

Course Syllabus

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University of Washington School of Law

Winter Quarter 2021

NEGOTIATION

B523

SYLLABUS & SCHEDULE OF ASSIGNMENTS

COURSE DESCRIPTION

All people, especially lawyers and people with law adjacent jobs, negotiate. Negotiation is a skill and, like most skills, can be improved with thought and practice.

This course explores the conceptual foundations of various approaches to negotiating and offers students a chance to test these approaches during extensive role-playing exercises. Through a combination of readings, short lectures, role-playing exercises, class discussions, one-on-one video reviews, and personal journals we will analyze the dynamics of negotiations and help you hone your negotiating skills.

Prior to each class (other than the first) you will receive a copy of a hypothetical problem that will be the topic of a simulated negotiation and your assignment as to the role you will play in that exercise. At the outset of each class (other than the first) you will be required to turn in a negotiation prep sheet that describes what you intend to accomplish during that role-play exercise. A typical class will start with a short lecture, followed by breaking the class into pairs (or sometimes small groups) where you will negotiate with each other, and concluding by reassembling for a debriefing session. Once a week you will be required to write a journal entry describing your experience during that week's negotiations.

Additionally, over the course, please choose 3 negotiations to record. These recordings will be used for feedback and personalized skills mentoring. You are responsible for making these recordings and providing access to them.

Learning Objectives for Negotiation Students

Preparation

- Developing a negotiation plan that incorporates and blends individual elements of negotiation theory and skills.
- Determining BATNA's and WATNA's: yours/theirs.
- Recognizing underlying interests driving the negotiation.
- Anticipating available integrative solutions.
- Embracing high aspirations.
- Setting an optimal point, target point, resistance point and concession points.
- Plotting a series of diminishing concessions, supported by reasons, leading to your target.

Negotiation

- Influencing the agenda and flow of the negotiation process.
- Appreciating and dealing with the psychological factors affecting perceptions in negotiations.
- Gathering and protecting information.
- Generating options and reaching integrative agreements.

- Using power, e.g., challenging the other side's BATNA/advocating your own BATNA.
- Utilizing social norms.
- Navigating through the Negotiator's Dilemma.
- Dealing with difficult negotiators.
- Striking a proper balance of empathy and assertion.
- Becoming patient and comfortable with silence.
- Appreciating the implications of conflict style and group membership for yourself and those you negotiate with.
- Appreciating the tensions underlying the client and attorney relationship.
- Interviewing, preparing and working with a client in negotiations.
- Recognizing and avoiding unlawful and unethical negotiation behaviors.
- Dealing with the complexity of multi-party negotiation.
- Representing clients in mediation.
- Maintaining high professional and ethical standards.

REQUIRED TEXTS

- Russell Korobkin, *NEGOTIATION THEORY AND STRATEGY*, 3rd Edition (Wolters Kluwer, 2014).
- Roger Fisher, William Ury and Bruce Patton, *GETTING TO YES: NEGOTIATING AGREEMENT WITHOUT GIVING IN*, 3RD Edition (Penguin Books, 2011).

Russell Korobkin's textbook, *Negotiation Theory and Strategy*, is one of the better texts designed for a law school class on negotiations. Korobkin marries practical advice with insights gained from other disciplines, including game theory, decision theory, behavioral economics and social psychology. We will be making extensive use of role-play exercises that Korobkin has developed that are designed to flesh out the topics covered in his textbook.

Korobkin's textbook is relatively expensive (sorry). However, you should be able to find a used copy since it is used by most of the professors who teach Negotiation at the Law School.

Getting to Yes ("GTY") is a seminal book. Its lead author, Roger Fisher, has been called the godfather of negotiations literature.

OPTIONAL READINGS

If you want to read one other book on negotiating, the clinical faculty recommend:

- William Ury, *GETTING PAST NO: NEGOTIATING IN DIFFICULT SITUATIONS*, (Bantam Books, 1993).
- Richard Shell, *BARGAINING FOR ADVANTAGE: NEGOTIATION STRATEGIES FOR REASONABLE PEOPLE*, 2nd Edition (Penguin Books, 2006).
- Chris Voss, *NEVER SPLIT THE DIFFERENCE: NEGOTIATING AS IF YOUR LIFE DEPENDED ON IT* (Random House Business Books, 2016).

Getting Past No is the sequel to *Getting to Yes*. Like Shell's and Voss's books, it is an inexpensive paperback and an easy read.

Richard Shell's book, *Bargaining for Advantage: Negotiation Strategies for Reasonable People*, is one of the leading how-to-negotiate books. It is practical, an inexpensive paperback and an easy read.

Chris Voss's *Never Split the Difference* made a big splash (at least in negotiation circles) when it was published a few years ago, partly because it takes issue with a few of the tenets of *Getting to Yes* and partly because Voss (a former FBI hostage negotiator) is a colorful writer. It also is practical, an inexpensive paperback and an easy read.

ATTENDANCE AND PREPARATION POLICY

Regular attendance and thorough preparation are particularly important for this course.

The foundation of the course is student participation in role-play negotiations. These exercises are effective only if all students are present and are well prepared to carry out their roles. One student's absence or lack of preparation will diminish the class for others. So if you fail to attend a class or fail to prepare thoroughly, you will diminish the experience of others as well as doing yourself a disservice.

You should not take this course if you expect to miss more than one, or perhaps two, classes.

Of course, illness and unexpected events may prevent you from attending a class. But in order to avoid adversely affecting the class for others, you are responsible for keeping absences to an absolute minimum and providing as much advance notice of your need to miss a class as is possible so that I can reconfigure the role-play assignments in an effort to minimize the problems that your absence creates.

Please stay in this class only if you are willing to commit to this attendance policy. Failure to abide by this policy is grounds for denying course credit.

ROLE-PLAY EXERCISES

The role-play exercises are the heart of this course. Prior to each class (other than the first class) you will receive a role-play assignment plus a set of facts known by all parties and confidential facts known only by your party. These materials will be distributed either via the class website or an e-mail attachment. It is important that all students have a working University of Washington e-mail account. Please contact me if you have difficulty accessing this information.

The fact patterns used in the role-play assignments are necessarily abbreviated. In order to be fair to your counterparties, students may not add facts that affect the substance of the negotiations. That said, you may sparingly add non-substantive facts; for example, first names, gender and ages of children, the color of a car, etc.

It is very important that you be well prepared to carry out your role-play assignments. Please assume the role assigned to you and stay in character during the negotiations.

**** Instructions for Using Panopto to Record Negotiations**

To download Panopto and make a Panopto recording:

<https://support.panopto.com/s/article/basic-recording-1> [\(https://support.panopto.com/s/article/basic-recording-1\)](https://support.panopto.com/s/article/basic-recording-1)

To create Panopto recordings and upload them to Canvas:

<https://itconnect.uw.edu/learn/tools/panopto/get-started-with-panopto/#access>

[\(https://itconnect.uw.edu/learn/tools/panopto/get-started-with-panopto/#access\)](https://itconnect.uw.edu/learn/tools/panopto/get-started-with-panopto/#access)

PREP SHEETS

You will be required to complete a negotiation prep sheet prior to each class. Each prep sheet should be brief (1 - 3 pages) and should be broken into two sections.

In section one, briefly outline:

How you intend to integrate what you learned from the reading into your negotiation plan.

The negotiating skills that you intend to focus on during the exercise.

In section two, briefly outline your game plan for the role-play negotiation.

You will be required to turn in a copy of your prep sheet prior to that day's role-play exercise. Please keep a copy of your prep sheet available for use during the role-play. Feel free to develop your own format. The format of the prep

sheet is less important than actually preparing and committing your preparation to writing.

JOURNAL SUBMISSIONS

You will also be required to write a journal of 1-3 pages each week. Journals should focus on what you learned from the role-play exercises and debriefing sessions during that week.

Journal entries for the week just ended must be submitted on the Canvas course webpage no later than 5:00 pm each Sunday.

VIDEO REVIEWS

At least 3 of your role-play negotiations must be recorded using Panopto and should be posted to a file affiliated with the Canvas page for this course. These videos will be used for feedback and personalized mentoring.

GRADING

Negotiations is a simulation-based class which focuses on providing a theoretical understanding of negotiations principles and practice in apply and developing negotiation skills. Accordingly, grading for the course is based on Credit/No Credit, rather than letter grades or a number GPA.

CANVAS COURSE WEBSITE

We will make extensive use of Canvas.

- Canvas will be your source of information regarding the negotiation role-plays. You will receive an email that sets forth the problem together with instructions on how to access your party's confidential information. Note: Please set our Canvas website notifications to receive announcements "ASA" — "notify me right away."
- Each week you will post your journals on Canvas.
- I will use PowerPoint slides in class and will post them on Canvas after the relevant class.
- Each class will be recorded and can be viewed on Canvas.
- Your recorded role-play negotiations are to be posted to a Panopto file on the Canvas web page for this course.
- In addition, I will use Canvas to post announcements about the class.

SCHEDULE OF ASSIGNMENTS

K = Korobkin Textbook

GTY = Getting to Yes

S = Shell (optional reading)

V = Voss (optional reading)

RP = Role Play assignment

GPN = Getting Past No (optional reading)

WEEK ONE

Class 1, January 4, 2021

Conceptual Approach to Negotiations

Assignment: