

University of Missouri School of Law
Lawyering: Problem-Solving and Dispute Resolution, Section 2A, Fall 2021

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Office hours: Tuesdays and Thursdays from 1:00 to 2:00 via Zoom, and by appointment

Class Meetings: TR 10:00-10:50, Room 109 Hulston Hall

Course Web Page on Canvas: We'll use for distribution of material and assignments

Course Goals, Objectives, and Expected Learning Outcomes

This course examines the roles of lawyers. You will increase your knowledge of what it means to be a lawyer and improve the skills you need to be effective. You will increase your understanding of the values embraced by the profession; the ideas, principles, norms, and rules that guide us when we make choices about how we should act when practicing as lawyers.

More specifically, by the end of this course you will be able to:

- discuss lawyers' roles and relationships with clients generally;
- distinguish problem-solving and traditional legal adversarial approaches to lawyering;
- demonstrate basic skills in interviewing and counseling clients and negotiation;
- compare and contrast "alternative" dispute resolution (ADR) procedures, their strengths and weaknesses, and the basic elements of the theory and practice of these procedures;
- analyze cases to assess appropriateness of different dispute resolution approaches and procedures;
- demonstrate basic skills in negotiation and mediation advocacy;
- recognize, evaluate, and appropriately address ethical dilemmas that can arise during the representation of a client during dispute resolution; and
- analyze case scenarios to identify problematic issues, develop alternative perspectives about those issues, and make sound generalizations based on theory and one's own experience to develop appropriate strategies to suggest to the client.

This course focuses primarily on the roles of advocates with some discussion of the roles of neutrals (such as mediators and arbitrators). You will increase your knowledge of how lawyers help clients select and participate in efficient, just, and appropriate methods of managing and resolving conflicts.

Standard 303 of the *ABA Standards and Rules of Procedure for Approval of Law Schools* requires each student at an accredited law school "to satisfactorily complete at least . . . one or more experiential course(s) totaling at least six credit hours." In the judgment of your School of Law faculty, successful completion of this course will satisfy two of Standard 303's six credit hours requirement.

Requirements and Grading

Your grade in this class is based on the following:

75% - Final Exam. The exam will be a two-hour, open-book, in-classroom exam.

25% - Reflection papers, exercises & class participation. We will be conducting a number of in-class and out-of-class exercises. Some of these exercises require you to write a reflection paper or other related paper. In addition, students are expected to be present and prepared to participate in class discussions and exercises. Active participation and engagement is part of the class participation grade. A schedule for the paper assignments is posted on the course Canvas website.

American Bar Association rules require “regular and punctual class attendance.” Attendance is very important because much of the learning happens in class. It is especially important in an experiential class like this so that you and your classmates can fully participate in exercises and simulations. No distinction will be made between excused or unexcused absences. You may miss three classes without penalty. **With your fourth absence, your final grade will be penalized. With your fifth absence, you are subject to being dropped from the class.** Grades may also be reduced for repeated tardiness.

Required Texts:

STEFAN H. KRIEGER, RICHARD K. NEUMANN, JR., & RENEE M. HUTCHINS, ESSENTIAL LAWYERING SKILLS (6th ed. 2020) (hereinafter “ELS”).

Articles identified as “Required Reading” on the syllabus and the Canvas course site.

Recommended Texts: These recommended texts are enriching but not required. They are available in the Law Library or may be purchased from many booksellers in stores or online.

JENNIFER K. ROBBENNOLT AND JEAN R. STERNLIGHT, PSYCHOLOGY FOR LAWYERS: UNDERSTANDING THE HUMAN FACTORS IN NEGOTIATION, LITIGATION, AND DECISION MAKING, ABA (2012).

JOHN LANDE, LAWYERING WITH PLANNED EARLY NEGOTIATION: HOW YOU CAN GET GOOD RESULTS FOR CLIENTS AND MAKE MONEY, ABA (2011).

Course Web Site

This course will make use of a course web page through CANVAS. The syllabus and other required course materials will be posted on this website.

Learning Environment and Expectations

Whether in person or online, thoughtful participation is critical to creating learning communities and also to help me understand and adjust to your goals and needs in this class. You are expected to submit assignments in a timely manner, be respectful, non-inflammatory, and courteous in all communications

with other students and faculty, and actively participate in group discussions and exercises. I will give you feedback on assignments and participation.

Course workload and pace:

The American Bar Association's Standard 310 defines a "credit hour" as the "amount of work that reasonably approximates not less than one hour of classroom or direct faculty instruction and two hours of out-of-class student work per week for fifteen weeks, or the equivalent amount of work over a different period of time." Since this is a two-credit hour, fifteen-week course, please expect to spend at least 6 hours per week on this course.

Assignment pedagogy:

My teaching philosophy is rooted in the idea that you will learn best by applying course concepts to your own experiences and by engaging in dialogue with me and your peers. This course is designed to help you develop your understanding of course concepts through readings, to relate those concepts to your own experiences through personal reflections, and to apply the concepts in the analysis of simulations and in group discussions.

Late assignments:

To keep up with the course you should submit all assignments on time. However, I do understand that work, family obligations, or other personal circumstances can interfere with your plans. If you know (or suspect) that you are going to miss a deadline, please email me to let me know. Please note: technical difficulties will not excuse late assignments unless you have submitted a ticket to the help desk and/or the problem you are having is a known issue in Canvas.

Canvas Technical Support: If you are having any technical difficulties in Canvas please contact Canvas at 855-981-6396. You may also go into your Canvas course site and click the Help link in the upper right-hand corner. This link provides access to documentation and video tutorials or you can submit a ticket. Canvas provides student support 24/7/365 for your convenience. You can also forward questions about Canvas to canvas@missouri.edu.

Class Schedule and Reading Assignments

As you read, consider what makes sense to you and what does not. Do not assume that everything in the readings is the only or necessarily correct perspective. For most issues in this course there are multiple valid perspectives from which you can build to advance your clients' interests.

Class discussion will usually cover some but not all of the material in the readings. *Nonetheless, you are responsible for all the readings, whether discussed in class or not.* If you have questions about the readings, feel free to ask them, especially in class, although you may always post to the discussion board or ask me privately.

Decreasing the Risk of COVID-19 in Classrooms and Labs

MU cares about the health and safety of its students, faculty, and staff. To provide safe, high-quality education amid COVID-19, we will follow several specific campus policies in accordance with the advice

of the Center for Disease Control and Boone County health authorities. The latest policies and procedures are available at Show Me Renewal at <https://renewal.missouri.edu/> which will be updated as information changes.

- **If you are experiencing any COVID-related symptoms**, or are otherwise feeling unwell, do not attend in-person classes and contact your health care provider and/or student health immediately. COVID symptoms include: fever greater than 100.4 or chills; cough, shortness of breath or difficulty breathing; fatigue; unexplained muscle or body aches; headache; new loss of taste or smell; sore throat; congestion or runny nose; nausea or vomiting; diarrhea.

- We will all wear **face coverings while in the classroom**, unless you have a documented exemption due to a disability or medical condition.

- Online office hours will be available for all students.

- This course may be recorded for the sole purpose of sharing the recording with students who can't attend class. The instructor will take care not to disclose personally identifiable information from the student education records during the recorded lesson.

Compliance with these guidelines is required for all; anyone who fails to comply will be subject to the [accountability process](#), as stated in the University's [Collected Rules and Regulations](#), Chapter 200 Student Code of Conduct.

Communication, Accommodation, and Pivot Plan

This is an in-person course with class meetings on Tuesdays and Thursdays from 10:00 to 10:50 a.m. in Hulston Hall Room 109. We will follow all Covid protocols required by the Law School and University. Students will access course content via the Canvas course site. Class meetings will be recorded and posted on the Canvas course site for the benefit of those unable to attend F2F classes. Likewise, students may conduct in class exercises such as simulated negotiations via Zoom, if unable to attend F2F classes. Students may contact me via email at ladehoffp@missouri.edu for both regular communication and in case of emergency. In the event that all Law School courses pivot fully online, we will convert to a 100% online course with synchronous lectures on Zoom at our regular times.

Statement for Mental Health

The University of Missouri is committed to supporting student well-being through an integrated network of care, with a wide range of services to help students succeed. The MU Counseling Center offers professional mental health care, and can help you find the best approach to treatment based on your needs. Call to make an appointment at 573-882-6601. Any student in crisis may call or go to the MU Counseling Center between 8:00 – 5:00 M-F. After hours phone support is available at 573-882-6601. Visit our website at <https://wellbeing.missouri.edu> to take an online mental health screening, find out about workshops and resources that can help you thrive, or learn how to support a friend. Download Sanvello, a phone app that teaches skills and strategies to help you maintain good mental health. Log in with your Mizzou e-mail to unlock all the tools available through Sanvello at no cost to you.

Lawyering Section 2A Syllabus			
Week	Date	Topic	Readings, Activities, and Assignments
Module 0 Introductions and Overview of the Course			
	<8/24	Intros & Overview	Review Course Policies Post your introduction on Canvas
Module 1 Introduction to Lawyering			
1	8/24	Fundamental Lawyering Skills and Values	ELS chapters 1 & 2
	8/26	Fundamental Lawyering Skills and Values, cont.	Shultz & Zedek: Predictors of Lawyering Effectiveness (on Canvas) Foundations for Practice: The Whole Lawyer & The Character Quotient, pp. 5-21, 29-34 (on Canvas) MacCrate Report, <i>Fundamental Lawyering Skills and Values</i> (on Canvas)
2	8/31	Attorney-Client Relationship and Roles	ELS chapter 3 A Presumption of Guilt by Brian Stevenson (book excerpt on Canvas) Video: Bryan Stevenson's "American Injustice"
	9/2	Attorney-Client Relationship and Roles	Cunningham, <i>What Do Clients Want From Their Lawyers?</i> , 2013 J. Disp. Resol. 143-151
3	9/7	Lawyer as Problem-Solver	ELS chapter 4 Senate Table Exercise
	9/9	Dispute Resolution and the Legal System	Armstrong, <i>Why We Still Litigate</i> , 8 PEPP. DISP. RESOL. L.J. 379 (2008) Riskin et al., <i>Dispute Resolution and Lawyers</i> (Abridged 5 th ed. 2009), pp. 6-13, 34-37
Module 2 Interviewing and Counseling			
4	9/14	Questioning and Listening Skills	ELS chap. 5 The Power of Listening Ted Talk by William Ury ** Listening exercise DUE
	9/16	Interviewing	ELS chaps. 7-8
5	9/21	Interviewing	ELS chap. 9
	9/23	Interviewing	**Interviewing Exercise DUE
6	9/28	Counseling Clients	ELS chaps. 18, 20, 21
	9/30	Counseling Clients	Synchronous Counseling exercise

Module 3 Introduction to Negotiation			
7	10/5	Negotiation Process	ELS chap. 23 ** Counseling paper DUE
	10/7	Negotiation Strategies and Styles	ELS chaps. 25-26
8	10/12	Negotiation Tactics	ELS chaps. 27-28
	10/14	Negotiation Practice	Synchronous Negotiation Simulation
9	10/19	Negotiation Law & Ethics	ELS §§ 23.5, 28.1; 28.2
	10/21	Practicing Law in a Diverse World Implicit Bias & Cross-Cultural Issues	ELS, Chapter 6 and review Chapter 4.4 & 4.5
Module 4 Introduction to Mediation			
10	10/26	Mediation Process	Riskin et al., <i>Dispute Resolution and Lawyers</i> (Abridged 5 th ed. 2009), pp. 209-211, 235-48 Preparing for Mediation, ABA Section of Dispute Resolution
	10/28	Mediation Process	
11	11/2	Effective Advocacy in Mediation	Riskin et al., <i>Dispute Resolution and Lawyers</i> (Abridged 5 th ed. 2009), pp. 211-24, 324-29
	11/4	Effective Advocacy in Mediation	Tom Arnold, <i>20 Common Errors in Mediation Advocacy</i> , 13 <i>Alternatives to High Cost Litigation</i> 69 (May 1995) Elliot Hicks, <i>The Why, When and How of Effective Mediation Opening Statements</i> , <i>Wa. Va. Lawyer</i> 30 (Apr. 2013)
12	11/9	Mediation Simulation	Mediation Simulation based on LRW case topic.
	11/11	Choosing Mediators	Arthur A. Chaykin, <i>Selecting the Right Mediator</i>
Module 5 Introduction to Arbitration and Online Dispute Resolution			
13	11/16	Arbitration	Leonard L. Riskin et al., <i>Dispute Resolution and Lawyers</i> (Abridged 5 th ed. 2009), pp. 369-378;
	11/18	Arbitration	Thomas J. Stipanowich, <i>Arbitration: The "New Litigation,"</i> 2010 U. Ill. L. Rev. 1, pp. 1-24
14	11/23	No Class	Thanksgiving Break
	11/25	No Class	Thanksgiving Break

15	11/30	Online Dispute Resolution	Schmitz, Expanding Access to Remedies through E-Court Initiatives, 67 Buffalo L. Rev. 89 (2019) Amy J. Schmitz, Remedy Realities in Business-to-Consumer Contracting, 58 ARIZONA LAW REVIEW 213 (2016)
	12/2	Review/Catch Up/Prep for Exam	
	TBD	Final Exam	Final Exam