

SYLLABUS

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

SENIOR LECTURER ERIC MAX, ESQ.

LGST 8060-407, Fall 2023

Tuesdays and Thursdays, 12pm-1:30pm

Room: Huntsman Hall room F55

1. INSTRUCTOR

Senior Lecturer: Eric Max, Esq.

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

In all emails, please indicate what section of the class you are in.

Office hours: By appointment

2. CLASS MEETING TIMES, ASSIGNMENTS AND CORRESPONDENCE

Tuesdays and Thursdays from 12pm-1:30pm.

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.

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 every 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 request an excused absence through the canvas attendance portal.

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 mislead 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. You do not need to restate the entire question asked-just identify the question in a few words. Make sure to answer the questions in each 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. (Footnotes need to cite to a page number-so you may need a hard copy of the book if there are no page numbers in an electronic version.) Please list source material at the end of the paper-not in the body of the paper.

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 on papers 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.

A. Class Participation (20 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 2 points off their class

participation score for each class missed. The electronic sign in system on canvas will be the only item considered in determining attendance for grading purposes. If multiple sections of the class are being offered by this Professor, students are only allowed to attend the section of the class that they are registered for.

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 (found in “Files” on canvas) to the end of this paper.

C. Paper #2-Ethics paper (15 points)

Read the rules relating to submitting papers in this course which can be found in the syllabus. Then write a 5-6-page paper on how you would act in the situation presented and why. Paragraph headings and key concepts/terms should be in bold. Footnotes or endnotes are required for this paper. The questions to answer for this assignment will be posted under “announcements” on canvas.

D. Paper #3- “Getting to Yes” paper (15 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 or endnotes are required for this paper. The questions to answer for this assignment will be posted under “announcements” on canvas.

E. Paper #4-FINRA Settlement Negotiation Planning Memo (10 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 4-5-page memo that is addressed to your boss as he/she prepares to conduct this negotiation. Paragraph headings and key concepts/terms should be in bold. Directions will be posted on canvas under announcements. Footnotes are not required for this

paper. The questions to answer for this assignment will be posted under “announcements” on canvas.

F. Paper #5-FINRA Settlement Negotiation Reflective Essay (10 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), the amount you settled for (if any) and the arbitration decision amount. Write a 4-5-page paper that discusses what happened in the FINRA negotiation. Paragraph headings and key concepts/terms should be in bold. Make sure to answer each of the questions on the assignment sheet posted under announcements on canvas in the order presented. Footnotes are not required for this paper. The questions to answer for this assignment will be posted under “announcements” on canvas.

G. Paper #6-Bargaining for Advantage paper (25 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. Footnotes or endnotes are required for this paper. 50% of the paper should be about BFA and 50% about your negotiations. The specific questions to answer for this assignment will be posted under “announcements” on canvas.

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. All votes must be in 24 hours before the last class of the semester.

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. All readings indicated below should be read prior to the class for that week. All papers are due at the start of class on the date indicated.

Class #1 on August 29:

Read the syllabus and BFA introduction

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

Negotiate airplane sale

Topic: Distributive negotiation, part 1

Class #2 on August 31:

Written Assignment Due: Negotiation strengths and weaknesses paper

Attach signed "non-disclosure form" (located in "files" on canvas) to the paper.

Negotiate land sale role play

Topic: Distributive negotiation, part 2

Class #3 on September 5:

Read GTY pp 1-55, BFA Ch. 1

In-class: Conduct coffee contract negotiation

Topic: Distributive negotiation, part 3

Class #4 on September 7:

Topic: Distributive negotiation, part 4

In-class: Conduct DEP contract negotiation

Class #5 on September 12:

Read GTY pp 56-94, BFA Ch. 2

In-class: "Negotiate New Recruit"

In-class: How to negotiate a job offer discussion-see handout

Class #6 on September 14:

In-class: Negotiate Bullard Houses

Topic: Negotiation ethics

Class #7 on September 19:

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

Read GTY pp 95-148, BFA Ch. 3

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

In-class: discuss negotiation styles questionnaire and 3 schools of ethics.

Class #8 on September 21:

In-class: Conduct "OPEQ" negotiation

Topic: Trust and communication in negotiation

Class #9 on September 26:

Read BFA Ch. 4

Topic: integrative bargaining, part 1

In-class: Negotiate "Planet Wars"

Class #10 on September 28:

Topic: integrative bargaining, part 2

Negotiate role-play "coconuts"

Class #11 on October 3:

Read BFA Ch. 5

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

Negotiate role-play "Harborco" part 1

Class #12 on October 5:

Negotiate role-play "Harborco" part 2

Topic: Multi-party, multi-issue negotiations

Class #13 on October 24:

Read BFA Ch. 6

In-class: Read FINRA negotiation fact pattern

Topic: Negotiating settlements of lawsuits, part 1

Class #14 on October 26:

Read BFA Ch. 6

In-class: FINRA-meet with lawyers via Zoom

Topic: Negotiating settlements of lawsuits, part 2

Class #15 on October 31:

Read BFA Ch. 7

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

In-class: Conduct FINRA settlement negotiations

Topic: Negotiating settlements of lawsuits, part 3

Class #16 on November 2:

Read BFA Ch. 7

In-class: Conduct FINRA settlement negotiations-continued

Topic: Negotiating settlements of lawsuits, part 4

Class #17 on November 7:

Read BFA Ch. 8

In-class: Prepare for FINRA arbitration

Topic: Negotiating settlements of lawsuits, part 5

Class #18 on November 9:

In-class: FINRA arbitration conducted

Topic: Negotiating settlements of lawsuits, part 6

Read BFA Ch. 9

Class #19 on November 14:

Read BFA Ch. 10

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

In-class: Conduct "Big Builder" role play, part 1

Topic: mediation/arbitration

Class #20 on November 16:

In-class: Conduct "Big Builder" role play, part 2

Topic: mediation/arbitration

Class #21 on November 21:

Read BFA Ch. 11

In-class: Conduct “Getting to Maybe” role play, part 1

Topic: mediation/arbitration

Class #22 on November 28:

Read BFA Ch. 11

In-class: Conduct “Getting to Maybe” role play, part 2

Topic: mediation/arbitration

Class #23 on November 30:

In class negotiation: TBD

Class #24 on December 5:

Voting assignment due: vote for best negotiator (see link on canvas under announcements).

Best negotiator award presented.

Final paper due one week after the last class on December 12:

Written assignment due: Bargaining for advantage paper (assignment directions will be posted 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 law 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.