. The last phase of the exercise will be a written analysis of the process and the results. **These will be due on December 14 – the same date as the other options.** More detailed instructions will be provided to students who elect to participate.

THE CATCH IS THAT IF YOU WOULD LIKE TO ELECT THIS OPTION, YOU MUST COMMIT TO IT NO LATER THAN SEPTEMBER 1, and preferably sooner.

3. Wild Card Option

If you've read this far, then you are entitled to know that I will entertain a "wild card" option for the final submission that will count toward your grade. For example:

- A student might wish to focus a more extensive video, paper, or simulation on negotiation ethics, or on negotiation related to an intended area of practice, such as plea-bargaining, negotiating with a parole board, or within a human rights setting. If this project appeared to be "bigger" than the usual, I would be open to negotiating about reducing other written requirements.
- If a student wished to create an extensive and edited Bio-Con Microtex or MAPO video and analysis (either from your original attempt at this negotiation or from a staged "retake," I would consider waiving the Bio-Con Microtex or MAPO journal entries.
- If a student wished to make an edited video (with written analysis) of other people negotiating one of the other course simulations, I would be open to a proposal.
- I am also very interested in seeing what I call "two version" videos: a first version in which you would conduct a negotiation "not by the book", or not that well – opening clumsily, falling into predictable traps, accepting or suggesting an unhelpful frame, escalation spirals, etc.; and a second "by the book" version in which you employ great skill and strategy – improving the process and the result.

The bottom line is that I am open to negotiation on student projects that will constitute learning experiences and also provide a basis for grading.