Learning Outcomes
This course examines the roles of lawyers. It will increase your knowledge of what it means to be a
lawyer and improve the skills you need to be an effective one. It will also increase your understanding of
the values embraced by the profession; these are the ideas, principles, norms, and rules that guide us
when we make choices about how we should act when practicing as lawyers. Additionally, you will gain
a broad understanding of alternative dispute resolution (ADR), as it includes the means that lawyers use
most for problem-solving. At its core, the course helps aids in building the “problem-solving” tools
lawyers use every day. The course also contributes to lawyer’s increasing need for education in
“technological competence” as is now required as part of the Rules for Professional Responsibility.

More specifically, this course is structured to accomplish the following goals, objectives, and outcomes:

- Increasing your understanding of lawyers’ roles and relationships with clients generally;
- Knowing the distinction between problem-solving and traditional legal adversarial approaches
to lawyering;
- Acquiring basic skills in interviewing and counseling clients and negotiation;
- Knowing basic “alternative” dispute resolution (ADR) procedures, their strengths and
  weaknesses, and the basic elements of the theory and practice of these procedures;
- Understanding how to analyze cases to assess appropriateness of different dispute resolution
  approaches and procedures;
- Acquiring basic skills in negotiation and mediation advocacy;
- Acquiring the knowledge and skills needed to recognize and evaluate ethical dilemmas that can
  arise during the representation of a client during dispute resolution; and
- Improving analytical skills. Effective analysis has several elements: identifying problematic
  issues; developing alternative perspectives about those issues; and making sound
  generalizations based on theory and one’s own experience to develop appropriate strategies to
  suggest to the client.

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

Grades will be based on the following criteria:

- 70% - Final exam (2 hours);
- 30% - Exercises, papers & class participation. We will be conducting a number of in-class and out-of-class exercises. For some of these exercises, you must write a short paper. Below are the dates in which the separately graded assignments will be distributed and due:

<table>
<thead>
<tr>
<th>Graded Exercises</th>
<th>Distributed</th>
<th>Due Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Listening Paper</td>
<td>Aug. 31</td>
<td>Sept. 7</td>
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<tr>
<td>Client Interviewing</td>
<td>Sept. 14</td>
<td>Sept. 26</td>
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<tr>
<td>Negotiation Paper</td>
<td>Oct. 12</td>
<td>Oct. 26</td>
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<tr>
<td>Mediation Simulation</td>
<td>Week of November 7th</td>
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<tr>
<td>Mediation Paper</td>
<td>TBD</td>
<td>Nov. 30</td>
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</tbody>
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Required Readings

- Additional required readings are referred to below and will be posted on Canvas.

Class Attendance

American Bar Association rules require “regular and punctual class attendance” of students. In addition, because much of the learning in this class happens during in-class exercises, attendance, preparation and engagement in class is important. You should plan on regular and prompt attendance during class times. Class attendance and participation is part of your grade. Failure to attend class regularly or participate in class discussion will be reflected in your class participation grade. You may have three unexcused absences without penalty. Subsequent unexcused absences may result in a penalty on your final grade or expulsion from the class. Grades may also be reduced for repeated tardiness. Failure to participate in any of the scheduled exercises (e.g., interviews, negotiation, etc.) will also significantly detrimentally affect your final grade as you will be unable to finish the papers and receive a grade for those exercises.

Nonetheless, I understand that flexibility is necessary given the possibility of serious personal illness, illness within one’s family, or other emergency. Accordingly, let me know if there is a reason you need to miss class and we can discuss alternatives for receipt of the material and participation in exercises if necessary. Slides and handouts will be available on Canvas.

Teaching Assistant (TA)

This class has a teaching assistant (TA) to help with class simulations and assignments: Drew Fabricius. Please take advantage of Drew’s extra assistance. Note that your TA is available to meet outside of class and can discuss with you his availability. See the first page of the syllabus for contact information.
Schedule of reading assignments – See Canvas for more specifics re weekly classes!!

**Week 1**

**Cl 1 (8/22)**
**Introduction**
Reading: KN&H Ch. 1

**Cl 2 (8/24)**
**Problem-solving & Lawyering Skills**
Reading: KN&H Chs. 2 & 4.1-4.3
*Foundations for Practice: The Whole Lawyer & The Character Quotient*, pp. 5-21, 29-34 (IAALS 2016)
MacCrate Report, *Fundamental Lawyering Skills and Values*

**Week 2**

**Cl 3 (8/29)**
**Brian Stevenson Video “American Injustice”**

**Cl 4 (8/31)**
**Questioning & Listening Skills**
Reading: KN&H Ch. 5 (Ch. 8.1.2 also useful here)

Not required but enormously helpful to understand active listening:
- *The Power of Listening*
  [https://www.youtube.com/watch?v=saXfavo1QOo](https://www.youtube.com/watch?v=saXfavo1QOo) (William Ury)
- *Active Listening*,
  [https://www.youtube.com/watch?v=t2z9mdX1j4A](https://www.youtube.com/watch?v=t2z9mdX1j4A)

**Week 3**

**Cl 5 (9/5)**
**LABOR DAY**

**Cl 6 (9/7)**
**Introduction to Conflict and Dispute Resolution in the Legal System**
RISKIN ET AL., *DISPUTE RESOLUTION AND LAWYERS* (Abridged 5th ed. 2009), pp. 6-13, 34-37
Moore’s Circle of Conflict
Week 4
Cl 7 (9/12)  Comparing Dispute Resolution Alternatives
Reading: None - In-Class Exercise

Cl 8 (9/14)  Interviewing Clients
Reading: KN&H Chs. 7 & 8

Week 5
Cl 9 (9/19)  Interviewing Clients – continued
Reading: None – In-Class Video & Discussion

Cl 10 (9/21)  Counseling Clients
Reading: KN&H Chs. 18, 20 & 21

Week 6
Cl 11 (9/26)  Interviewing Clients: Discuss Simulation
Reading: None

Cl 12 (9/28)  Counseling Clients Videotape – ethical issues
Reading: Review KN&H Ch. 22

Week 7
Cl 13 (10/3)  Practicing Law in a Diverse World – Focusing on Client Issues
Reading: Review KN&H Chs. 4.4, 4.5 & 6, Elizabeth Bernstein, Why We Stereotype Strangers, WALL ST. J., 10/29/18, https://www.wsj.com/articles/why-we-stereotype-strangers-1540824439

Cl 14 (10/5)  Counseling Clients: IN-CLASS Exercise – Preparation for A Counseling Session
Reading: In-Class Exercise – Brief reading will be handed out beforehand.

Week 8
Cl 15 (10/10)  Negotiation: Introduction to Negotiation Styles and Approaches
Reading: KN&H, Chs. 23 & 24

Cl 16 (10/12)  Negotiation: More on Approaches, Preparation and Setting the Scene
Reading: Ch. 24, 25 and 26
Week 9
Cl 17 (10/17) Negotiation Strategy
Reading: KN&H, Chs. 27 & 28

Cl 18 (10/19) Negotiation: Legal and Ethical Obligations in Negotiation
Reading: KN&H, Chs. 23 (§ 23.5 only) & 28 (§ 28.1.2 only)

Week 10
Cl 19 (10/24) Mediation: Introduction to Mediation
Reading: RISKIN ET AL., DISPUTE RESOLUTION AND LAWYERS (Abridged 5th ed. 2009), pp. 209-11, 235-48
Recommended: CPR ADR Suitability Guide

Cl 20 (10/26) Discuss Negotiation Simulation
Reading: None

Week 11
Cl 21 (10/31) Mediation: Types of Mediators & Introduction to Mediator’s Opening Statements
Reading: RISKIN ET AL., DISPUTE RESOLUTION AND LAWYERS (Abridged 5th ed. 2009), pp. 211-24, 324-29

Cl 22 (11/2) Mediation: Understanding the Process and Effective Mediation Advocacy
Reading: Tom Arnold, 20 Common Errors in Mediation Advocacy, 13 ALTERNATIVES TO HIGH COST LITIGATION 69 (May 1995)

Week 12
Cl 23 (11/7) Mediation: Understanding the Process and Effective Advocacy, continued
Reading: Refer to last class, continuation of same.

Cl 24 (11/9) Selecting the Right Mediator
Reading: Arthur A. Chaykin, Selecting the Right Mediator;
Skim: Model Standards of Conduct for Mediators
Week 13
Cl 25 (11/14)  Breakdown Mediation Exercise
Cl 26 (11/16)  Guest Speaker on Arbitration

THANKSGIVING BREAK – Week of 11/21

Week 14
Cl 27 & 28  Work on and Discuss Mediation Paper (aka Final Exam Review)
(11/28 & 11/30)

FINAL EXAM: Please Check Exam Schedule!
2 hour exam

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Miscellaneous Policies

Decreasing the Risk of COVID 19 in the Classroom
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. If you are unable to attend a scheduled class due to illness or medical reasons, the slides regarding class discussion and any related problems for that class will be posted on the website before or after class depending on how the class is conducted.

If you are absent from class due to health reasons or are unable to participate in an assigned simulated exercise, please notify me as soon as possible so that I can grant you an excused absence and/or we can make alternative arrangements for you to participate in the simulation.

Intellectual Pluralism
The Law School community welcomes intellectual diversity and respects student rights. Students who have questions concerning the quality of instruction in this class may address concerns to either the Dean or Director of the Office of Student Rights and Responsibilities (http://osrr.missouri.edu). All students will have the opportunity to submit an anonymous evaluation of the instructor at the end of this course.
**Academic Integrity**
Academic integrity is fundamental to the activities and principles of the Law School. All members of the Law School community must be confident that each person’s work has been responsibly and honorably acquired, developed, and presented. Any effort to gain an advantage not given to all students is dishonest, whether or not the effort is successful. The Law School community regards breaches of its Honor Code as extremely serious matters. In the event that you violate our Academic Integrity rules on any portion of the work required for this class, you may expect a failing grade in this course as well as possible disciplinary sanctions ranging from probation to expulsion. When in doubt about plagiarism, paraphrasing, quoting, collaboration, or any other form of cheating, consult the course instructor.

**Disabilities**
If you anticipate barriers related to the format or requirements of this course, if you have emergency medical information to share with me, or if you need to make arrangements in case the building must be evacuated, please let me know as soon as possible. If disability related accommodations are necessary (for example, a note taker, extended time on exams, captioning), please register with the Office of Disability Services (http://disabilityservices.missouri.edu), S5 Memorial Union, 882-4696, and then notify me of your eligibility for reasonable accommodations. For other MU resources for students with disabilities, click on "Disability Resources" on the MU homepage.

**Requirement of Consent for Redistribution of Recordings of Classes**
University of Missouri System Executive Order No. 38 lays out principles regarding the sanctity of classroom discussions at the university. The policy is described fully in Section 200.015 of the Collected Rules and Regulations. In this class, students may make audio or video recordings of course activity unless specifically prohibited by the faculty member. However, the redistribution of audio or video recordings of statements or comments from the course to individuals who are not students in the course is prohibited without the express permission of the faculty member and of any students who are recorded. Students found to have violated this policy are subject to discipline in accordance with provisions of Section 200.020 of the Collected Rules and Regulations of the University of Missouri pertaining to student conduct matters. In addition, a violation may affect a student’s grade.