

Negotiation and ADR Spring 2014

Ed Litteneker

Meets: Tuesday and Thursday
Room 104
3:45 -5:00

Reaching Ed Litteneker
Email: ed@littenekerlaw.com

Course Materials:

Dispute Resolution: Beyond the Adversarial Model (Second Edition) [DR]
Getting to Yes Negotiating Agreement without Giving In – optional; strongly recommended. [Getting to Yes]

Course overview: The Course will focus on negotiation, mediation and touch briefly on arbitration and hybrid dispute resolution methods. Throughout the course you will be asked to read about the various dispute resolution processes, engage in some form of that process (as a disputant or a third party neutral or third party representative) and then to consider the legal, policy, and ethical implications of use of the process. Your grade will be based on class participation, journal entries, a group project, and topical examinations on negotiation, mediation and arbitration.

Throughout the course you will be asked to consider the purpose of a particular process, where the process originates historically, and how those processes relates to the formal adjudicative system, understanding the advantages and disadvantages and who should decide whether the various processes should be used (client, attorney, judge, or other public official).

Course requirements: This course will involve reading, discussion, role-play, self-reflection, simulation exercises, class presentation, and exams. There will be several short written assignments and examinations. The examinations will be 'take home'.

Journals/short written assignments: Topical assignments throughout the semester.

Grades: Grades will be based upon attendance, preparation, participation, written and oral assignments, class presentation as well as exams.

Class participation/attendance/preparation, journals –total 80 points	20%
Class presentation/Group projects	total 160 points 25%
Periodic tests	total 300 points 55%

Attendance Policy: A student may miss two classes during the semester. Please note that if you miss a day when information/roles are distributed, it is your responsibility to get that information. If you miss on a day that a journal entry is due, you will lose the points for that entry unless your entry is emailed before class begins. Any additional absences may result in a

lower grade. In addition, if a student is unable to attend class for whatever reason, you must notify the instructor in person or by telephone at least twenty-four hours before the scheduled class period. If notice is not given, and the student fails to attend, the student's grade may be lowered. While this attendance policy may seem harsh, the nature of this class, which includes numerous simulations where students are assigned to groups, requires that the instructor know who will be in class on any given day. Any student with more than two absences, even if he or she notified the professor in advance of the absences, may, after notice from the professor, be withdrawn from the course.

General information about the class

- Doesn't qualify for basic mediation training, is intended as a survey course
- Method of instruction: lecture/discussion and role plays; students are expected to play roles and to take their roles seriously; and leave roles in class at end of exercises.
- Several times throughout the semester students will be expected to write journal entries or evaluations of your performance and/or something you learned from an exercise or reading. The length and value of the journals will vary. Each assignment will tell you the expected length of the response and the available points.
- Some exercises will be done in class and some will require you to meet outside of class.

Disability Support Services Reasonable Accommodations Statement:

Reasonable accommodations are available for students who have a documented disability. Please notify the Associate Dean for Administration and Students (Dean Albertson) during the first week of class of any accommodation(s) needed for the course. Timely notice is especially important to ensure appropriate accommodation for the quizzes given during the semester. Late notification may mean that requested accommodations might not be available. All accommodations must be approved through Disability Support Services ("DSS") located in the Idaho Commons Building, Room 306. Contact DSS 885-6307; email dss@uidaho.edu; website www.access.uidaho.edu

Class Schedule

Please note that the following is an outline of topics, readings and exercises; these are subject to change as announced in class, given our pace and the possibility of new developments and the availability of guest speakers. Please be sure to come to class to learn of assignment changes.

Tuesday January 14, 2014

Introduction to ADR

Assignment: DR text pp 3-23

Class: Understanding conflict

Journal Assignment 1 (*due first day of class*):

Goals and objectives of the course: why you are here and what do you hope to learn; if you walk out of this class having learned one thing, what do you hope it is? Write down three or four concrete skills that you would like to learn to be an effective conflict resolver. Also what prior ADR experience do you have? Finally describe a conflict you have experienced or that you are personally familiar with. Length: No more than 2 pages; 5 points.

Thursday January 16, 2014

Introduction to Conflict Analysis and Management

Class: Conflict Management Style Exercises

Tuesday January 21, 2014

Alternative Dispute Process

Assignment: DR pp. 24-47

Class: Negotiation/Mediation/Arbitration exercise

Thursday January 23, 2014

Lawyer as Problem Solver

Assignment: DR pp 49-86

Class: Beginning an interview

Acknowledging your bias and perceptions

Thursday January 25, 2014

Negotiation: Concepts and Models

Assignment: DR pp 89-111

Journal Assignment 2:

Reflect on what you learned about conflict from your family of origin and how conflict was handled in your family of origin (parents, siblings, significant others). What messages did you learn about conflict and how to

handle it? How do those experiences affect your approach to or understanding of conflict? Length no more than 2 pages; value 5 points.

Thursday January 30, 2014

Approaches to Negotiation

Assignment: DR pp 111-26

Conflict Management; tactics; handout roles for Horse Racing Case

In class, Styles and Strategies

Win as Much as You Can

Prisoners Dilemma

Assign roles for Horse Race and handout assignments

Copies of the Negotiation Plan document

Journal Assignment 3: Negotiation Style; complete the Negotiation Styles handout; Value 2 points

Read Shell's Appendix A. Use his Styles Assessment tool to determine your negotiation style. In your journal discuss whether you agree that is your style and tell us what insights you derived from learning what your style is. Length: 1 page, 10 pts.

Tuesday February 4, 2014

Negotiation Skills and Practice

Assignment: DR pp 128-35, 146-161;

Journal Assignment 4: prepare a negotiation plan for horse racing exercise and come prepared to negotiate this problem. 10 points.

Thursday February 6, 2014

Debrief horse racing exercise

Assignment: DR pp 162- 84

Tuesday February 11, 2014

Communication Skills

Assignment: DR 136-42

Reframing, I statements, Non-Violent Communication

Handout Don's exercise and assign roles

Thursday February 13, 2014

Negotiation Ethics: Don's (exercise 45 minutes, debrief 30 minutes)

Assignment: DR pp 187-220

Class: Introduce Email Negotiation

Email negotiations open at noon tomorrow February 13

Tuesday February 18, 2014

Barriers to Negotiation – culture, bias and assumptions

Assignment: DR pp 181-84 (review 174-181)

Class: Email Negotiation

Thursday February 20, 2013

Email Negotiations Continue

Email Negotiations end at 5:00 pm tomorrow February 20

Feedback to Negotiation partner

Journal Assignment 5: Discuss your email negotiation style, was it consistent with what you understood your negotiating style to be, did you have to resolve any perception or conflict issues? Two pages, 5 points.

Tuesday February 25, 2014

Negotiation Wrap up

Class: Negotiation Exam available

Email Negotiation Ends

Deliver email negotiation materials by 5:00pm tomorrow

Thursday February 27, 2014

Negotiation Exam due

Debrief email negotiation

Introduction to Mediation;

Goals and Objectives of the Mediation Process; the role of the court, the lawyers, and the parties.

Assignment: DR pp 223-257

Tuesday March 4, 2014

Approaches to Mediation

Assignment: DR pp 257-95

Thursday March 6, 2014

Mediation Advocacy:

Assignment: DR pp 296-318

Tuesday March 11, 2014

Mediation: Law and Policy

Assignment: 321-27, 351-369

Tuesday March 13, 2014

Mediation credentialing, Confidentiality and Privilege

Assignment: pp. 327-351, IRE 507

Assign Roles for My Supervisor makes me Sick-Handouts available

Tuesday March 18, 2014

No Class-Spring Break

Thursday March 20, 2014

No Class-Spring Break

Tuesday March 25, 2014

Mediation Advocacy – What works best? Federal ADR practice.

Judge Candy Dale-U.S. Magistrate for the District of Idaho

Journal Assignment 6-Did you find yourself approaching a discussion or a conflict over spring break differently based upon your understanding of your own dispute resolution style? Length: 1 Page, 5 points

Thursday March 27, 2014

Mediation Ethics, Standards and Regulation

Assignment: pp. 369-79, Model Standards of Conduct, Rules of PR.

Class: Meet with business students to prepare mediation

Tuesday April 1, 2014

Mediation advocacy with business students

Client counseling

My Supervisor Makes Me Sick

[Also in class]

Thursday April 3, 2014

Mediation Experiences

Stories Mediators and Lawyers Tell

Scott Olds-Olds Law Offices Grangeville, Idaho

Formally Represented Arctic Cat in Personal Injury and Products
Liability cases

Class project Introduction

Tuesday April 8, 2014

Dispute Resolution Programs

Mediation and Facilitation

Dr. Melanie Reese

Dispute Resolution Coordinator

Idaho State Department of Education

Thursday April 10, 2014

Debrief: My supervisor makes me sick Role plays

Review for mediation exam

Mediation Exam Available

Class Project concept approval

Tuesday April 15, 2014

Arbitration: Enforcement of Arbitration Clauses

Assignment: DR pp 413- 481

Merlyn Clark

Hawley Troxell Ennis and Hawley

Thursday April 17, 2014

Arbitration Skills, Practices and Ethics

Assignment: DR pp 483-520

Role Play: Counsel your client Genevieve Prudhomme:

Tuesday April 22, 2014

Present Class projects

Thursday April 24, 2014

Present Class projects

Tuesday April 29, 2014
Present Class Projects

Thursday May 1, 2014
Present Class Projects
Arbitration Exam available

Thursday May 8, 2014
Arbitration Exam Due