

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

PROFESSOR EDWARD J. BERGMAN

NEGOTIATION AND DISPUTE RESOLUTION
LGST 206-409 SYLLABUS
2018 FALL TERM

Class: Thursdays 3:00 p.m. - 6:00 p.m.
Room: TBD
Office: 619 JMHH
Department of Legal Studies & Business Ethics , Huntsman Hall
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Required Reading: Fisher, et al., Getting to Yes, revised ed., Penguin (2011)
Shell, Bargaining for Advantage, 2d ed., Penguin (2006)
Bulk Pack

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. **A fee will be added from Wharton Printing (Reprographics) for royalty, printing and study.net charges associated with Negotiation Exercises. This charge will appear on your Bursar bill.**

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 OR PART OF TWO CLASSES DURING THE SEMESTER WILL RESULT IN YOUR GRADE BEING LOWERED ONE FULL POINT, e.g. an "A" will be lowered to a "B." ALL ABSENCES MUST BE EXCUSED. UNEXCUSED ABSENCES WILL BE CONSIDERED IN GRADING. 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 E-MAIL ADDRESS. 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. Students are encouraged to meet with me at least once, during office hours, to discuss their 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 and one-half page summary of the most important aspects of each negotiation, for you personally, at the class following debriefing of the negotiation. These should not be play-by-play descriptions of your negotiation. Instead, they are reflections on the most illuminating aspects of your experience. 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 6, 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. You will have two weeks to complete this take home examination. Budget your time accordingly as no extensions will be granted. An extension would be unfair to those who have planned with the awareness that extenuating circumstances do occur.

Students should be aware that performance in the Mid-Term is often correlated with the extent to which you have remained current with the assigned readings.

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 13 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) 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. This paper is not to exceed 1,250 words, inclusive of your initial submission.

4. Final Project (40% of your grade)

Teams of 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 5,000 words long (exclusive of bibliography and/or exhibits), typed, double-spaced and on one side of the page. 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 a number of runnings of the game. Negotiation game projects have no specific word limitation but authors are required to exercise judgment, consistent with the knowledge that a game is intended to be used as a teaching tool and must be practical and accessible. The Teacher's Notes are the core of such projects and should be sufficiently clear and comprehensive to provide a blueprint for teaching of the relevant topics. This blueprint should include significant discussion of readings applicable to analysis of the negotiation topics on which your game is focused.

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 30, 2018

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 (handout); video clip from "Wall Street," Oliver Stone (1987); video clip from "Be Cool," Gary Gray (2005); video clip from "The Devil's Advocate," Taylor Hackford (1997); hand out and negotiate "The Used Car Negotiation;" debrief.

Readings
for Sept 6: Bergman, "Why Do Whartonites Love Negotiation Studies?..." (Bulk Pack);
Lewicki, "Strategy & Tactics of Distributive Bargaining" (Bulk Pack);
Korobkin & Guthrie, "Opening Offers and Out-of-Court Settlement" (Bulk Pack);

Shell, Introduction, "The Anxious Negotiator;" Chapter 8, "Exchanging Information;" and Chapter 9, "Opening & Making Concessions;"
Bozerman, "Framing Negotiations," (Bulk Pack)

Summaries
for Sept 6:

"The Used Car Negotiation"

CLASS 2: September 6, 2018

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 with discussion of Distributive Bargaining; discuss the "Information Exchange" phase; hand out and negotiate "The Book Contract;" hand-out "Knight/Excalibur" for negotiation outside of class.

Readings
for Sept 13:

Shell, Chapter 11, "Bargaining With The Devil Without Losing Your Soul: Ethics in Negotiation;" Shell, Ch. 3, "The Third Foundation: Authoritative Standards and Norms" (optional);
Malhotra & Bazerman, Negotiation Genius, Bantam Books (2007), Chapter 9 "Confronting Lies and Deception" pp. 196-218 (Bulk Pack);
Lax & Sebenius, "Agents & Ratification," (Bulk Pack);
Shell, "Should you Use an Agent," pp. 131-32
Begin reading Fisher, Ury & Patton, Getting to Yes, for discussion in Class 3

Negotiation
Assignment
for Sept 13:

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

Summaries:

"Appleton v. Baker"

CLASS 3: September 13, 2018

AGENCY; CONCERNING TRUTHFULNESS IN NEGOTIATIONS

In Class: Debrief "The Book Contract" with discussion of agency; debrief "Knight/Excalibur"; *discuss lying from ethical, legal and practical standpoints*; video excerpt from "The Middleman," Satyajit Ray (India 1975); video excerpt from "Other People's Money" (Norman Jewison, 1991); D. Ariely video; hand out "Negotiated Development in Redstone."

Readings
for Sept 20: 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 Mutual Interdependent Relationships Among Relative Equals" (Bulk Pack).

Negotiation
Assignment
for Sept 20: Prepare "Negotiated Development in Redstone"
for in-class negotiation.

Summaries: "The Book Contract" and "Knight/Excalibur"

CLASS 4: September 20, 2018

⌘ **HAND OUT JOB NEGOTIATION ROLES** ⌘

INTRODUCTION TO INTEGRATIVE BARGAINING / INTEREST-BASED NEGOTIATION/
GETTING TO YES/ RELATIONSHIPS

In Class: Negotiate "Redstone;" debrief with discussions of Integrative Bargaining and Getting to Yes; *discussion of relationships*; hand out "Job Negotiation" for videotaped negotiation outside class.

Readings
for Sept 27: Shell, Ch. 1, "The First Foundation: Your Bargaining Style" and Ch. 7, "Preparing Your Strategy;"
Gilkey & Greenalgh, "The Role of Personality in Successful Negotiating" (Bulk Pack);
Roberts & Palmer, Ch. 5, "Negotiations" pp. 133-142 (Bulk Pack);
The Thomas-Kilmann Conflict Mode Instrument (handout).

⌘ 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. Be certain your framing contains both parties' full face and that the sound level is adequate. If you plan to use a group study room, you are responsible for reserving it online. The video recording should be completed before Class 5.

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/l/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: "Negotiated Development in Redstone"

CLASS 5: September 27, 2018

⌘ JOB NEGOTIATION VIDEOS DUE ⌘

(See Instructions Under Class 4)

PERSONALITY, STRATEGY AND NEGOTIATION; INTEGRATIVE NEGOTIATION

In Class: Integrative Bargaining cont'd; 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;*

Readings
for Oct 11: Lax & Sebenius, "Interests: The Measure of Negotiation,"
(Bulk Pack)

Negotiation
Assignment: N/A

FALL BREAK - OCTOBER 4, 2018 - NO CLASS

CLASS 6: October 11, 2018

⌘ HAND OUT MID TERM EXAMINATION ⌘

"JOB NEGOTIATION," "INTERESTS & TRADEOFFS"

In Class: Debrief "Job Negotiation"; discussion of Interests; tradeoffs; types of Interests; video "Interests and Positions in Negotiation" (Noam Ebner); video "Integrative Bargaining Tactics" (Expanding the Pie); handout Sally Soprano for negotiation outside class; separate class for preparation by sides (Sally's reps and Lyric's reps)

Readings

for Oct 18:

Shell, Ch. 2, "The Second Foundation: Your Goals & Expectations" and Ch. 6, "The Sixth Foundation: Leverage;"
Lewicki, "Finding and Using Negotiation Leverage" (Bulk Pack);
"Monica Lewinsky, Career Woman" (Bulk Pack);
"Vera Trumps the Donald in the Fine Art of the Deal" (handout)

Negotiation

Assignment

for Oct 18:

View and compare your "Job Negotiation" video and two other videos on CANVAS; negotiate "Sally Soprano" outside class before Class 7; prepare a negotiation memo for Class 7 outlining your interests, the other's interests, potential trade-offs, options, BATNA's and resistance points

Summaries:

"Job Negotiation"

NO CLASS - OCTOBER 18, 2018

In lieu of class, you are assigned to watch the movie The Founder (2016), starring Michael Keaton, and submit 500 word summary of the film's relevance to negotiation studies before Class 7.

CLASS 7: October 25, 2018

MAXIMIZING THE TOTALITY OF INTERESTS; POWER IN NEGOTIATION

In Class:

Hand out "Game Theory"; video excerpts from "Gandhi," Richard Attenborough (1982); "Norma Rae," Martin Ritt (1979) and "30 Rock," TV Prod Code 515 (2011) discussion of power and leverage in negotiation; Debrief "Sally Soprano"; handout sample agreements and perks

Readings
for Nov 1: Brandenburger & Nalebuff, "Co-Opetition" (Bulk Pack);
Andrews, "Regarding Customers as Business Collaborators"
(Bulk Pack)

Negotiation
Assignment
for Nov 1: Prepare and evaluate interests and positions in "Game Theory"
individually with independent research to support your analysis
beyond the materials distributed and submit a negotiation memo
for Class 8 outlining your interests, the other's interests, options,
potential tradeoffs, BATNA's and resistance points (generally
requires 1-2 hours); discuss the game with players of the same
role in other "Game Theory" groups.

Summaries: "Sally Soprano"

CLASS 8: November 1, 2018

⌘ MID TERM EXAM DUE ⌘

CO-OPETITION/ MULTI-PARTY NEGOTIATION

In Class: Negotiate "Game Theory" in class; submit "white paper" results;
debrief in groups; class debriefing; discussion of co-opetition and
the quality of agreements; hand out "Harborco" roles.

Readings
for Nov 8: Bergman, "Wrangling to the Rhythm" (Bulk Pack);
Gray, "Collaboration: The Constructive Management of
Differences" (Bulk Pack);
Lewicki, "Multi-Party Negotiation" (Bulk Pack)

Negotiation
Assignment
for Nov 8:

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 9: November 8, 2018

MULTI-PARTY NEGOTIATION/ COLLABORATION

In Class:

Negotiate "Harborco" in class; debrief with discussion of collaboration and multi-party / multi-interest negotiations

Readings
for Nov 15:

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);
"When it Comes to Salary Many Women Don't Push" (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 10: November 15, 2017

⌘ *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 "St Francis Hospital" roles.

Readings
for Nov 20: Aaron, "Evaluation in Mediation" (Bulk Pack);
"Why We're Still Happy" (Bulk Pack);
"The Behavioral Revolution"(Bulk Pack);
"What Makes a Good Wine Taste Better? Higher Price"(Bulk Pack);
"Work Up a Sweat and Bargain Better"(Bulk Pack);
"Using Menu Psychology" (Bulk Pack)

PRE-THANKSGIVING DAY CLASS ON TUESDAY

CLASS 11: November 20, 2018

BEYOND PERSONALITY - HUMAN PREDILECTIONS

In Class: Discussion of Behavioral Economics; sources and prevalence of irrationality; combating irrationality; relevance in negotiation; Ariely video

Readings
for Nov 29: Moore, "Variables that Influence Mediation Strategies & Activities"
(Bulk Pack);
Bergman and Bickerman, Court-Annexed Mediation: Perspectives
on Selected State & Federal Programs, "Introduction" (Bulk Pack)
Gibson, "Mediator Attitudes Towards Outcomes: A Philosophical
View," (Bulk Pack, Optional)

Negotiation
Assignment
for Nov 29: Prepare "St Francis Hospital" for negotiation in class. Prepare
individual negotiation memo for submission in Class 12.

CLASS 12: November 29, 2018

MEDIATION

In Class: Mediate and debrief "St Francis Hospital;"
hand out "Storyville Pulp and Paper Mill"

Readings
for Dec 6: 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.

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

Summaries: "St Francis Hospital"

CLASS 13: December 6, 2018

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

CULTURAL PERSPECTIVES ON NEGOTIATION/ THE IMPACT OF
INFORMATION TECHNOLOGY

In Class: Video excerpts from "Qui 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 Wharton classroom; Discussion of how technology has altered, and will continue to alter, negotiation behavior.

**⌘ FINAL PAPERS DUE ⌘
ON OR BEFORE DECEMBER 20, 2018 @ 3:00PM
PLEASE SUBMIT BY E-MAIL TO: ejb@bergmanandbarrett.com**