

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

PROFESSOR EDWARD J. BERGMAN

NEGOTIATION AND DISPUTE RESOLUTION
LGST 206-409 SYLLABUS
2019 FALL TERM

Class: Thursdays 3:00 p.m. - 6:00 p.m.
Room: 350 JMHH
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Required Reading: Fisher, et al., Getting to Yes, revised ed., Penguin (2011)
Shell, Bargaining for Advantage, 3d ed., Penguin (2018)
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. This is particularly true if you join this class during the ADD/DROP period when you miss classes due to late enrollment.

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, e.g. "what did I do well or poorly;" "how might I have been more effective;" "what aspects were obstacles for me?" 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 7. 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 requirements 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, including assigned readings and those discovered in researching your project.

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 29, 2019

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," directed by Woody Allen (1969) (discussion of "communication");
Video clip from "Defending Your Life," directed by Albert Brooks (1991) (discussion of "anxiety");
Hand out and discuss Lardner, You Know Me Al: A Busher's Letters (handout) (discussion of "information");
Video clip from "Wall Street," Oliver Stone (1987);
Video clip from "Be Cool," Gary Gray (2005) (discussion of "perception");
Video clip from "The Devil's Advocate," Taylor Hackford (1997) (discussion of "preparation");
Hand out and negotiate "The Used Car Negotiation;" debrief.

Readings
for Sept 5:

Bergman, "Why Do Whartonites Love Negotiation Studies?..." (Course Pack);
Lewicki, "Strategy & Tactics of Distributive Bargaining" (Course Pack);
Korobkin & Guthrie, "Opening Offers and Out-of-Court Settlement" (Course Pack);
Shell, Chapter 8, Step 2 "Exchanging Information;"
and Chapter 9, Step 3 "Opening & Making Concessions;"
Bozerman, "Framing Negotiations," (Course Pack)

Summaries
due Sept 5:

The Used Car Negotiation
Expectations and Aspirations Summary

CLASS 2: September 5, 2019

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 "Parker-Gibson;" debrief with discussion of Distributive Bargaining;
Video clip "Intolerably Cruelty," directed by Coen Brothers (2003);
discuss "Opening Offers;"
discuss "Concessions" and the "Information Exchange" phase;
Video clip "Just Go With It," directed by Dennis Dugan (2011);
Hand out and negotiate "The Book Contract;"
Hand out "Knight/Excalibur" for negotiation outside of class.

Readings
for Sept 12:

Shell, Chapter 12, "Ethics: Bargaining With The Devil Without Losing Your Soul;" 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 (Course Pack);
Lax & Sebenius, "Agents & Ratification," (Course Pack);

Shell, "Should you Use an Agent," pp. 111-112

Begin reading Fisher, Ury & Patton, Getting to Yes, for discussion in Class 4.

Negotiation
Assignment
for Sept 12:

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

Summaries
due on Sept 12:

Parker-Gibson Negotiation

CLASS 3: September 12, 2019

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; dealing with lies;
Video clip from "Other People's Money," directed by Norman Jewison (1991);
D. Ariely video "The Truth About Dishonesty;"
Hand out "Negotiated Development in Redstone" for negotiation in Class 4

Readings
for Sept 19:

Complete reading of Fisher, Ury & Patton, Getting to Yes, pp. 3-95;
Shell, Ch. 4, "Relationships"
Lewicki, "Strategy & Tactics of Integrative Negotiation" (Course Pack);
Sheppard, "Negotiating in Long-Term Mutual Interdependent Relationships Among Relative Equals" (Course Pack);
(Optional) Davis, "Mary Parker Follett" (Course Pack)

Negotiation
Assignment
for Sept 19:

Prepare "Negotiated Development in Redstone"
for in-class negotiation.

Summaries
due Sept 19:

The Book Contract
Knight/Excalibur

CLASS 4: September 19, 2019

⌘ **HAND OUT JOB NEGOTIATION ROLES** ⌘

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

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

Readings
for Sept 26:

Lax & Sebenius, "Interests: The Measure of Negotiation,"
(Course Pack)
Shell, Ch. 5, "The Fifth Foundation: The Other Party's Interests;"
Lax & Sebenius, "Creating and Claiming Value" (Course Pack)

Summaries
due on Sept 26:

"Negotiated Development in Redstone"

⌘ 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 must 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. (See Class 6 Summaries)

CLASS 5: September 26, 2019

**⌘ JOB NEGOTIATION VIDEOS MUST BE POSTED ON CANVAS BY
3pm on September 25, 2019 ⌘**

"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);
Handout N.Y. Times article on job negotiations

Readings
for Oct 3: Shell, Ch. 1, "The First Foundation: Your Bargaining Styles" and Ch. 7, Step 1 "Preparing Your Strategy;"
Gilkey & Greenalgh, "The Role of Personality in Successful Negotiating" (Course Pack);
Roberts & Palmer, Ch. 5, "Negotiations" pp. 133-142 (Course Pack);
The Thomas-Kilmann Conflict Mode Instrument (Handout).

Summaries
due on Oct 3: Job Negotiation (View and compare your video with two others on CANVAS) 2-3 page summary

CLASS 6: October 3, 2019

⌘ HAND OUT MID TERM EXAMINATION ⌘

PERSONALITY, STRATEGY AND NEGOTIATION

In Class: Video clip from Professor Gerald Williams' "Aggressive v. Cooperative Bargaining;" The Thomas-Kilmann Conflict Mode and the Shell Situational Matrix; *discussion of the role of personality; strategy and style*

Readings
for Oct 17: Shell, Ch. 2, "The Second Foundation: Your Goals & Expectations" and Ch. 6, "The Sixth Foundation: Leverage;"
Lewicki, "Finding and Using Negotiation Leverage" (Course Pack);
"Monica Lewinsky, Career Woman" (Course Pack);
"Vera Trumps the Donald in the Fine Art of the Deal" (Handout)

Negotiation
Assignment
for Oct 17: Negotiate "Sally Soprano" outside class before Class 7; prepare a negotiation memo on Sally Soprano for Class 7 outlining your interests, the other's interests, potential trade-offs, options, BATNA's and resistance points

FALL BREAK - OCTOBER 10, 2019 - NO CLASS

CLASS 7: October 17, 2019

⌘ MID TERM EXAM DUE ⌘

MAXIMIZING THE TOTALITY OF INTERESTS; POWER IN NEGOTIATION

In Class: Debrief "Sally Soprano"; handout sample agreements and perks;
Video clip from "Gandhi," directed by Richard Attenborough (1982);
Video clip "Norma Rae," directed by Martin Ritt (1979);
Video clip "30 Rock," TV Prod Code 515 (2011);
discussion of power and leverage in negotiation,
Getting to Yes, and Power;
Hand out "Game Theory" for negotiation in Class 8

Readings
for Oct 24: Brandenburger & Nalebuff, "Co-Opetition" (Course Pack);
Andrews, "Regarding Customers as Business Collaborators"
(Course Pack)

Negotiation
Assignment
for Oct 24: 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
due Oct 24: Sally Soprano

CLASS 8: October 24, 2019

CO-OPETITION/ MULTI-PARTY NEGOTIATION; PUBLIC POLICY NEGOTIATION

In Class: Negotiate "Game Theory" in class; submit "white paper" results; debrief in groups; class debriefing; utility of negotiation memos; discussion of Co-opetition; Hand out "Harborco" roles for negotiation in Class 9

Readings
for Oct 31: 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 Oct 31: 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
due Oct 31: Game Theory

CLASS 9: October 31, 2019

MULTI-PARTY NEGOTIATION/ COLLABORATION AGREEMENTS

In Class: Negotiate "Harborco" in class; debrief with discussion of multi-party / multi-issue negotiations; formation and quality of agreements; Collaboration

Readings
for Nov 7:

"Why We're Still Happy" (Course Pack);
"The Behavioral Revolution"(Course Pack);
"What Makes a Good Wine Taste Better? Higher Price"
(Course Pack)
"Work Up a Sweat and Bargain Better"(Course Pack);
"Using Menu Psychology" (Course Pack)
"When It Comes to Salary, Many Women Don't Push," NYT

Optional: Predictably Irrational, D. Ariely, *pub.* Harper Collins,
New York (for those interested in the topic who may wish to
design their Final Project in this area.)

Summaries
due on Nov 7:

Harborco

CLASS 10: November 7, 2019

⌘ **Final Project Topics and Teams Due** ⌘

BEYOND PERSONALITY - HUMAN PREDILECTIONS

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

Readings
for Nov 14:

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)
C. Moore, "Variables that Influence Mediation Strategies &
Activities" (Bulk Pack)

Negotiation Assignment for Nov 14: Read gender related readings carefully in preparation for class discussion of the role of gender in negotiation.

Negotiation Assignment: None

CLASS 11: November 14, 2019

GENDER, RACE & STEREOTYPING IN NEGOTIATION; INTRODUCTION TO MEDIATION

In Class: Video clip "Nothing in Common," directed by Garry Marshall (1986); discussion of gender, race and stereotyping led by a panel of class members;
Video "Mediation Demonstration: Underlying Interests;"
Video "Resolution Through Mediation;" discussion of mediation process, mediator roles and styles;
Hand out "St Francis Hospital" roles

Readings for Nov 21: Aaron, "Evaluation in Mediation," (Course Pack);
Bergman and Bickerman, Court-Annexed Mediation: Perspectives on Selected State & Federal Programs, "Introduction" (Course Pack)
Gibson, "Mediator Attitudes Towards Outcomes: A Philosophical View," (Course Pack, **Optional**)

Negotiation Assignment for Nov 21: Prepare "St Francis Hospital" for negotiation in class. Prepare individual negotiation memo for use and submission in Class 12.

CLASS 12: November 21, 2019

MEDIATION

- In Class: Mediate "St Francis Hospital;"
debrief with comparison of dispute resolution mechanisms
- Readings
for Dec 5: Robert J. Janosik, "Rethinking the Culture-Negotiation Link"
(Course Pack);
Thompson, The Mind and Heart of the Negotiator, 4th ed., Prentice
Hall, Ch. 12, "Negotiating via Information Technology" (Course
Pack).
Optional: Thompson, Ch. 10, "Cross-Cultural Negotiations"
(Course Pack) for those interested in the subject and who may
wish to design their final projects within this topic area.
- Negotiation
Assignment: None
- Summaries
due Dec 5: St Francis Hospital

NOVEMBER 28, 2019 - THANKSGIVING - NO CLASS

CLASS 13: December 5, 2019

⌘ *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 1993); video excerpt from "Rising Sun," Philip Kaufman (1993); class discussion of cross-cultural dispute resolution and the relevance of same in a Wharton classroom; Discussion of how technology has altered, and will continue to alter, negotiation behavior; Course wrap-up.

**⌘ FINAL PAPERS DUE ⌘
ON OR BEFORE DECEMBER 19, 2019 @ 3:00PM
PLEASE SUBMIT BY E-MAIL TO: ejb@bergmanandbarrett.com**