

# **Negotiations**

## **Class 1 - Introduction**

Welcome to the negotiations course. I hope that you find the semester useful and engaging. I also hope that by taking this class you will learn practical skills and perspectives that will help you in your legal practice as well as in your everyday life. Negotiation is a skill that improves with awareness, preparation, and practice, and this course is designed to give you repeated opportunities to develop those abilities.

### **Aspirations for the Course**

There are a number of ways in which this course is unique compared to other law school classes. For one, we will not spend much time on substantive law. Occasionally, we will discuss legal concepts, but those discussions are generally limited to providing context for a particular situation in which a negotiation is taking place. For example, the substantive law of contracts may affect what kinds of arrangements the parties in a transaction can reach, or what options are realistically available to each side. Later in the semester, we will spend some time examining the rules of professional conduct that relate to negotiations. Other than that, our focus will be on the techniques, strategies, and processes by which negotiations actually occur.

Negotiation skills will also be helpful to you outside the practice of law. Regardless of whether you ultimately practice law, you will encounter situations in which the information and skills you learn in this course will be useful. The major emphasis will be on legal negotiations, but most of the principles we discuss apply in broader professional and personal contexts as well. In your personal life, you will regularly negotiate, sometimes in large transactions like buying a home or a car, and sometimes in smaller, day to day interactions involving expectations, priorities, or relationships.

Negotiation is one of the most important means by which disputes are resolved. When we think of dispute resolution, we often jump ahead to courts entering judgments and applying remedies. In

reality, most disputes are resolved outside of court, often through negotiation. Negotiation also plays a significant role in transactional work, workplace dynamics, and long-term professional relationships. Lawyers who understand how negotiations actually work are often better positioned to serve their clients effectively. You may find that taking this course, as well as other alternative dispute resolution courses, gives you a meaningful advantage over classmates who have not engaged deeply with this field of study.

### **Concerns You May Have About the Course**

Some students come into this course with concerns or uncertainty about what to expect. You may feel uneasy about speaking in class, engaging directly with classmates in negotiation exercises, or about whether negotiation comes naturally to you. You may also worry that successful negotiation requires being aggressive, persuasive, or quick thinking. Those concerns are common, and they are understandable and legitimate. This course is designed as a learning environment rather than a performance environment. You are not expected to have these skills already, and there is no single “right” style of negotiation. Thoughtful preparation, careful listening, and good judgment matter far more than personality or confidence alone. Mistakes are an expected and valuable part of the learning process, and you are not graded on the outcome of any individual negotiation.

### **Syllabus**

The syllabus is available at <https://negotiationsclass.com>. It contains important information that you will need throughout the semester, including policies, assignments, and deadlines. My contact information appears near the top. Please feel free to reach out to me at any time if you have questions about the course, whether substantive or procedural.

### **Reading Materials**

The syllabus contains links to the required reading materials for the course. You may notice that each week’s reading has a wide right margin. That is intentional and is meant to give you space to take notes if you choose to print the materials.

I also recommend, but do not require, that you obtain a copy of *Legal Negotiation: Theory and Practice (Third Edition)* by Gifford and Rhee. Much of the content we will cover in the course is loosely based on Professor Gifford's approach as set out in that book. Like many law school textbooks, it is overpriced, so I do not require that you buy it. If you are particularly interested in negotiation, however, it can be a worthwhile investment.

As an essential part of the course, I ask you to choose another book about negotiation, other than the Gifford and Rhee text, and read it during the semester. Part of your final grade comes from submitting a short video in which you present a summary of a topic from that book. The purpose of this assignment is to expose you to perspectives on negotiation beyond my own, which is informed by my legal practice. Negotiation is both an art and a science, and reasonable people approach it in different ways. A list of suggested books appears in the syllabus.

## **Grading**

Grading for the course is straightforward. Sixty five percent of your grade comes from being present in class and meaningfully participating. Be prepared, be willing to answer questions, and offer your perspective. The remaining thirty five percent of your grade comes from three different types of activities: two online quizzes, a short video presentation about your additional reading, and a final collaborative project. Additional details are in the syllabus.

The syllabus also contains an anticipated schedule. Depending on how the semester unfolds, there may be adjustments, but the schedule gives you a good sense of what we will cover and when.

## **What Will the Classes Be Like**

Each class session will generally follow a similar pattern. We will often begin with time to share real life negotiation stories. I will then lecture on the topic or topics for that class, followed by hypothetical negotiation exercises. Most of those exercises are one on one, though some involve larger groups. I will usually email you a fact pattern prior to class to use in the exercise. In some cases, each party will receive different confidential information.

You will turn in each exercise by completing an online form. The important thing is to conduct the negotiation in good faith and with reasonable diligence. You are not graded on the outcome of the negotiation. Participation is what matters. I take attendance by reviewing the negotiation results that are submitted.

### **Final Introductory Thoughts**

I look forward to getting to know you during the semester. Please feel free to reach out at any time. My contact information is in the syllabus.

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