

UNIVERSITY OF PENNSYLVANIA
THE WHARTON SCHOOL
DEPARTMENT OF LEGAL STUDIES & BUSINESS ETHICS

PROFESSOR EDWARD J. BERGMAN

NEGOTIATION AND DISPUTE RESOLUTION
LGST 206 SYLLABUS
FALL 2014

Classes: Thursdays 3:00 p.m. - 6:00 p.m.
Room: To be announced
Office: 619 JMHH
Department of Legal Studies & Business Ethics , Huntsman Hall
Phone: (215) 898-1833 (Wharton); (609) 921-1502 (Princeton law office)
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Office Hours: Thursdays 1:30 p.m.- 3:00 p.m.

Assigned Reading: Fisher, *et al.*, Getting to Yes, revised ed., Penguin (2011); Shell, Bargaining for Advantage, 2d ed., Penguin (2006).

NOTE: The Bulk Pack contains many of the substantive readings for the course and may be viewed online thru Study.Net. The Bulk Pack also contains readings that are not specifically assigned in which case they are optional. A complete hard copy of the course readings may be purchased thru Study.Net and picked up at Wharton Reprographics when notified via e-mail. Contact Wharton Reprographics at 215-898-6174 if you have any questions.

COURSE FORMAT

Although this class will include lectures, videos and class discussions, a series of simulated negotiation and mediation exercises is central to the course. At times, students will meet outside the classroom between class sessions to conduct some negotiations. Other exercises will require students to meet in teams between classes in preparation for negotiations that will take place in class. Many simulations are executed during class hours.

ATTENDANCE POLICY

A. Students are expected to attend all classes and to participate in all negotiation/mediation exercises and class discussions. This intensive participation is critical to the dynamic of the course. Each student's ability to benefit from this course literally depends on every classmate's active contribution and commitment. Moreover, in-class exercises will not work if key parties are absent. Therefore, **students should consider whether they can commit to this course**. To protect the common interests of participants, **MISSING MORE THAN TWO THREE HOUR CLASSES DURING THE SEMESTER WILL RESULT IN YOUR GRADE BEING LOWERED ONE FULL LEVEL. IN ANY CASE, IF YOU ARE GOING TO MISS A CLASS IT IS IMPERATIVE THAT YOU ADVISE ME A FEW DAYS IN ADVANCE,**

IF POSSIBLE, TO EASE THE DISRUPTION CAUSED BY YOUR ABSENCE. PLEASE LEAVE WORD AT MY PRINCETON OFFICE. In addition, if you must miss a class over which you have control, choose one which is not an in-class negotiation or mediation. If you miss class, you must obtain and complete any assignments or negotiations distributed in that class. For obvious reasons it is essential to be on time.

B. Each student is required to attend out-of-class lectures at which prominent negotiation practitioners will share their experiences and be available for questions. These lectures are likely to be scheduled from 4:30 p.m. - 6:00 p.m on dates to be announced. *The October 16, 2014 class has been cancelled to offset the additional class time represented by those lectures.* Lecturers, topics, dates and times for the practitioner lectures will be announced in class. If an **unavoidable** conflict prevents your attending the lecture personally, you must submit a written explanation of your conflict to me and view the video of the lecture, which will be available in the AV Library in SH/DH.

C. Students are encouraged to meet with me at least once, during office hours, to discuss their negotiation progress. You may find it beneficial to meet with me and a negotiation counterpart to discuss a negotiation that was particularly problematic for you and/or to confer with me alone regarding any course-related issues.

GRADING AND COURSE REQUIREMENTS

1. Class Participation (20% of your grade)

While I do not grade students on the results of individual negotiations, the overall quality of your participation in the negotiation exercises forms part of the Class Participation grade. Students are expected to participate in ALL negotiation exercises and class discussions. Assigned readings frequently form the basis for class discussions. Your familiarity with and understanding of these materials form a part of the Class Participation grade. Participation includes FULL preparation for exercises and submission of a typed, one page summary of the most important aspects of each negotiation, for you personally, at the class following debriefing of the negotiation. In addition, you must submit a one-page description of the most important aspects, for you, of each out-of-class lecture. It is your responsibility to obtain materials handed out in class and to hand in required assignments on time.

2. Mid-Term Examination (30% of your grade)

At the end of Class 7 a take-home Mid-Term Examination will be distributed for submission at the beginning of Class 8. Detailed instructions will be incorporated in the examination.

3. A Comparison of Your Initial Objectives in Taking this Course and Your Actual Achievements (or lack thereof). (10% of your grade)

At the beginning of Class 2 you will submit a brief description of your expectations and aspirations for this course (in 350 words or less). At the beginning of Class 12 you will submit a paper comparing your initial objectives with your actual accomplishments (or lack thereof) with specific references to what aspects of the course, both in terms of substance and the use of

particular teaching materials, (e.g., negotiations, class discussions, interactions with classmates, readings, film clips, instructional videos, out of class lectures) proved instrumental in enhancing your negotiation skills and expertise. Describe the ways in which things you have learned about yourself as a person and a negotiator (strengths and weaknesses) have changed or influenced your approaches to negotiation in general and to particular negotiation situations, (e.g. characteristics of the other parties, relationships, the stakes, the subject matter or the potential for mutual gain or lack of thereof). This paper is not to exceed 1,250 words, inclusive of your initial submission.

4. Final Project (40% of your grade)

Teams of two, three or four students (in rare cases permission will be granted for five person teams) will write research papers on a complex, high-profile negotiation, or on a theoretical topic in negotiation. Such papers should be approximately 2,500 words long for a single preparer (exclusive of bibliography and/or exhibits). Each addition of a team member will increase the permissible length by no more than 1,000 words. Alternatively, your team may devise a multi-party negotiation game with role sheets and teacher's notes (incorporating specific applications of the negotiation literature to those negotiation concepts the game is designed to illuminate), and a section detailing the results of several repeated runnings of the game. Negotiation game projects have no specific word limitation but authors are required to exercise restraint, consistent with the knowledge that a game is intended to be used and must be practical and accessible.

NOTE: READINGS, SUMMARIES & NEGOTIATION ASSIGNMENTS LISTED UNDER A CLASS NUMBER AND DATE ARE ASSIGNMENTS DUE *FOR THE NEXT CLASS* UNLESS SPECIFIED TO THE CONTRARY.

CLASS 1 (August 28, 2014)

COURSE OVERVIEW; INTRODUCTION TO DISTRIBUTIVE BARGAINING

In Class: Overview of course content, requirements, grading and calendar; introduction to negotiation; video clip from “Take the Money and Run,” Woody Allen (1969); video clip from “Defending Your Life,” Albert Brooks (1991); hand out and discuss Lardner, You Know Me Al: A Busher’s Letters; video clip from “Wall Street,” Oliver Stone (1987); hand out and negotiate “The Bentley Convertible;” debrief.

Readings Bergman, “Why Do Whartonites Love Negotiation Studies?...” (Bulk Pack);
For Sept. 4: Lewicki, “Strategy & Tactics of Distributive Bargaining” (Bulk Pack); Korobkin & Guthrie, “Opening Offers and Out-of-Court Settlement” (Bulk Pack); Lax & Sebenius, “Agents & Ratification” (Bulk Pack); *Optional:* Bazerman & Neale, Chapter 15, “Negotiating Through Third Parties” (Bulk Pack); Shell, Introduction, “The Anxious Negotiator;” Chapter 8, “Exchanging Information;” and Chapter 9, “Opening & Making Concessions;” “Should You Use an Agent.” pp. 131-132; *Optional:* Roberts & Palmer, Dispute Processes, Cambridge University Press (2005), Chapter 5 “Negotiations” pp. 113-119 (Bulk Pack).

Summaries: “The Bentley Convertible”

CLASS 2 (September 4, 2014)

DISTRIBUTIVE BARGAINING

In Class: Submit a brief description (350 words or less) of your expectations and aspirations for this course. (See page 3 above) Hand out and negotiate “Appleton v. Baker;” debrief; discuss Distributive Bargaining; hand out and negotiate “The Book Contract;” debrief; hand out “Knight/Excalibur” for negotiation outside of class.

Readings Shell, Chapter 11, “Bargaining With The Devil Without Losing Your Soul: Ethics in Negotiation;” Bazerman, “Framing Negotiations” (Bulk Pack); Shell, Ch. 3, “The Third Foundation: Authoritative Standards and Norms;” Malhotra & Bazerman, Negotiation Genius, Bantam Books (2007), Chapter 9 “Confronting Lies and Deception” pp. 196-218 (Bulk Pack).

Negotiation

Assignment: Negotiate “Knight/Excalibur” outside class; debrief in groups. Prepare results sheets for submission at outset of Class 3.

Summaries: “Appleton v. Baker” and “The Book Contract.”

CLASS 3 (September 11, 2014)

THE ROLE OF PERCEPTION AND PREPARATION IN NEGOTIATION: CONCERNING TRUTHFULNESS IN NEGOTIATIONS

In Class: Video excerpt from “Be Cool,” Gary Gray (2005); *discussion of the role of perception* in negotiation; video excerpt from “The Devil’s Advocate,” Taylor Hackford (1997); *discussion of the role of preparation*; debrief “Knight/Excalibur”; *discuss lying from ethical, legal and practical standpoints*; video excerpt from “The Middleman,” Satyajit Ray (India 1975); video excerpt from “Other Peoples’ Money”; hand out The Power Screen Problem with Preparation Guide; begin preparation for in-class negotiation in lawyer-client pairs.

Readings For Sept. 18 Fisher, Ury & Patton, Getting to Yes, pp. 3-95; Lax & Sebenius, “The Negotiator’s Dilemma: Creating & Claiming Value” (Bulk Pack); Shell, Ch. 4, “Relationships” and Ch. 5, “The Fifth Foundation: The Other Party’s Interests;” Lewicki, “Strategy & Tactics of Integrative Negotiation” (Bulk Pack). Sheppard, “Negotiating in Long-Term Mutually Interdependent Relationships Among Relative Equals” (Bulk Pack).

Negotiation

Assignment: Prepare “The Power Screen Problem” for in-class negotiation in pairs (lawyer and client), draft preparation memo.

Summaries: “Knight/Excalibur”

CLASS 4 (September 18, 2014)

INTRODUCTION TO INTEGRATIVE / PRINCIPLED NEGOTIATION; RELATIONSHIPS

In Class: Hand in “Power Screen” preparation memo; video of Hacker-Star confrontation; negotiate “The Power Screen Problem;” debrief with discussions of Getting to Yes and Integrative Bargaining; hand out Illustrative Preparation Memo; video excerpt from “The Thomas Crown Affair,” J. McTiernan (1999); *discussion of relationships*; hand out “Job Negotiation” for videotape negotiation outside class.

Readings For Oct. 2: Gilkey & Greenalgh, “The Role of Personality in Successful Negotiating” (Bulk Pack); Lax & Sebenius, “Interests: The Measure of Negotiation” (Bulk Pack); Shell, Ch. 1, “The First Foundation: Your Bargaining Style;” and Ch. 7,

“Preparing Your Strategy;” The Thomas-Kilmann Conflict Mode Instrument; Roberts & Palmer, Ch. 5, “Negotiations” pp. 133-142 (Bulk Pack).

Negotiation Assignment:

Video record your Job Negotiation. Recordings should not exceed ½ hour and at the beginning of the recording, you must state your full names, the name of your professor and the course number. If you plan to use a group study room, you are responsible for reserving it online. The video recording should be completed before Class 7.

For instructions on recording your negotiation for online turn-in through Canvas, either directly by webcam or by uploading a separately-recorded video file, see the Canvas Student Guide: <http://guides.instructure.com/s/2204/m/4212/1/54356-how-do-i-add-media-to-my-assignment>

AFTER your video is uploaded to Canvas you must review your video recording with your partner and two other videos (can be viewed alone) and write a journal entry about what you observe about your own and others' styles.

Summaries: “The Power Screen Problem”

CLASS 5 (September 25, 2014)

Due to the religious holiday, Rosh Hashanah, while class will be held, those observing the holiday will be excused and the material covered will not require makeup.

In Class: Hand out "Redstone" for negotiation in class; debrief.

CLASS 6 (October 2, 2014)

PERSONALITY, STRATEGY AND NEGOTIATION;
INTEGRATIVE NEGOTIATION (CONT'D.)

In Class: Video excerpt from Professor Gerald Williams’ “Aggressive v. Cooperative Bargaining;” The Thomas-Kilmann Conflict Mode and the Shell Situational Matrix; *discussion of the role of personality*; hand out “Sally Soprano” for out-of-class negotiation; separate class for preparation by sides (Sally’s reps and Lyric’s reps).

Reading for Oct. 23: *Optional:* From Predictably Irrational by Dan Ariely (published by HarperCollins, New York) for those interested in the subject and who may wish to design their final projects within this topic area.

Negotiation

Assignment: Negotiate “Sally Soprano” outside class before Class 8.

NO CLASSES ON OCTOBER 9 and 16, 2014

CLASS 7 (October 23, 2014)

IRRATIONALITY AND DECISION-MAKING IN NEGOTIATION

Job Negotiation Videos are due by today -- see instructions under Class 4

Hand out Mid-Term Examination for completion prior to Class 8

In Class: Beyond Personality – Human Predilections; various in-class exercises; discussion of the sources and prevalence of irrationality; contexts in which irrationality predictably arises; combating irrationality and using it to advantage in negotiation.

Readings For Oct. 30: Lewicki, “Finding and Using Negotiation Leverage” (Bulk Pack); Shell, Ch. 2, “The Second Foundation: Your Goals & Expectations” and Ch. 6, “The Sixth Foundation: Leverage;” Lax & Sebenius, “Interests: The Measure of Negotiation” (Bulk Pack).

CLASS 8 (October 30, 2014)

INTERESTS & THE USE OF TRADEOFFS; POWER IN NEGOTIATION

In Class: **Hand in Mid-Term Examination;** Debrief “Job Negotiation” and “Sally Soprano”; *discussion of interests & tradeoffs*; hand out “Game Theory”; video excerpts from “Gandhi,” Richard Attenborough (1982); *discussion of power in negotiation*; hand out Trump & Lewinski articles.

Readings

For Nov.6: Brandenburger & Nalebuff, “Co-Opetition” (Bulk Pack)

Negotiation

Assignment: Prepare and evaluate positions in “Game Theory” individually with independent research to support your positions beyond the materials distributed and submit a negotiation memo for Class 9 outlining your interests, options, potential tradeoffs and resistance points (generally requires 1-2 hours); discuss the game with players of the same role in other “Game Theory” groups; view your “Job Negotiation” video and two other videos on CANVAS.

Summaries: “Sally Soprano” and “Job Negotiation”

CLASS 9 (November 6, 2014)

CO-OPETITION

In Class: Negotiate “Game Theory” in class; debrief in groups; class debriefing; *discussion of co-opetition*; hand out “Harborco” roles.

Readings Bergman, “Wrangling to the Rhythm” (Bulk Pack); Gray, “Collaboration: The Constructive Management of Differences” (Bulk Pack); Andrews, “Regarding Customers as Business Collaborators” (Bulk Pack); Lewicki, “Multiparty Negotiation” (Bulk Pack).
For Nov. 13:

Negotiation

Assignment: Read your “Harborco” role materials individually, discuss the issues with individual members of your negotiating group but not more than one person at a time. No discussions with members of other groups are permitted.

Summaries: “Game Theory”

CLASS 10 (November 13, 2014)

MULTI-PARTY, MULTI-ISSUE NEGOTIATION / COLLABORATION

In Class: Negotiate “Harborco” in class; debrief with *discussion of collaboration and multi-party negotiation*

Readings

For Nov. 20: Davis, “Mary Parker Follett” (Bulk Pack); Menkel-Meadow, “Teaching About Gender and Negotiation: Sex, Truths and Videotape” (Bulk Pack); “Her Place at the Table” (Bulk Pack)

Negotiation

Assignment: Read "Her Place at the Table" carefully in preparation for class discussion of the role of gender in negotiation.

Summaries: "Harborco"

CLASS 11 (November 20, 2014)

FINAL PROJECT TOPICS AND TEAMS DUE

**INTRODUCTION TO MEDIATION;
GENDER, RACE & STEREOTYPING IN NEGOTIATION**

In Class: View "Mediation Demonstration: Underlying Interests" video (2013); discussion of mediation process, mediator roles and comparison of mediation with other dispute resolution mechanisms; video excerpt from "Nothing in Common," Garry Marshall (1986); discussion of gender, race and stereotyping led by a panel of class members; hand out "Storyville Pulp and Paper Mill" roles.

Readings

For Nov. 25 Moore, "Variables that Influence Mediation Strategies & Activities" (Bulk Pack); Bergman and Bickerman, Court-Annexed Mediation: Perspectives on Selected State & Federal Programs, "Introduction" (Bulk Pack); Aaron, "Evaluation in Mediation" (Bulk Pack); (optional) Gibson "Mediator Attitudes toward Outcomes: A Philosophical View". (Bulk Pack).

Negotiation

Assignment: Prepare "Storyville Pulp and Paper Mill" for mediation in class.

*****CLASS 12 (TUESDAY, November 25, 2014)*****

**Per the University Academic Calendar,
any class regularly scheduled on Thursday of this week
will, instead, be held on Tuesday of this week.**

MEDIATION

Hand in paper comparing initial objectives in taking the course with your actual accomplishments (or lack thereof).

In Class: Mediate "Storyville Pulp and Paper Mill;" debrief.

Readings

For Dec. 4: Robert J. Janosik, "Rethinking the Culture-Negotiation Link" (Bulk Pack); Thompson, The Mind and Heart of the Negotiator, 4th ed., Prentice Hall, Ch. 12, "Negotiating via Information Technology" (Bulk Pack). *Optional:* Thompson, Ch. 10, "Cross-Cultural Negotiations" (Bulk Pack) – for those interested in the subject and who may wish to design their final projects within this topic area.

Summaries: "Storyville Pulp and Paper Mill"

****NO CLASS NOVEMBER 27, 2014 – THANKSGIVING****

CLASS 13 (December 4, 2014)

**THE IMPACT OF INFORMATION TECHNOLOGY ON NEGOTIATION;
CULTURAL PERSPECTIVES ON NEGOTIATION**

In Class: Discussion of the impact of information technology on negotiations; Video excerpts from "Qiu Ju," Zhang Yimou (China 1980); video excerpt from "Rising Sun", Philip Kaufman (1993); *class discussion of cross-cultural dispute resolution and the relevance of same in a Wharton classroom*

**FINAL PAPERS DUE
ON OR BEFORE DECEMBER 18, 2014 at 3 p.m.
Please submit by e-mail to: ejb@gear3.net**