

USC Gould

School of Law

Mediation Advocacy LAW-828 Spring 2023 Syllabus

Units: 3

Term—Day—Time: Spring 2023 (Wednesdays, 6:00-8:30 PM)

Location: Room 1

Instructor: Prof. Jason C. Marsili

Office: N/A

Office Hours: By Appointment

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Course Description

Mediation Advocacy recognizes that many legal disputes are often resolved in mediation. This course introduces students to the process of mediation, explores the philosophical approaches to mediation and different styles of mediating, develops a working knowledge of the stages of mediation, and cultivates students' skills to become effective advocates throughout each stage of the process. Students will learn about mediation both as an independent mechanism and as a strategic tool to resolve litigation. Students will also develop an understanding of the evolving roles of mediators and advocates and establish an appreciation for the legal, ethical, and psychological issues that permeate the process. Through simulated exercises and reflective discussions, students will develop confidence as client representatives and a proficiency in mediation advocacy.

Learning Outcomes

By the end of the course, students will:

- Gain proficiency over the process of mediation both as an independent mechanism for resolving disputes and as a strategic tool to help resolve disputes in litigation;
- Understand the barriers to negotiated settlements that invite resolution in mediation;
- Appreciate the legal, ethical, and psychological issues that permeate the mediation process, as well as the evolving roles of mediators and advocates in seeking resolution of disputes;
- Develop skills and confidence to better represent both themselves and clients in mediation;
- Assess the perspective of the recipient of a communication in mediation and write and speak appropriately for different audiences (mediators, clients, adversaries) during the mediation process; and
- Keep the client informed about the mediation process, including strategies for participating in the process, and the consequences of decisions made in mediation.

Prerequisites or Recommended Preparation

There are no mandatory prerequisites for this course, however, students who have previously taken Negotiation Theory & Application (or similar negotiation coursework) will have a greater comprehension and command of negotiation elements inherent in the mediation process.

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

Golann and Folberg, *Mediation: The Roles of Advocate and Neutral* (3d ed. or 4th ed.) Additional materials will be posted to Blackboard periodically during the course.

Description and Assessment of Assignments

Mediator Selection Exercise

Students will research, interview, and select a mediator for a dispute from a panel of potential mediators and write a one page statement supporting the selected mediator.

Small Group Exercises and Classroom Discussion

Students will be required to participate in simulated mediation exercises focusing on various aspects of the mediation process and engage in classroom discussion reflecting on concepts drawn from the readings.

Midterm Mediation Brief & Opening Statement

Students will each individually draft a mediation brief from a case file provided to them and present an opening statement for a mock joint session.

Mediation Scrimmage (Extra Credit)

Selected students will participate in a mediation scrimmage via videoconference with students from another university. Students not selected to participate in the scrimmage will have the option of observing and critiquing the performance.

Final Mediation

Students will participate as teams in all stages of a mock mediation process, including analysis of the legal claims, management of the client's expectations, drafting the mediation brief, and participation in the mediation session.

Grading Options & Breakdown

This course must be taken for a numeric grade, the breakdown of which comprises the following component parts:

Assignment	% of Grade
Mediator Selection Exercise	10
Small Group Exercises and Classroom Discussion	40
Midterm Mediation Brief and Opening Statement	20
Final Mediation	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 noticed 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	Origins of Disputes; Principles of Negotiation and Settlement Barriers Inviting Mediation	Textbook Chs. 1-4	
3	Mediation Overview; The Role of the Mediator; Mediator Styles	Textbook Ch. 5	
4	Mediation Processes and Stages	Textbook Ch. 6	
5	Process Skills Used in Mediation	Textbook Ch. 7	
6	Mediation Briefs and Opening Statements	Handout	
7	<i>Midterm Mediation Briefing</i>		<i>Midterm Mediation Brief and Performance of Opening Statement (Due Date TBD)</i>
8	<i>Midterm Opening Statements</i>		
9	Vetting and Selecting Mediators		<i>Mediator Selection Assignment (Due Date TBD)</i>
10	Preparing for Mediation	Textbook Ch. 10	
11	Advocacy During Mediation	Textbook Ch. 11	
12	<i>Mediation Scrimmage</i>		<i>Review and Critique of Mediation Scrimmage (Extra Credit)</i>
13	<i>Final Mediations</i>		<i>Mediation Reflection Paper (Due Date TBD)</i>
14	<i>Final Mediations</i>		<i>Mediation 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 in advance of 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.

Zoom Etiquette

Students are required to enable their webcam and display their first and last name on their Zoom portal during class. Microphones will often be muted by the host during lectures, but students are invited to unmute their microphone in order to ask questions or participate in discussion. Students may also ask questions at any time through the Chat function, or by raising their hand virtually at any time.

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

COVID-19 Emergency Assistance Funds for Students

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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://studenthealth.usc.edu/counseling/>. See also this guide for Gould students to facilitate access to mental health resources on campus: <https://gould.usc.edu/assets/docs/directory/Mental-Health-Services-at-USC.pdf>

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. www.suicidepreventionlifeline.org

Relationship and 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://studenthealth.usc.edu/sexual-assault/>

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: <https://eetix.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://eeotix.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://eetix.usc.edu/>

The Office of Disability Services and Programs

Provides certification for students with disabilities and helps arrange relevant accommodations. <https://dsp.usc.edu/>

Student Support and Advocacy

Campus Support and Information is where members of the Trojan Family go to seek support for themselves, for others, and for the community. It is a one-stop-shop for care and support, troubleshooting and advocacy. <https://cwcs.usc.edu/campus-support-and-intervention/>

If you are concerned about a fellow Trojan challenged with personal difficulties, you can file a report through Trojans Care for Trojans. The form can be found at: <https://campussupport.usc.edu/trojans-care-4-trojans/>.

Diversity at USC

Information on events, programs and training, the Diversity Task Force (including representatives for each school), chronology, participation, and various resources for students. <https://diversity.usc.edu/>

Gould-specific information can be found at <https://gould.usc.edu/about/race-equity/> (Law, Race and Equity page) and <https://gould.usc.edu/students/diversity/>. Students can submit anonymous EDI-related comments/complaints through the law portal: <https://mylaw2.usc.edu/about/contact/anonymous-comments>

USC Emergency Information

Provides safety and other updates, including ways in which instruction will be continued if an officially declared emergency makes travel to campus infeasible. <https://emergency.usc.edu/>

USC Department of Public Safety – UPC: (213) 740-4321 – HSC: (323) 442-1000 – 24-hour emergency or to report a crime.

Provides overall safety to USC community. <https://dps.usc.edu/>