

SYLLABUS

DEPARTMENT OF LEGAL STUDIES AND BUSINESS ETHICS
THE WHARTON SCHOOL, UNIVERSITY OF PENNSYLVANIA
SENIOR LECTURER ERIC MAX, ESQ.
NEGOTIATION FOR JD/MBA STUDENTS
LGST 8060-921/LAW 5180-002, SUMMER 2023
Room: Huntsman Hall Room 350

1. INSTRUCTOR

Senior Lecturer: Eric Max, Esq.

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

In all emails, please indicate that you are in my summer course.

Please use your official law school or Wharton email account when emailing me.

Office hours: By appointment

2. CLASS MEETING TIMES, LOCATION, CORRESPONDENCE AND ROLE PLAY WEBSITE

As stated below.

All assignments will be listed on the course website on canvas.

I will communicate with the class primarily through “announcements” on canvas.

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 the 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 different negotiation situations
- Develop a strategic plan for effective negotiation
- Gain an intellectual understanding of negotiator behavior

4. COURSE FORMAT

- We will negotiate in every class using role plays.

- Each class will follow this schedule: 1) during the first half of class students will read the role play and conduct the negotiation; 2) during the second half of class we will debrief the negotiation and discuss the readings.

5. TEXT AND COURSE MATERIALS

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 rev. ed. 2018) ["BFA"].

Canvas course site: The course site on canvas includes assignments, additional readings, announcements, and other information. Please visit the course site regularly because it will be updated often. I will communicate with the class through "announcements" on canvas.

6. CLASSROOM EXPECTATIONS

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: COVID, family or personal medical emergencies and religious holidays. Job interviews and leaving early for school holidays are *not* excused absences. A student must email me with any excused absences within 24 hours of missing a class. Make sure you email me using your official law school or Wharton email.

Confidentiality: 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.

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.

Rules for negotiating: You are not allowed to make up facts which are not in the exercises to improve your bargaining position. For example, if the role-play states that you are selling an airplane, you cannot add a 10-year warranty to the deal unless it is specifically stated in your fact pattern. Similarly, you may not add the fact that the land you are buying is contaminated if it does not state this in your fact pattern. If the other person asks you a question that your role-play does not address, just respond that you do not have that information. However, you can lie or bluff regarding: 1) your true motivations, 2) how you value an item, 3) your budget, and 4) other offers you might have.

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. After we debrief the simulations, you are free to discuss the case further with members of our class.

Negotiation Notebook: 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 conduct.

7. RULES RELATING TO THE PAPERS REQUIRED IN THE COURSE

During the course, you will be asked to write several papers. The papers serve as a type of open book exam for the course. Always use paragraph headings to indicate which question you are answering. Make sure to answer the questions in an assignment in the same order that they are asked.

All papers must be submitted via Canvas in Word format (not .pdf). The format should be Times New Roman or Calibri font, 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. Papers that exceed the page limits stated will not have the excess pages considered. Footnotes, source material and cover pages do not count against the page limits. Please list source material at the end of the paper-not in the body of the paper. All papers are due at the beginning of class on the date indicated.

Late papers: Late papers (without time extensions) will be penalized 2 points for every 24 hours they are late (1 point penalty for papers less than 2 hours late). It is always better to hand in papers late than not at all. Students are responsible for making sure that the papers they upload onto canvas are the appropriate documents and that the upload goes through. Late penalties will accrue until the correct document is uploaded onto canvas. There are no

exceptions to this rule. Extensions are granted using the same criteria as excused absences. If you receive an extension on when you can submit a paper, you must put a note on the top of the paper stating this.

Grading Criteria for Papers: Papers will be graded on the following criteria:

- 1) Did the paper answer the questions presented in the order presented? (25%)
- 2) What was the depth of analysis and how interesting was the negotiation discussed? (25%)
- 3) Did the paper incorporate the readings, negotiation notebook and class discussion? (25%)
- 4) Was the paper well written, grammatically correct and follow formatting rules? (25%)

Requests for regrades: If a student feels that there was a mistake in the grading of a paper, he/she must email me within one calendar week following the grade for the paper being posted. Late requests will not be considered. The request must state specifically where the grading error may have occurred. An example would be: "I discussed the concept of positions/interests in the third paragraph of my paper but had points deducted for not including it." Regrades can result in the grade increasing, decreasing, or staying the same. Make sure to mention which section of the class you are in.

8. GRADED ITEMS (100 POINT SCALE):

There are no exams in this course. However, several short papers are required (about one every three weeks). Your grade will be based on a 100-point scale. The papers serve as a type of open book exam for the course. Always use paragraph headings to indicate which question you are answering. You do not have to restate the entire assignment question-just include a brief heading with a few words indicating which question you are answering. Make sure to answer the questions in each assignment in the same order that they are asked.

A. Class Participation (25 points)

Learning to negotiate is based on doing the role-plays and debriefing them in class. Thus, it is essential that you attend every class and conduct every negotiation that is assigned to you. Participation is the most important part of this course. Students receive 17 points for attending every class. Students can then earn up to 3 additional points for outstanding contribution to class discussion throughout the semester as well as any extra credit earned. Students that miss a class (without an excused absence as defined above) will lose 4 points off their class

participation score for each class missed (this usually equates to at least one grade). The sign in sheet will be the only item considered in determining attendance for grading purposes.

B. Paper #1-Negotiation strengths and weaknesses paper (2 points)

You will 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. The requirement of using paragraph headings and of key concepts/terms being put in bold does not apply to this paper. Add your signed non-disclosure agreement (see Files on canvas) to the end of this paper.

C. Paper #2-Ethics paper (20 points)

Write a 5-6-page paper on the fact pattern that I present to you under announcements on canvas. Discuss how you would act in the situation and why. Make sure to discuss all three schools of ethics and the elements of fraud discussed in the ethics chapter (Ch. 12) in “Bargaining for Advantage.” Paragraph headings and key concepts/terms should be in bold. Footnotes are required for this paper.

D. Paper #3- “Getting to Yes” paper (20 points)

The primary purpose of this 5-6-page paper is to show me that you have read “Getting to Yes” and can apply its key terms and concepts to the “planet wars” negotiation we conducted in class. Paragraph headings and key concepts/terms should be in bold. Directions will be posted on canvas under announcements. Footnotes are required for this paper.

E. Paper #4-Bargaining for Advantage paper (30 points)

The primary purpose of this 6-8-page paper is to show me that you have read “Bargaining for Advantage” (BFA) and can apply its key terms and concepts to an actual negotiation(s) or role play(s) we did in class. Paragraph headings and key concepts/terms should be in bold. Directions will be posted on canvas under announcements. Footnotes are required for this paper. 50% of the paper should be about BFA and 50% about your negotiations.

H. 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. These are students 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.

I. Extra Credit

Throughout the semester there will be opportunities to earn extra credit. Typical extra credit points earned are: .5 points for best negotiation result in a role-play or other class exercise (I will announce in class which role plays this applies to) and 1 point for presenting in front of the FINRA arbitrator. In addition, the top three finishers in the best negotiator voting will receive extra credit (3 points, 2 points, 1 point). The student who receives the most votes from their classmates for best negotiator will also receive an engraved award. To receive extra credit, you must email me within 24 hours of receiving it and put "extra credit" on the subject line. Make sure you email me using your Wharton email.

COURSE OUTLINE AND ASSIGNMENTS BY DATE:

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. Also, my primary way of communicating with the class will be through "announcements" on Canvas. All readings indicated below should be read prior to the class for that week. All papers are due by the start of class on the date indicated.

Class #1 on June 21 from 10am-1pm:

Read the syllabus and BFA introduction

In-class: Go over syllabus summary, rules for in-class negotiation, and

Negotiate airplane sale and land sale role plays

Topic: Distributive negotiation, part 1

Class #2 on June 21 from 2pm-5pm:

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

In-class: DEP contract negotiation and coffee contract negotiation

Topic: Distributive negotiation, part 2

Class #3 on June 27 from 10am-1pm:

Written Assignment Due: Negotiation strengths and weaknesses paper

Attach signed “non-disclosure form” to the paper.

Read GTY pp 56-94, BFA Ch. 2

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

Topic: Negotiation ethics

Class #4 on June 27 from 2pm-5pm:

In-class: Conduct “OPEQ”

Topic: Bargaining styles

Bring bargaining style assessment form to class (will be posted on canvas and is in BFA))

Read GTY pp 95-148, BFA Ch. 3

In-class: discuss negotiation styles questionnaire and how to negotiate a job offer handout

Class #5 on June 29 from 10pm-1pm:

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

Read BFA Ch. 4

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

Topic: integrative bargaining

Class #6 on June 29 from 2pm-5pm:

Read BFA Ch. 5

Negotiate role-play “blue coconuts”

Topic: Negotiating complex bidding scenarios

Class #7 on July 6 from 10am-1pm:

Read BFA Ch. 6

In-class: Negotiate “Harborco”

Topic: Multi-party, multi-issue negotiations

Class #8 on July 6 from 2pm-5pm:

Written assignment due: Getting to Yes paper on Planet Wars role-play (assignment directions will be posted on canvas under announcements)

Read BFA Ch. 7

In-class: Hand out FINRA negotiation fact pattern, meet with lawyers via Zoom

Topic: Negotiating settlements of lawsuits, part 1

Class #9 on July 11 from 10am-1pm:

Read BFA Ch. 8

In-class: Conduct FINRA settlement negotiation

Topic: Negotiating settlements of lawsuits, part 2

Class #10 on July 11 from 2pm-5pm:

Read BFA Ch. 9

In-class: FINRA arbitration conducted

Topic: Negotiating settlements of lawsuits, part 3

Class #11 on July 13 from 10am-1pm:

Read BFA Ch. 10

In-class: Conduct “Big Builder” role play

Topic: mediation/arbitration

Class #12 on July 13 from 2pm-5pm:

Read BFA Ch. 11

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

Topic: mediation/arbitration

Written assignment due: Bargaining for advantage paper (assignment directions will be posted on canvas under announcements).

Vote for best negotiator (see link on canvas under announcements).

The instructor:

Eric Max, Esq. is a Senior Lecturer at the Wharton Business School at the University of Pennsylvania where he teaches negotiation to MBA and JD students. Mr. Max also provides negotiation training to hundreds of business executives from around the world as part of Wharton’s Executive Education Program. These trainings have included: top sales executives from Facebook and IBM, lobbyists from the pharmaceutical industry, senior business managers from Mexico, Executives from Amtrak, real estate and auto executives from China, Professors from Shanghai University, top performers at securities firms, and medical professionals from major hospitals. In addition to teaching negotiation, Mr. Max has served as a court-appointed mediator for over 30 years, negotiating settlements of hundreds of lawsuits involving claims exceeding \$1 billion.