

## SYLLABUS

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

### NEGOTIATION

LECTURER: ERIC MAX, ESQ.

SPRING 2020

LGST 806-407 and LGST 806-408

#### 1. INSTRUCTOR

Lecturer: Eric Max, Esq.

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Office Phone: 215-898-7689

Office: Huntsman Hall, 6<sup>th</sup> Floor

Office Hours: By appointment

#### 2. CLASS MEETING TIMES AND LOCATION

Section 806-407, Tuesdays, 3pm-6pm, Room JMHH 350

Section 806-408, Thursdays, 3pm-6pm, Room JMHH 270

#### 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.**

**Switching sections:** During semesters when I teach more than one section of the negotiation course you may attend the other section **a maximum of two 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 two 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.**

**Note:** Each week the two sections of the class will cover the same material except for classes on 1/16 and 4/28. You cannot switch sections for either of these classes.

**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 (20 points)

**At the end of the semester you will receive a class participation grade. 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 3 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, counteroffers 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.

### **Negotiation strengths and weaknesses paper (2 points)**

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 is an informal paper with no footnotes and readings required. Just reflect on your own personal experience.

### **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.**

### **Extra credit**

Throughout the semester there will be opportunities to earn extra credit for best negotiation outcome, presenting to the arbitrator, etc. In order to receive this extra credit, **you must email me confirmation the day you receive it. Any extra credit earned will be applied to your class participation score.**

## **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 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 a paper requires footnotes. If you are using an electronic version of a book, cite to page numbers used in that format. Always 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 under “announcements” using the three schools of ethics and each of the elements of fraud discussed in chapter 12 (“Bargaining with the devil-Ethics”) and appendix B (“The law of fraud”) of Shell's book *Bargaining for Advantage*. This paper should include readings and concepts/terms from the course. Paragraph headings and key concepts/terms should be in bold. Footnotes are required for this paper.

### **2. Getting to Yes Paper (15 points)**

The primary purpose of this paper is to show me that you have read GTY and can apply its key concepts and terms to an actual negotiation. Write a 4-5-page paper reflecting on the “Planet Wars: The Opera” negotiation you conducted in class. Include a discussion of the basic negotiation approach put forward in GTY and if it worked in your negotiation (why/why not). Make sure to answer each of the questions listed on the assignment sheet attached to the fact pattern handed out in class. Paragraph headings and key concepts/terms should be in bold. Footnotes are required for this paper.

### **3. Negotiating by email/text (5 points)**

Write a 2-3-page paper based on the negotiation role play I hand out in class which you conduct solely via email/text outside of class. State the results of your negotiation and then answer this question: Would you prefer to negotiate by email/text or in person? Why/why not? Discuss factors that impact this decision (type of issue to be negotiated, location of parties, language of parties, time pressure, previous relationship, trust, efficiency, enforceability, etc.) Would the result of your negotiation have been different if it was an in-person negotiation? Why/Why not? Use examples from your negotiation to support your points. This paper should include readings, terms and concepts from the course. Paragraph headings, and key terms and concepts should be in bold. Footnotes are not required.

#### **4. FINRA Settlement Negotiation Planning Essay (5 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 are playing (investor, broker or brokerage firm).

Write a 2-3-page memo that is addressed to your boss as he/she prepares to conduct this negotiation. (Assume your boss has read the general facts.) Address both the substantive issues in the case (key legal issues, chance of success in arbitration etc.) as well as negotiation strategy (first offers, who to meet with and in what order, alliances etc.) Give a settlement recommendation (including a number) to your boss based on the information you currently have and state what additional information needs to be obtained in the negotiation to confirm/change this analysis. Address any other issues you feel your boss should be briefed on before starting the negotiation. It should include readings and concepts/terms from the course. Paragraph headings and key concepts/terms should be in bold. Footnotes are not required.

#### **5. FINRA Settlement 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. How did your lawyer's advice change your view of the negotiation? Was it correct? What were the negotiating styles of all parties involved? What were the BATNA's for each party? How did multiple parties and multiple issues change the negotiation? What role did time pressure play? Which parties had leverage and why? What new information did you learn during the negotiation? Did you make the right choice to settle/not settle this dispute? How did going through the arbitration process change your view on settling court cases in the future? What else did you learn from doing this negotiation? This paper should include readings and concepts/terms from the course. Paragraph headings and key concepts/terms should be in bold. Footnotes are not required.

#### **6. 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. This paper does not have to include footnotes. It should include readings and concepts/terms from the course. Paragraph headings and key concepts/terms should be in bold.

##### **5. 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 can apply its key terms and concepts to an actual negotiation(s) or role play(s) we did in class. Papers discussing the most interesting negotiations will receive additional points.

Your final paper must be based on a discussion of all the topics listed in the “information based bargaining plan” 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(s) reflecting on the lessons learned from your negotiation notebook, guest speaker’s comments and course in general. This paper should include readings and BFA terms and concepts from the course. Paragraph headings and key terms and concepts should be in bold. Footnotes are required for this paper.

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.

Assignments by date are listed on the next page.

## COURSE OUTLINE AND ASSIGNMENTS BY DATE

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**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 for classes on 1/16 and 4/28. You cannot switch sections for either of these classes.

### **Class #1A on 1/16 (Only Thursday’s class meets this week)**

Assignment: None

In-class: Negotiate “The kidney case”

Topic: Persuasion

### **Class #1 on 1/21 & 1/23:**

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 1/28 & 1/30:**

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 DEP contract

Topic: Distributive negotiations, part 2

### **Class #3 on 2/4 & 2/6**

Read GTY pp 56-94, BFA Ch. 2

In-class: Negotiate role-plays Bullard Houses, Deck case, Printer return

Topic: Negotiation ethics; how to negotiate a job offer

### **Class #4 on 2/11 & 2/13**

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 2/18 & 2/20**

Read BFA Ch. 4

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

Topic: integrative bargaining

**Class #6 on 2/25 & 2/27**

Written assignment due: Getting to Yes paper on Planet Wars role-play (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 #7 on 3/3 & 3/5**

Read BFA Ch. 6

In-class: Negotiate “Harborco”

Topic: Multi-party, multi-issue negotiations

**Class #8 on 3/17 & 3/19**

Written assignment due: DEP contract negotiation paper

Read BFA Ch. 7

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

In-class: Hand out paperclips for paperclip exercise

Topic: Negotiating settlements of lawsuits, part 1

**Class #9 on 3/24 & 3/26**

Written assignment due: FINRA negotiation planning memo

Read BFA Ch. 8

In-class: Conduct FINRA negotiation

Topic: Negotiating settlements of lawsuits, part 2

**Class #10 on 3/31 & 4/2**

Read BFA Ch. 9

In-class: FINRA arbitration conducted

Topic: Topic: Negotiating settlements of lawsuits, part 3

**Class #11 on 4/7 & 4/9**

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 4/14 & 4/16**

Read BFA Ch. 11

Assignment due: vote for best negotiator

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

Topic: mediation/arbitration

**Class #13 on 4/21 & 4/23**

Read BFA Ch. 12

In-class: Negotiate “A Wedding in India” and “Hiring a Trentonian.”

Topic: Negotiating cultural differences

**In addition, on 4/23 Thursday’s class will also be doing the following:**

Written assignment due: paper on paperclip trade and bring last paperclip trade to class

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

Topic: awards presented; discuss final paper requirements

**Class #13A on 4/28 (Only Tuesday’s class meets this week)**

Written assignment due: paper on paperclip trade and bring last paperclip trade to class

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

Topic: awards presented; discuss final paper requirements

**FINAL PAPER ON “BARGAINING FOR ADVANTAGE” IS DUE AT 3PM ON 4/29 (Thursday’s class) and on 5/5 (Tuesday’s class).**