

SYLLABUS

DEPARTMENT OF LEGAL STUDIES AND BUSINESS ETHICS
THE WHARTON SCHOOL, UNIVERSITY OF PENNSYLVANIA
NEGOTIATION

LECTURER: ERIC MAX, ESQ.

FALL 2019

LGST 806-407 and LGST 806-409

1. INSTRUCTOR

Lecturer: Eric Max, Esq.

Email: emax3@wharton.upenn.edu (best method of contact)

Office Phone: 215-898-7689

Office: Huntsman Hall, 6th Floor

Office Hours: By appointment

2. CLASS MEETING TIMES AND LOCATION

Section 407, Tuesdays, 3pm-6pm, Room JMHH G50

Section 409, Thursdays, 3pm-6pm, Room JMHH F70

3. COURSE OBJECTIVES

Negotiation is more an art than a science. We negotiate every day in both our personal and professional lives. Effective negotiation can be a cornerstone of successful business and personal relationships. There is no “right way” to negotiate. Different approaches and styles may be more effective in certain situations. This course will give you the tools necessary to be able to analyze a negotiation and apply the appropriate skills to make it as productive as possible. This course is designed to help you:

- Gain confidence as a negotiator
- Determine your own strengths and weaknesses as a negotiator
- Improve your ability to negotiate effectively
- Analyze negotiation situations
- Develop a strategic plan for effective negotiation
- Gain an intellectual understanding of negotiator behavior

4. COURSE FORMAT

This class will consist of:

- Interactive negotiation simulations every week
- In class debrief of all negotiations
- Guest speakers
- Negotiation with attorneys and law students

5. TEXT AND READINGS

There are two assigned texts in this class:

Getting to Yes: Negotiating Agreement Without Giving In, by Roger Fisher, Bill Ury and Bruce Patton, (3d ed. Penguin 2011) ["GTY"].

Bargaining for Advantage, by G. Richard Shell (Penguin, 2d ed. 2006) ["BFA"].

6. CLASSROOM EXPECTATIONS

- We will start and end class on time
- You will display your name tent every class
- You must turn off all phones, laptops and other electronic devices

Attendance and Preparation: This class is very interactive and relies on the preparation and participation of all students in the class. Thus, it is extremely important for you to attend class and to be prepared to participate in a meaningful way. The more you put into this class, the more you will get out of it! **Excused absences include: Family or personal medical emergencies and religious holidays. Job interviews are *not* excused absences. It is the student's responsibility to email me with any excused absences.**

During semesters when I teach more than one section of the negotiation course you may attend the other section **a maximum of three times** during the semester without a penalty. For example, if I am teaching the course on both Tuesdays and Thursdays you may attend Thursday's section three times even if you are registered for Tuesday. **All papers will still be due on the dates listed for your regular section of the class. It is your responsibility to print your name and sign the attendance sheet for the class that you attend. The attendance sheets will be the sole source considered to determine class attendance.**

Confidentiality: In the first class, you will be asked to sign a Non-Disclosure Agreement regarding the information you learn in connection with the simulated negotiations. The bottom line is that, unless I specifically direct you otherwise, you may not share confidential information you receive in connection with a negotiation simulation with anyone, including

classmates who are playing the same role. Your honesty, integrity, and ethical conduct in this regard will count in your grade and will affect your reputation with your peers and your instructor. If you have any questions about the confidentiality of any facts, please ask me.

Do not assume that the negotiation is over when you think it is over. When you have completed a negotiation, please do not reveal your confidential information to your counterparts, or to members of another team, before returning to the classroom for the formal debrief session with me. The simulations do not always end when you sign an agreement in a break-out room. After we debrief the simulations you are free to discuss the case further with members of our class.

Ethics and Use of Prior Materials: Do not discuss cases with or borrow notes from people outside of class, and do not share any information about these simulations with students who have not taken this class. It is a violation of the University Code of Academic Integrity to post anything about the negotiation simulations on a public website, or to conduct internet/Google searches about simulations.

7. GRADING

Your grade will be determined as follows based on a **100-point scale**.

A. Class Participation (22 points)

Participation includes attending all classes and high-quality participation in class exercises, discussion, and peer feedback. Some cases and exercises require advance preparation (reading, preparation of negotiation strategy, sometimes written materials). Participation points for simulations will be based on the quality of your preparation for these assignments, and the quality of your participation in class during these exercises and the debriefing sessions afterward. The grading for discussion will be based on such factors as: the use of the assigned readings for a class, relevance of comments to the topic covered, ability to effectively articulate personal experience relevant to the discussion topic, and addition of new information or insights. Quality is more important than quantity of comments.

For each class missed (for reasons that are not excused absences) you will lose three points off your class participation point total. If you miss three or more classes (for reasons that are not excused absences) you will automatically receive an LT designation. It is your responsibility to sign the attendance sheet for each class that you attend. The attendance sheets are the sole basis for the attendance portion of your grade.

As part of class participation, you will be asked to keep a **negotiation notebook** throughout the semester. In the notebook you will be recording all the offers, counter-offers and results that take place in each of the negotiations that you participate in. Your reflections on the notebook must be included in your final paper. You will also be asked to write a brief **1-2-page paper** in the beginning of the course in which you reflect on your perceived strengths and weakness as a negotiator as you begin the course, and on your aspirations and goals for yourself during the term. (This paper is part of your class participation grade.)

Voting for Best Negotiator (3 points)

At the end of the semester, each student will vote for up to five fellow students as best negotiator: people who gained exceptional respect during the semester, either as negotiation counterparts or teammates, and exhibited exceptional skill at both reaching excellent outcomes and preserving or enhancing relationships. **(Each student receives 3 points for voting.)** The top five students in the class will receive extra credit. In addition, the student who receives the most votes from their classmates will receive an engraved award. **All votes must be in by midnight the day before the last class of the semester.**

B. Course Papers (total of 75 points)

These rules apply to all papers submitted in the course: During the course, you will be asked to write several papers. All papers should include course readings, footnotes and concepts from the course. All papers must be submitted via Canvas in Word format (not .pdf). The format should be double spaced, 12-point font, 1-inch margins, page numbers in the top right corner. Key words, concepts and paragraph headings should be put in bold and a word count should be at the top of the paper. Use page citations (such as "Getting to Yes, p. 53") whenever using a quote or concept from the readings. If you are using an electronic version of a book, cite to page numbers used in that format. Use paragraph headings to indicate which question you are answering. **Late papers will be penalized 2 points for every 24 hours they are late.** It is always better to hand in papers late than not at all. Papers that exceed the page limits stated in the assignment will not have the excess pages considered.

1. Ethics Paper (5 points)

Write a 2-3-page paper analyzing the fact pattern I post on canvas using the three schools of ethics and each of the elements of fraud discussed in chapter 11 of Shell's book *Bargaining for Advantage*. **All papers should include readings, footnotes, and concepts from the course.** **Make sure to read the fact pattern I post under "announcements" on canvas.**

2. Getting to Yes Paper (15 points)

Write a 4-5-page paper reflecting on the “Planet Wars: The Opera” negotiation you conducted using the key concepts in *Getting to Yes*, including: interests/positions, options, standards and BATNAs. Include a discussion of the basic negotiation principals put forward in GTY and if they worked in your negotiation. Make sure to answer each of the questions listed at the end of your fact pattern on the assignment sheet. All papers should include readings, footnotes, and concepts from the course. Make sure to read the assignment sheet I post under “announcements” on canvas.

3. FINRA Planning Memo (10 points)

Although you may be working in teams of two, **each student should write and submit his/her own paper.** At the top of the paper list the role you are playing, your partner (if any), and the lawyer you consulted with.

Write a 3-4-page paper that discusses the following questions: What were the three most important questions you or your group asked your lawyer in preparing for the negotiation. Why were they important? How did your lawyer’s advice change your view of the negotiation? What was your strategy going into the negotiation (information you needed to obtain, order in which you would meet with other parties and issues to be addressed). Feel free to address any other issues that you felt were important in preparing for this negotiation. All papers should include readings, footnotes, and concepts from the course.

4. FINRA Negotiation Reflective Essay (15 points)

Although you may be working in teams of two, **each student should write and submit his/her own paper.** In the beginning of the paper include the role you played, the name of your partner (if any), and the results of your negotiation and arbitration decision.

Write a 4-5-page paper that discusses what happened in the FINRA negotiation. What were the negotiating styles of all parties involved? What were the BATNA’s for each party? How did multiple parties change the negotiation? What role did time pressure play? Which parties had leverage and why? Did you make the right choice to settle/not settle this dispute based on the information you had at the time? Did your lawyer’s advice help or hurt? Did the decision of the arbitrator change your view on the negotiation? What did you learn from doing this negotiation? All papers should include readings, footnotes, and concepts from the course.

5. Paper Clip Negotiation (10 points)

The paper clip negotiation will take place outside of class during the last two weeks of the semester. Each student will **write a 2-3-page paper** reflecting on this exercise. This paper is due the last day of class and should include pictures of the items traded for. Students will be evaluated based on creativity, number of trades, quality of trades and final item traded for. (Directions for the exercise will be handed out in class and posted on canvas under “announcements.”) In addition, all students should bring to the last class the last item they traded for. The class will vote on the student who traded for the best item. The winner will receive an award symbolizing their achievement. All papers should include readings, footnotes, and concepts from the course.

6. Final Paper (20 points)

The primary purpose of this 5-6-page paper is to show me that you have read “Bargaining for Advantage” and understand the concepts in the book. (Directions for the exercise will be posted on canvas under “announcements.”)

Your final paper should be based on a discussion of all the topics listed in the negotiation planning form in *Bargaining for Advantage* (Appendix C, pp. 227-228). (You do not need to include the boxes used in the book.) Make sure to also include a paragraph reflecting on the lessons learned from your negotiation notebook and guest speaker’s comments. All papers should include readings, footnotes, and BFA concepts from the course.

You are free to accomplish the above in any manner you choose. You can write a planning memo or a reflection memo. You can write about role plays we did in class or real negotiations that occurred outside of class. You can write about a past negotiation or one you are planning for in the future. You can also do a combination of any of the above. Just make sure you cover all the items listed in the assignment.

COURSE OUTLINE AND ASSIGNMENTS

Due to the flexible nature of the course, the syllabus may not always contain the most updated information regarding when assignments are due. As a result, always follow the dates given in the “assignments” section on canvas and not the syllabus.

All readings indicated below should be read prior to the class for that week. All papers are due by 3pm on their respective due dates. All papers are due on the dates listed for your regular section of the class-even if you attended a different section of the class that week.

Note: Each week the two sections of the class will cover the same material except on weeks where only one section of the class meets (classes 6A and 12A). Classes 6a and 12A will cover the same material but on different dates during the semester.

Class #1 on 8/27 & 8/29:

Read the syllabus and BFA introduction

In-class: Go over syllabus, negotiate airplane and car sales role plays

Bring signed “non-disclosure form” to class (will be posted on canvas)

Topic: Distributive negotiations, part 1

Class #2 on 9/3 & 9/5:

Written Assignment Due: Negotiation strengths and weaknesses paper

Read GTY pp 1-55, BFA Ch. 1 (we will discuss bargaining styles in class #4)

In-class: Negotiate role-plays Appleton v. Baker and printer return case

Topic: Distributive negotiations, part 2

Class #3 on 9/10 & 9/12

Read GTY pp 56-94, BFA Ch. 2

In-class: Negotiate role-plays Bullard Houses and Deck case

Topic: Negotiation ethics

Class #4 on 9/17 & 9/19

Written assignment due: Ethics paper (ethics question will be posted on canvas under announcements)

Bring bargaining styles assessment form to class (will be posted on canvas)

Read GTY pp 95-148, BFA Ch. 3

In-class: Conduct “win as much as you can” and discuss negotiation styles

Topic: Bargaining styles

Class #5 on 9/24 & 9/26

Read BFA Ch. 4

In-class: “Negotiate New Recruit” and “Planet Wars”

Topic: integrative bargaining

Class #6 on 10/1 & 10/3

Written assignment due: “Planet Wars” paper (assignment directions will be posted on canvas under announcements)

Read BFA Ch. 5

In-class: Negotiate role-play “blue coconuts”

Topic: Negotiating complex bidding scenarios

Class #6A on 10/8 (Only Tuesday’s class meets this week)

Assignment: None

In-class: Persuasion exercise

Topic: Persuasion

Class #7 on 10/15 & 10/17

Read BFA Ch. 6

In-class: Negotiate “Harborco”

Topic: Multi-party, multi-issue negotiations

Class #8 on 10/22 & 10/24

Read BFA Ch. 7

In-class: Hand out FINRA directions, meet with lawyers

Topic: Negotiating settlements of lawsuits, part 1

Class #9 on 10/29 & 10/31

Written assignment due: planning memo for FINRA negotiation (assignment directions will be posted on canvas under announcements)

Read BFA Ch. 8

In-class: Conduct FINRA negotiation

Topic: Negotiating settlements of lawsuits, part 2

Class #10 on 11/5 & 11/7

Read BFA Ch. 9

In-class: FINRA arbitration conducted

Topic: Topic: Negotiating settlements of lawsuits, part 3

Class #11 on 11/12 & 11/14

Read BFA Ch. 10

Written assignment due: FINRA reflective essay (assignment directions will be posted on canvas under announcements)

In-class: Conduct role play “Big Builder”

Topic: mediation/arbitration

Class #12 on 11/19 & 11/21

Read BFA Ch. 11

Assignment due: vote for best negotiator

In-class: Conduct role play “Getting to Maybe”

Topic: mediation/arbitration

Class 12A on 11/26 (Only Thursday’s class meets this week-and it meets on a Tuesday)

Assignment: None

In-class: Persuasion exercise

Topic: Persuasion

Class #13 on 12/3 & 12/5

Written assignment due: Paperclip memo (assignment directions will be posted on canvas under announcements)

Bring last paperclip trade to class

Read BFA Ch. 12

In-class: “Best negotiator” and “best paperclip trade” awards presented

Topic: awards presented; discuss final paper requirements

FINAL PAPER DUE AT 3PM ON 12/10 (Tuesday’s class) and 12/12 (Thursday’s class).

(Assignment directions will be posted on canvas under announcements)