

USC Gould

School of Law

Negotiation Theory & Application LAW-712 Fall 2021 Syllabus

Units: 3

Term—Day—Time: Fall 2021 (Tuesdays, 5:00-7:50 PM)

Location: 223

Instructor: Prof. Jason C. Marsili

Office: N/A

Office Hours: By Appointment

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Course Description

Negotiation Theory & Application is premised on the reality that the practice of law often requires the use of negotiation as a tool to advocate on behalf of clients, resolve disputes, and settle legal claims. This course introduces students to the process of negotiation, explores the theoretical approaches underlying various systems of negotiating, and cultivates students' advocacy skills to become effective negotiators. Students will learn each of the major bargaining theories, explore the practical application of each theory in context, and better understand strategic movements in negotiating. Through simulated exercises and reflective discussions, students will also develop skills and confidence as negotiators both as individuals and as client representatives.

Learning Outcomes

By the end of the course, students will:

- Comprehend and appreciate the psychological, emotional, legal, and ethical components comprising the process of negotiating;
- Gain proficiency in the competitive, collaborative, and collective approaches to negotiating and discern opportunities to employ various aspects of each approach in different contexts;
- Develop skills and confidence to better represent both themselves and clients in negotiations;
- Evaluate options based on risk tolerance and prioritize issues in negotiation based on their importance to a client's interest;
- Assess the perspective of the recipient of a communication in negotiation and write and speak appropriately for different audiences during the negotiation process; and
- Keep the client informed about alternative plans/strategies, terms obtained from other side, and consequences of decisions made in negotiation.

Prerequisites or Recommended Preparation

None.

Required Materials (e.g., Textbooks or Other)

Folberg and Golann, *Lawyer Negotiation: Theory, Practice, and Law* (3d ed.)

Fisher and Ury, *Getting to Yes: Negotiating Agreement Without Giving In* (3d ed.)

Additional materials will be posted to Blackboard periodically during the course.

Description and Assessment of Assignments

Journaling

Students will be required to draft a journal comprised of five (5) entries addressing selected topics assigned periodically throughout the semester. Journal entries are intended to foster students' considerations of negotiating in everyday life. Each journal entry shall be no longer than one (1) page in length.

Small Group Exercises and Classroom Discussion

Students will be required to participate in simulated negotiation exercises and engage in classroom discussion reflecting on concepts drawn from the readings.

Midterm Negotiation and Reflective Paper

As part of the midterm assignment, students will engage in a negotiation exercise against the Professor. Students will write a reflective paper addressing their preparation for the exercise, performance during the exercise, and perception of the Professor's tactics during the negotiation.

Final Negotiation and Reflective Paper

Students will participate in a large group, multi-party negotiation that will incorporate various aspects of the course material, require use of many different approaches to negotiation, and comprise both individual and group objectives. Similar to the midterm assignment, students will write a reflective paper addressing their preparation for the exercise, performance during the exercise, and perception of the other participants' positions and approaches to the exercise.

Grading Breakdown

Assignment	% of Grade
Journaling	10
Small Group Exercises and Classroom Discussion	40
Midterm Negotiation and Reflective Paper	20
Final Negotiation and Reflective Paper	30
Total	100

Course Schedule: A Weekly Breakdown

The following outline details the course subject matter, topics, readings, and assignments. Although the outline is subject to change, students will be provided advanced notice of any scheduling changes and assignment deadlines.

Week	Topics/Daily Activities	Readings and Homework	Assignment
1	Introduction to Course; Review of Syllabus; Overview of the Dispute Resolution Spectrum and Advocacy in Dispute Resolution		
2	The Psychology of Conflict; Fairness, Emotions, and the Ripeness of Conflict; Subjective and Objective Considerations of Conflict	Textbook Chs. 1-2	Journal Entry No. 1 (Due Date TBD)
3	Approaches to Bargaining; Introduction to Distributive Bargaining	Textbook Ch. 3	Journal Entry No. 2 (Due Date TBD)
4	Integrative Bargaining; Collaborative Approaches to Problem Solving	Getting to Yes, pp. 1-95	
5	Negotiation Personalities; Styles and Approaches to Negotiation; Understanding Your Adversary	Textbook Ch. 3	Journal Entry No. 3 (Due Date TBD)
6	<i>Midterm Negotiations</i>		<i>Reflection Paper (Due Date TBD)</i>
7	<i>Midterm Negotiations</i>		<i>Reflection Paper (Due Date TBD)</i>
8	Midterm Review		
9	Chronological Considerations of the Negotiation Process from Start to Finish	Textbook Chs. 5-7	Journal Entry No. 4 (Due Date TBD)
10	Client Interviewing and Strategy Implementation		
11	Case Valuation for Negotiation and Settlement		
12	Introduction to Multiparty Negotiations	Handout	Journal Entry No. 5 (Due Date TBD)
13	<i>Final Negotiations</i>		<i>Reflection Paper (Due Date TBD)</i>
14	<i>Final Negotiations</i>		<i>Reflection Paper (Due Date TBD)</i>

Course-Specific Policies

Class Preparation and Participation

Class discussions will operate on the assumption that students have completed the assigned readings and are prepared to actively participate. Reading assignments and/or exercise roles for each class will be assigned during the previous class.

Attendance and Classroom Behavior

Regular and punctual attendance is expected of all students as well as active participation in classroom discussions and simulated exercises.

Use of Laptop Computers and Electronic Devices

Use of laptop computers, tablets, or any other electronic devices will not be required during class for notetaking purposes. Use of such devices is only permitted for purposes of attending class sessions via Zoom. All necessary substantive information will be provided to students on Blackboard through posted handouts and/or presentation slide decks. Students may want to take additional notes to supplement the information posted on Blackboard, but are not required to do so.

COVID 19-Emergency Assistance Funds for Students

<https://we-are.usc.edu/faqs/faq-support-funds/>

USC has several resources available for students. Eligible students can apply for assistance from the COVID-19 Emergency Assistance Fund and the USC Student Basic Needs Department.

This webpage answers FAQs for each resource and describes important university resources for low-income students:

- 1) food insecurity (<https://studentbasicneeds.usc.edu/resources/food-insecurity/>)
- 2) housing insecurity (<https://studentbasicneeds.usc.edu/resources/housing-insecurity/>)
- 3) tech assistance (<https://studentbasicneeds.usc.edu/resources/technology-assistance/>)

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” 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, policy.usc.edu/scientific-misconduct.

Support Systems

Counseling and Mental Health - (213) 740-9355 – 24/7 on call
studenthealth.usc.edu/counseling

Free and confidential mental health treatment for students, including short-term psychotherapy, group counseling, stress fitness workshops, and crisis intervention.

National Suicide Prevention Lifeline - 1 (800) 273-8255 – 24/7 on call

suicidepreventionlifeline.org

Free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, 7 days a week.

Relationship and Sexual Violence Prevention and Services (RSVP) - (213) 740-9355(WELL), press “0” after hours – 24/7 on call

studenthealth.usc.edu/sexual-assault

Free and confidential therapy services, workshops, and training for situations related to gender-based harm.

Office of Equity and Diversity (OED)- (213) 740-5086 | Title IX – (213) 821-8298

equity.usc.edu, titleix.usc.edu

Information about how to get help or help someone affected by harassment or discrimination, rights of protected classes, reporting options, and additional resources for students, faculty, staff, visitors, and applicants. The university prohibits discrimination or harassment based on the following *protected characteristics*: race, color, national origin, ancestry, religion, sex, gender, gender identity, gender expression, sexual orientation, age, physical disability, medical condition, mental disability, marital status, pregnancy, veteran status, genetic information, and any other characteristic which may be specified in applicable laws and governmental regulations. The university also prohibits sexual assault, non-consensual sexual contact, sexual misconduct, intimate partner violence, stalking, malicious dissuasion, retaliation, and violation of interim measures.

Reporting Incidents of Bias or Harassment - (213) 740-5086 or (213) 821-8298

usc-advocate.symplicity.com/care_report

Avenue to report incidents of bias, hate crimes, and microaggressions to the Office of Equity and Diversity |Title IX for appropriate investigation, supportive measures, and response.

The Office of Disability Services and Programs - (213) 740-0776

dsp.usc.edu

Support and accommodations for students with disabilities. Services include assistance in providing readers/notetakers/interpreters, special accommodations for test taking needs, assistance with architectural barriers, assistive technology, and support for individual needs.