

# USC Gould School of Law

## PRACTICAL MEDIATION SKILLS CLINIC

**LAW 572 - Class Number: 04084**

**Units: 3 – Room 103**

**Spring 2018—Wednesday—6-8:50 PM**

**Instructor:** Richard Peterson

**Office:** 100D

**Office Hours:** Wednesdays 3:00-4:00 PM Location: 100D

**Contact Info:**

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### Course Description

In the Practical Mediation Skills Clinic, LLM in ADR and Master of Dispute Resolution students learn the dispute resolution skills required to become mediators and use those skills to mediate actual cases in the California court system or in another mediation context or setting. As an introduction to mediation and dispute resolution, the course will cover the process by which a lawsuit proceeds through court and ultimately to mediation or arbitration. Students will observe live or video-recorded mediations conducted by professional mediators and practice their skills in simulated mediations. Students will independently mediate small claims or similar cases for the court system or in other settings. In class sessions, the students and the instructor debrief the court mediations, discussing effective techniques and strategies to use in future mediations.

### Learning Objectives

By the end of this course, students will be able to:

1. Describe and define the varied components of mediation as a structured process, as well as the specific tasks and skills necessary to act as a neutral in such proceedings, as measured by class journal entries, responses to discussion board queries, and as measured by engagement in class mediation simulations, observation of experienced mediators in real-life mediations, and finally by independently conducting actual mediations as a neutral as assigned throughout the semester.
2. Demonstrate and exhibit the skills associated with conducting a mediation as a neutral, as measured by class journal entries, responses to discussion board queries and as measured by engagement in class mediation simulations, observation of experienced mediators in real-life mediations, and finally by independently conducting actual mediations as a neutral as assigned throughout the semester.

**Co-Requisite (s):** None

**Concurrent Enrollment:** None

**Prerequisite(s):** None

## **Required Readings and Supplementary Materials**

- ***The Practice of Mediation: A Video-Integrated Text***, Douglas N. Frenkel, James H. Stark. **2nd Edition** (Aspen Coursebook Series)
- Paperback: 560 pages
- Publisher: Aspen Publishers (June 13, 2012)
- ISBN-10: 1454802197; ISBN-13: 978-1454802198
- *eISBN 978-1-4548-2143-4 (electronic format)*
- NOTE: MAKE SURE YOU PURCHASE THE 2<sup>ND</sup> EDITION.

The course text is available in several formats. An excellent electronic copy is available from the publisher for \$135.00. It provides for lifetime access and also has online resources. A link for obtaining this version of the text is provided below:

<https://www.vitalsource.com/products/the-practice-of-mediation-a-video-integrated-text-douglas-n-frenkel-v9781454821434?term+=eISBN+978-1-4548-2143-4>

Paperback format of the text is available at Amazon.com:

[https://www.amazon.com/Practice-Mediation-Integrated-Coursebook-2012-06-13/dp/B019NRTDEO/ref=sr\\_1\\_1?ie=UTF8&qid=1515460145&sr=8-1&keywords=the+practice+of+mediation+frenkel+stark](https://www.amazon.com/Practice-Mediation-Integrated-Coursebook-2012-06-13/dp/B019NRTDEO/ref=sr_1_1?ie=UTF8&qid=1515460145&sr=8-1&keywords=the+practice+of+mediation+frenkel+stark)

Additional articles and reading materials may be provided by the professor during the semester.

## **Recommended Supplemental Reading Materials**

The following books are highly recommended although not required reading for this course:

***Getting to Yes, Negotiating Agreement Without Giving In***, Roger Fisher, William Ury, Bruce Patton, Penguin Books (1991)

[https://www.amazon.com/Getting-Yes-Negotiating-Agreement-Without/dp/0140157352/ref=sr\\_1\\_3?s=books&ie=UTF8&qid=1515626717&sr=1-3&keywords=Getting+to+Yes](https://www.amazon.com/Getting-Yes-Negotiating-Agreement-Without/dp/0140157352/ref=sr_1_3?s=books&ie=UTF8&qid=1515626717&sr=1-3&keywords=Getting+to+Yes)

***Beyond Reason: Using Emotions as You Negotiate***, Roger Fisher and Daniel Shapiro, Harvard Negotiation Project (2006)

[https://www.amazon.com/s/ref=nb\\_sb\\_ss\\_i\\_2\\_13?url=search-alias%3Dstripbooks&field-keywords=beyond+reason+using+emotions+as+you+negotiate&srefix=beyond+reason%2Cstripbooks%2C192&crd=3LWOLLRAL6PAT](https://www.amazon.com/s/ref=nb_sb_ss_i_2_13?url=search-alias%3Dstripbooks&field-keywords=beyond+reason+using+emotions+as+you+negotiate&srefix=beyond+reason%2Cstripbooks%2C192&crd=3LWOLLRAL6PAT)

***Difficult Conversations: How to Discuss What Matters Most***, Douglas Stone, Bruce Patton, Penguin Books (2000)

[https://www.amazon.com/Difficult-Conversations-Discuss-What-Matters/dp/014028852X/ref=sr\\_1\\_1?s=books&ie=UTF8&qid=1515626280&sr=1-1&keywords=difficult+conversations](https://www.amazon.com/Difficult-Conversations-Discuss-What-Matters/dp/014028852X/ref=sr_1_1?s=books&ie=UTF8&qid=1515626280&sr=1-1&keywords=difficult+conversations)

## **Description and Assessment of Assignments**

During the semester students will be required to complete various written and performance based assignments which will include the following:

- Weekly class simulations;
- Periodic discussion board queries;
- Weekly typed class journal entries;
- Observation of real life mediations conducted by advanced and trained mediation students and /or professional mediators (Up to 8 mediations during the semester)
- Independent preparation/conduct of real life mediations in small claims court matters, or in other contexts as assigned by your professor. (Up to 3 mediations during the semester)

## **Grading Breakdown**

The Practical Skills Mediation Clinic is a graded course. There is no final exam. Grading options are CR/D/F only.

In order to receive “CR” for this course, students must comply with the following course requirements:

Class attendance. Students are required to attend all class meetings. (More than two absences during the semester may result in a “D” or “F” grade.) Active and meaningful contributions to class discussion, skill proficiency in preparing for and conducting simulations are essential components for receiving credit for this course.

Quality written assignments. Written assignments, including journal entries, should be timely submitted, and demonstrate an understanding of the reading and class discussions. The best journal entries do not focus unduly on the facts of the case or the mechanics of the mediation, but instead show an ability to reflect on your performance as a mediator – and where applicable, should discuss and devise strategies for improving your techniques. Failure to timely submit written assignments could result in a “D” or “F” grade.

Knowledge and skill in preparing for and conducting court mediations. Credit for this component of the course is not dependent upon whether you actually achieve settlement at mediation, but will instead focus on your efforts to help the parties reach settlement, with an emphasis on demonstrated creativity, practical problem solving, and application of the mediation techniques studied and practiced in class. It is critical to work collaboratively, professionally, and productively with the parties, judges and court personnel, our partner agencies, and (where applicable) your co-mediator. Failure to

attend a previously assigned mediation for observation, or failure to complete a previously assigned independent mediation could result in a “D” or “F” grade.

### **Assignment Submission Policy**

Assignments are due on the date and at the time specified. Late submissions may not be accepted for credit unless prior arrangements are made with the professor.

### **Additional Policies**

#### ***Attendance***

Attendance at every class meeting is important. Sign-in sheets are used to record attendance and are circulated during class. It is the student’s responsibility to assure that they have signed the attendance sign-in sheet each week. If a student must be absent for unavoidable reasons the student is expected to contact the instructor in advance. Students should be knowledgeable about, and review requirements for course attendance in the USC Law School Student Handbook, Section 5.0. According to the “general rule,” which is adopted for this course, Students may miss one class session per course unit-hour without an excuse.

#### ***Class Participation***

Students are expected to read all materials assigned for each class meeting and are expected to be prepared to participate in discussions, simulations and presentations when called upon.

#### ***Communication with Instructor***

Students are encouraged to contact Professor Peterson with any questions or concerns regarding the course, materials for the course, assignments, etc. via email, text, or cell. Telephone calls and emails will typically be responded to the same day or at the latest within 24 hours (weekends excepted).

Email: [rpeterson@law.usc.edu](mailto:rpeterson@law.usc.edu)

Cell: 949 212-2211

#### ***Classroom Computer Usage***

You may use your laptop computer during class for the purpose of taking notes or other tasks directly related to, and supportive of your participation in class. The use of a computer in class for activities or purposes unrelated to the course causes a significant distraction for other students and severely disrupts the ability of those students to participate fully in class. Therefore, any improper use of a computer during class (including, but not limited to, composing, sending, or reading emails; instant messaging; searching or browsing the Internet; playing games; and/or viewing movies) is prohibited.

## Course Schedule and Assignments: A Weekly Breakdown

	Topics/Daily Activities	Readings and Homework	Activities
<b>Week 1</b> 1-10-18	Mediation Clinic Overview	None	Simulation
<b>Week 2</b> 1-17-18	The Role of the Mediator	Chapters 1 & 3	Simulation
<b>Week 3</b> 1-24-18	Preparing to Mediate; Mediation as a Structured Process	Chapters 4 & 5	Simulation
<b>Week 4</b> 1-31-18	Opening the Process, Developing Information	Chapter 6	Simulation
<b>Week 5</b> 2-7-18	Expanding Information	Chapter 7	Simulation
<b>Week 6</b> 2-14-18	Identifying and Framing Negotiating Issues, Organizing an Agenda; Generating Movement Through Problem- Solving and Persuasion	Chapters 8 & 9	Simulation
<b>Week 7</b> 2-21-18	Conducting the Bargaining, Dealing with Impasse; Concluding the Mediation	Chapters 10 & 11	Simulation / Shadow
<b>Week 8</b> 2-28-18	The Ethics of Mediation; Representing Clients in Mediation	Chapters 12 & 13	Shadow

<b>Week 9</b> 3-7-18	The Law of Mediation & Ethical Issues for Advocates and Mediators	Pages 481 – 539 Chapters 15 & 16	Shadow
<b>Week 10</b> 3-14-18 SPRING BREAK	None	None	None
<b>Week 11</b> 3-21-18	Case Rounds	TBA	Shadow
<b>Week 12</b> 3-28-18	Case Rounds	TBA	Shadow/Mediation
<b>Week 13</b> 4-4-18	Case Rounds	<b>TBA</b>	Mediation
<b>Week 14</b> 4-11-18	Case Rounds	TBA	Mediation
<b>Week 15</b> 4-18-18	Case Rounds	TBA	Mediation
<b>Week 16</b> 4-25-18	Case Rounds	TBA	Review

## Statement on Academic Conduct and Support Systems

### **Academic Conduct:**

Plagiarism – presenting someone else’s ideas as your own, either verbatim or recast in your own words – is a serious academic offense with serious consequences. Please familiarize yourself with the discussion of plagiarism in *SCampus* in Part B, Section 11, “Behavior Violating University Standards” <https://policy.usc.edu/scampus-part-b/>. Other forms of academic dishonesty are equally unacceptable. See additional information in *SCampus* and university policies on scientific misconduct: <http://policy.usc.edu/scientific-misconduct>.

### **Support Systems:**

#### ***Student Counseling Services (SCS) - (213) 740-7711 – 24/7 on call***

Free and confidential mental health treatment for students, including short-term psychotherapy, group counseling, stress fitness workshops, and crisis intervention. <https://engemannshc.usc.edu/counseling/>

#### ***National Suicide Prevention Lifeline - 1-800-273-8255***

Provides free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, 7 days a week. <http://www.suicidepreventionlifeline.org>

#### ***Relationship & Sexual Violence Prevention Services (RSVP) - (213) 740-4900 - 24/7 on call***

Free and confidential therapy services, workshops, and training for situations related to gender-based harm. <https://engemannshc.usc.edu/rsvp/>

#### ***Sexual Assault Resource Center***

For more information about how to get help or help a survivor, rights, reporting options, and additional resources, visit the website: <http://sarc.usc.edu/>

#### ***Office of Equity and Diversity (OED)/Title IX compliance – (213) 740-5086***

Works with faculty, staff, visitors, applicants, and students around issues of protected class. <https://equity.usc.edu/>

#### ***Bias Assessment Response and Support***

Incidents of bias, hate crimes and microaggressions need to be reported allowing for appropriate investigation and response. <https://studentaffairs.usc.edu/bias-assessment-response-support/>

#### ***Student Support & Advocacy – (213) 821-4710***

Assists students and families in resolving complex issues adversely affecting their success as a student EX: personal, financial, and academic. <https://studentaffairs.usc.edu/ssa/>

### ***Diversity at USC***

Tab for Events, Programs and Training, Task Force (including representatives for each school), Chronology, Participate, Resources for Students. <https://diversity.usc.edu/>

### ***Disability Statement***

The USC Gould School of Law is committed to providing reasonable accommodations for members of the student body who have disabilities, to ensure that students are given an equal opportunity for learning and pursuing their academic interests. Such circumstances may include, but are not limited to, permanent or temporary physical disabilities, learning disabilities, and pregnancy.

Any student with a documented disability (physical, learning, or psychological) needing academic accommodations should contact USC Disability Services and Programs office (DSP) [http://sait.usc.edu/academicsupport/centerprograms/dsp/home\\_index.html](http://sait.usc.edu/academicsupport/centerprograms/dsp/home_index.html) and meet with a DSP Counselor to discuss the student's request for accommodations. **All students requesting permanent or temporary accommodations must register with DSP to be eligible for accommodations.**

*See USC Law Student Handbook, Section 7.1.*