

**Negotiation**  
**(Law 467.2 – 2 credits) – Spring 2020**  
**January 10-12, January 31-February 2, 2020**  
**No course prerequisites**  
**Professor Sam Jackson**  
**Phone: 703-585-0619 – Email: [ssjacks0@email.unc.edu](mailto:ssjacks0@email.unc.edu)**  
**(No office hours, but available by appointment)**

## Required

Robert H. Mnookin, et al., *Beyond Winning* (paper ed. 2004) [“Mnookin”].  
Other readings are available in the “Materials” folder for this course on Sakai [S].

## Recommended

Roger Fisher & William Ury, et. al., *Getting to Yes* (3d ed. 2011).  
G. Richard Shell, *Bargaining for Advantage* (2d ed. 2006).  
Michael Wheeler, *The Art of Negotiation* (2013).  
Christopher Voss and Tahl Raz, *Never Split the Difference* (2016).

## Course Policies

1. **Learning outcomes.** Learning outcomes will include:
  - Students shall be able to identify and think critically about professional and ethical responsibilities that arise in practice including crucial issues facing the legal profession, such as ensuring dedicated and effective representation for different groups and cultures.
  - Students shall be able to exercise other professional skills needed for well-rounded, competent, and ethical participation as members of the legal profession, including, but not limited to, applying legal and other scholarship to understand and affect legal policy.
  
2. **Course requirements, assessment methods, and due dates.** Students will participate in negotiations during both the morning and afternoon sessions. Before each negotiation, you will receive some “confidential information.” Please do not discuss the “confidential information” with your classmates, except during the negotiation with your assigned counterpart(s). Students must prepare for each negotiation, in addition to doing the assigned readings for each class.

The final grade for the course will be based on the following components:

- Class participation, contribution and application of skills (including completion of several “prep sheets of < 1 page”), which will count for the remaining 25% of your grade.
- A short reflection paper (~5 pages), due just over two weeks after the first weekend (i.e., January 27), which will count for a total of 25% of your grade;
- A final paper (10-12 pages), in which you discuss your experiences in the course and the themes of the course that were raised in the class discussions and the readings – this paper is due about two weeks after the second weekend (i.e., February 17) and will count for 50% of your grade.

- 3. Attendance policy.** The class is scheduled to meet on January 10-12, from 9:30 am to 4:30 pm and January 31-February 1, from 9:30 am to 4:30 pm and February 2 from 9:30 to 2 pm (with a backup date weekend of February 14-16, in the event that one of the planned weekends must be rescheduled). We will spend a significant part of each class engaged in negotiation simulations and similar activities. **Class attendance, therefore, is mandatory.** Students must attend every class in order to obtain credit. I monitor class attendance by checking a printed roll sheet. If a student cannot attend all of the class sessions – even for unforeseen circumstances beyond the student's control – the student will not be eligible to receive credit and may be required to withdraw from the course. Lateness will have a significant negative effect on your grade.
- 4. Written papers and honor code.** The written papers should be typed, double-spaced, with one inch margins. If you turn your assignment in late, there will be a significant negative effect on your grade. **Each paper must be your own independent work and must be work that you prepared solely for this course.** The Honor Code is in effect in this class. I am committed to treating Honor Code violations seriously and encourage all students to become familiar with its terms set out at <http://instrument.unc.edu>. If you have questions, it is your responsibility to ask me about the Code's application. All written work must be submitted with a statement that you have complied with the requirements of the Honor Code in all aspects of the submitted work.
- 5. Laptops, etc.** Students may not use laptops, tablets, wireless phones, and other such devices during class, except with the professor's express permission.
- 6. Harassment and discrimination.** Acts of discrimination, harassment, interpersonal (relationship) violence, sexual violence, sexual exploitation, stalking, and related retaliation are prohibited at UNC-Chapel Hill. If you have experienced these types of conduct, you are encouraged to report the incident and seek resources on campus or in the community. Please contact the Director of Title IX Compliance / Title IX Coordinator (Adrienne Allison, [adrienne.allison@unc.edu](mailto:adrienne.allison@unc.edu)), Report and Response Coordinators (Ew Quimbaya-Winship, [eqw@unc.edu](mailto:eqw@unc.edu); Rebecca Gibson, [rmgibson@unc.edu](mailto:rmgibson@unc.edu); Kathryn Winn [kmwinn@unc.edu](mailto:kmwinn@unc.edu)), Counseling and Psychological Services (CAPs) (confidential) in Campus Health Services at (919) 966-3658, or the Gender Violence Services Coordinators (confidential) (Cassidy Johnson, [cassidyjohnson@unc.edu](mailto:cassidyjohnson@unc.edu); Holly Lovern, [holly.lovern@unc.edu](mailto:holly.lovern@unc.edu)) to discuss your specific needs. Additional resources are available at [safe.unc.edu](http://safe.unc.edu).
- 7. Accommodations.** The University of North Carolina at Chapel Hill facilitates the implementation of reasonable accommodations, including resources and services, for students with disabilities, chronic medical conditions, a temporary disability or pregnancy complications resulting in difficulties with accessing learning opportunities. All accommodations are coordinated through the Accessibility Resources and Service Office. See the ARS Website for contact information: <https://ars.unc.edu> or email [ars@unc.edu](mailto:ars@unc.edu). Relevant policy documents as they relation to registration and accommodations determinations and the student registration form are available on the ARS website under the About ARS tab.

## Schedule

### **Friday 1/10 (morning): Creating & claiming value; negotiation process; strategy.**

- Mnookin 11-43.

### **Friday 1/10 (afternoon): Information exchange: attitudes, techniques & ethics.**

- Mnookin 44-68, 274-94;
- “How to respond to the toughest questions” & “Are your questions good enough?” *Negotiation Briefings*, October 2019 1-3;
- Gorman, “How savvy negotiators read body language,” *Forbes*, September 4, 2012 [link];
- “Should you brandish your BATNA?” *Negotiation Briefings*, November 2018 at 5-6 [S].

### **Saturday 1/11 (morning): Distributive bargaining; case value; psychological barriers.**

- Mnookin 97-118; 156-67;
- “Back up your offer with a strong rationale,” *Negotiation Briefings*, October 2017 at 1-3;
- Malhotra, “The Fine Art of Making Concessions,” *Negotiation*, January 2006, at 1-3;
- Korobkin & Guthrie, “Heuristics and Biases at The Bargaining Table,” 87 *Marq. L. Rev.* 795-808 (2004) [S].

**\* Due: prep sheet #1.**

### **Saturday 1/11 (afternoon): Power; commitment; norms; psychology of negotiation.**

- Korobkin, “Five Tactics for Increasing Your Bargaining Power,” *Negotiation*, December 2006 at 4-6;
- “The Art of the Threat,” *Negotiation Briefings* August 2019 at 5-6;
- “Manage your power at the bargaining table,” *Negotiation Briefings*, December 2016 at 1-3;
- Guthrie, “Principles of Influence in Negotiation,” 87 *Marq. L. Rev.* 829-37 (2004);
- “Being Fair and Getting What you want,” *Negotiation*, February 2004 at 12 [S].

**\* Due: prep sheet #2.**

### **Sunday 1/12 (morning): Integrative bargaining; creative problem solving.**

- Review Mnookin, 13-17, 27-43;
- Kolb & Carnevale, “When Dividing the Pie, Smart Negotiators Get Creative,” *Negotiation*, January 2007 at 9-11;
- Jackson, “Techniques for Creating Value”;
- Wheeler, “Too Much of a Good Thing,” *Negotiation*, September 2004 1-4 [S].

### **Sunday 1/12 (afternoon): Client counseling; problem solving negotiation.**

- Mnookin 179-211, 317-21;
- “Negotiators: Prepare to go with the flow,” *Negotiation*, February 2014 at 1-4 [S].

***Reflection paper due: Monday, January 27 by 6 pm.***

**Friday 1/31 (morning): Attorneys as negotiators.**

- Mnookin 69-96, 204-211.  
*\*Due: prep sheet #3.*

**Friday 1/31 (lunch): Emotion in negotiation.**

- Mnookin 167-71;
- Brooks, “Emotion and the Art of Negotiation,” *Harvard Bus. Rev.*, December 2015 at 57-64 [link];
- “The Right Way to Say ‘I’m Sorry,’” *Negotiation Briefings*, July 2016 at 4-5 [S].

**Friday 1/31 (afternoon): Gender; settlement agreements; ethics.**

- Kolb, “Staying in the Game,” *Negotiation*, December 2003 at 1-4;
- “What happens when women don’t ask,” *Negotiation*, June 2008 at 1-4;
- Schneider, “Negotiating While Female,” 70 *S.M.U. L. Rev.* 695, 709-12 (2017);
- Craver, “Negotiation Ethics for Real World Interactions,” 25 *Ohio St. J. on Disp. Resol.* 299, 323-27 (2010) [S].

**Saturday 2/1 (morning): Difficult tactics; culture.**

- Mnookin 211-21;
- “Beyond walking away: Facing difficult negotiation tactics head-on,” *Negotiation Briefings*, May 2014 at 1-4.
- Meyer, “Getting to Si, Ja, Oui, Hai, and Da,” *Harvard Bus. Rev.*, December 2015 at 74-80 [link];
- “Unlocking cross cultural differences,” *Negotiation Briefings*, September 2018 at 1-3, 5;
- Barkai, “Cultural Dimension Interests, the Dance of Negotiation, and Weather Forecasting,” 8 *Pepp. Disp. Resol. L. J.* 403-417 (2008) [S].

**Saturday 2/1 (afternoon): Transactional negotiation; media.**

- Mnookin 127-150, 260-71;
- Schwab & Galinsky, “How to Negotiate When You’re (Literally) Far Apart,” *Negotiation*, February 2007 at 7-9. [S].

**Sunday 2/2: Multiparty negotiations; organizations.**

- Mnookin 295-314;
- “Can’t beat them? Then join a coalition,” *Negotiation*, March 2009 at 1-4;
- “How to cope when the table gets crowded,” *Negotiation*, August 2011 at 1-4;
- “Negotiating ‘behind the table,’” *Negotiation*, April 2013 at 7;
- “Tired of fighting city hall,” *Negotiation*, February 2008 at 1-4 [S].

**Final Paper due: Monday, February 17 by 6 pm.**