

APPROPRIATE DISPUTE RESOLUTION SEMINAR
PROFESSOR DONNA EREZ-NAVOT
UNIVERSITY OF FLORIDA LEVIN COLLEGE OF LAW
FALL 2023 SYLLABUS – LAW 6936 – 2 CREDITS

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Meeting Time: Tuesdays, 10:00 a.m. – 12:00 p.m.

Location:

Office Hours: Tuesdays, 1:30-2:30 p.m. Bruton Greer ; Fridays, 1-2pm on Zoom (Canvas) or by appt.

Course Description:

This introductory course will provide an orientation to all of the different processes that are available to resolve disputes. We will explore the three main processes (mediation, arbitration and negotiation) as well as hybrid processes (“med-arb”, neutral evaluation) and new directions in dispute resolution (restorative justice). This course covers the underlying legal, ethical and policy considerations important to understanding resolving disputes outside of the courtroom since trials are the exception in today’s legal world in the US. Grading will be based on participation, weekly assignments, final presentation and a 25-page research paper on an ADR topic (broadly defined) that satisfies the advanced writing requirement.

Course Objectives/Learning Outcomes:

At the end of this course, students should be able to perform the following:

1. Possess the basic knowledge of a wide variety of ADR processes. This course will cover processes including client counseling, negotiation, mediation, arbitration, restorative justice, hybrid processes, among other topics. Students leaving this course should understand all of these processes and their differences when they encounter them in practice.
2. Gain a deeper appreciation for the many ways to resolve conflict. Too often, lawyers who are approached with a problem only consider the law in how to resolve the difference. Students with a background in ADR should gain an understanding about the complexities of conflict and the varying ways that conflict can be resolved to best meet client interests.
3. Understand and engage in the writing of a 25 page academic research paper including researching, organizing, drafting, creating proper citations and editing.

Required Reading Materials:

The textbook for our course is UNDERSTANDING ALTERNATIVE DISPUTE RESOLUTION By Kristen M. Blankley & Maureen A. Weston (2017). In addition to the textbook, you are required to read and prepare materials that are written on the syllabus below and they are posted on Canvas. Please be sure to register for the Canvas course and have the materials with you in print or easily accessible electronic form in class. You are responsible for checking your Canvas page and the e-

mail connected to the page on a regular basis for any class announcements or adjustments. Please see Canvas for each session's assignments. Optional textbooks are Fisher and Ury, *Getting to Yes* and Stulberg and Love, *The Middle Voice*. They are both short and accessible and I have copies to lend in my office in Bruton Greer if students would like to borrow a copy.

Course Expectations:

Each class session will involve a mix of lecture, exercises, and discussion, all focusing on the week's assigned material. The requirements for the seminar are as follows:

- *Preparation, Attendance, and Engagement:* Each class session will require you to read and/or view materials. You are expected to read and view those materials before class, so that you are prepared to discuss them in the seminar. Readings and viewings will be either from the required textbook or posted on Canvas. Many class periods will involve an in-class exercise that will be nearly impossible to perform well if you have failed to do the readings for that week.
- *Work Product:* As this is a writing seminar, there will be several written assignments, increasingly focused on your paper as the semester progresses. The weekly work products will be paper-related submissions and will be due on Tuesdays at 10:00am for the start of class. Please submit all your work as a Word document, 12 pt font, Times New Roman, single-spaced on Canvas. Instructions will be provided on Canvas.
- *One-on-one meeting with Prof. Erez-Navot:* Choosing a viable and novel thesis is often the most difficult part of this process, so I encourage everyone to brainstorm from the beginning. In an effort to keep you on track, the paper deadlines come quickly. At some point by Sept. 19, we need to discuss your thesis options.
- *Peer Review.* Near the end of the semester, you will conduct a peer review of one or two colleague's paper draft, developing critical skills involving constructive criticism and using a rubric.
- *Paper Presentation.* At the end of the semester, you will be required to make a (10 minute) presentation of your final paper. Guidelines for the presentation will be provided.
- *Final Paper.* A final paper of 25 pages, not including title page and table of contents, is required. The paper will be due on December 8, 2023. The seminar paper must be an academic research paper focused on an ADR topic (generally defined). Factors relevant to the grading of papers (in no particular order) are Depth of Research; Organization and Clarity; Thoroughness; Originality; Accuracy and Professionalism; Compliance with Directions; Addressing Professors Comments from Draft, Citations, and Strict Compliance with Honor Code (including proscriptions against plagiarism). Your paper will be run through anti-plagiarism software. This seminar is structured in such a way as to satisfy the College of Law's Advanced Writing Requirement. According to the Faculty Handbook:

All J.D. candidates must complete—under close faculty supervision—a major, written product that shows evidence of original scholarship based on individual research. Students often satisfy this requirement in a seminar course... The general standard for fulfillment of the advanced writing requirement is one or more papers that are cumulatively at least 25 pages of double-spaced, 12-point text or the equivalent.

- *Paper Progress.* Key steps of the writing process are provided below. Detailed requirements for each step are provided on Canvas. Canvas will not accept late submissions, so please ensure you meet the submission deadlines. Late submissions may be accepted, but at the very least, will receive a grade reduction.

Key Dates	Due
Aug. 22	Assignment #1: Review Boskey Competition Papers and Prepare to Present in Class #1 on the Elements of a Good Paper (see below in Readings Section) and Upload 1-2 Pages Answers to Questions
Sept. 5	Assignment #2: Submit Two Abstracts and Be Prepared to Present on Two Ideas to the Class and Receive Feedback
Sept. 19	Assignment #3: Thesis Approval Required from Professor Erez Navot (individual meetings on zoom or office hours required)
Sept. 26	Assignment #4: Refined Abstract & List of Resources (minimum of 10-15 substantial sources required which includes law review, specialty journals, books, NOT websites or newspaper/blogs etc.)
Oct. 10	Assignment #5: Final Thesis plus detailed outline (2-3 pages) – Bring to Class and Upload to Canvas
Oct. 31	Assignment #6: First Paper Draft due to Prof. Erez Navot and to your Student Partner(s) – Minimum Draft Length 15 Pages
Nov. 7	Assignment #7: Return edits to classmate (due by start of class)
Nov. 14	Assignment #8: Full Draft Paper for Prof. Erez-Navot
Nov. 21	Receive edits from Prof. Erez-Navot
Dec. 8	Assignment #9: Final Paper Due on Canvas

ABA Out-of-Class Hours Requirement: ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every “classroom hour” of in-class instruction. Each class is approximately 2 hours in length, requiring at least **4 hours of preparation** outside of class including reading the assigned materials, writing critical analyses, and developing your final paper.

Grading Evaluation:

Students will be evaluated based upon participation, weekly work product, and a final paper. There is no final exam for this class. This course follows the Levin College of Law's grading policies found here: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook-and-academic-policies>

Class Component	Percent of Grade
Participation (includes regular class engagement that illustrates you read the required materials)	25%
Writing/Research Assignments	25%
Final Paper (25 pages)	50%
TOTAL	100%

Information on UF Law Grading Policies:

The Levin College of Law's mean and mandatory distributions are posted on the College's website and this class adheres to that posted grading policy. The following chart describes the specific letter grade/grade point equivalent in place:

Letter Grade	Point Equivalent	Letter Grade	Point Equivalent
A (Excellent)	4.0	C (Satisfactory)	2.0
A-	3.67	C-	1.67
B+	3.33	D+	1.33
B	3.0	D (Poor)	1.0
B-	2.67	D-	0.67
C+	2.33	E (Failure)	0.0

Class Attendance:

Students are expected to attend and participate in class. I am assuming that each student enrolled in this course is committing to attend every class to the best of their abilities, and class attendance is required by both the ABA and the Law School.

- Nevertheless, to allow for exigencies in life, you are **permitted two absences from class** without impacting your final grade so long as you still complete the readings and submit any required assignments prior to the subsequent class after the absence. If possible, professional courtesy encourages you to notify me if you will not be in class. Please budget accordingly so that you are not left at the end of the semester with a needed absence and your budget depleted.
- The two exceptions to this policy are (1) absences for a recognized religious holiday that are consistent with University <https://catalog.ufl.edu/UGRD/academic-regulations/attendance-policies/#absencestext> and Law School policies <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook-and-academic-policies> and require appropriate documents and/or notification before or shortly after class about your absence; and (2) absences due to testing positive for COVID-19 after you have exhausted

your other two absences. I do not want you jeopardizing your health or others. I am reasonable. Communication is key.

- In addition, please notify me should you have a family or medical situation or an emergency that will require missing more than two classes, and we will discuss how to accommodate your situation.
- Setting aside these exceptions, for each absence beyond two, your grade will be reduced by one-third of a grade (e.g., A- to B+). If you miss four or more scheduled classes, I have the discretion to render you ineligible to receive credit for the course.
- This policy starts on the first day of classes, not the end of the drop/add period.

COVID-19 Information

- Most importantly, however, please do not come to class if you feel sick. If you are test positive for COVID-19, please follow CDC guidance on when it is safe to return to class. Any positive COVID-19 related absences will be accommodated (see “Class Attendance” above), and the Office of Student Affairs may provide access to class recordings for medical absences. Please email the Office of Student Affairs and me as soon as possible to let us know of any such absences.

Recordings of Class

All classes will be recorded via Mediasite in case students must miss class for health reasons. The Office of Student Affairs will determine when students may have access to these recordings, and the recordings will be password protected. These recordings will be retained only for a short period of time and it is the student’s responsibility to contact the Office of Student Affairs as soon as possible after an absence.

Compliance with UF Honor Code:

Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/additional-information/honor-code-and-committee/honor-code>.

Professional Courtesy

As a matter of professionalism, you are expected to be on time for class—meaning seated and ready to begin when class starts. Arriving late is disruptive not only to me, but to your fellow students. Please do not arrive late to class or leave early absent extenuating circumstances. If you need to do so, please sit near one of the exits to minimize your disruption to others and notify me in advance. Please make sure your cell phone is turned off during class. I reserve the right to deduct points from your final grade if you engage in behavior that significantly disrupts the learning environment for your classmates. After two late arrivals, each additional late arrival will be counted as a class absence.

Use of Laptops in Class

Although laptops and comparable technology are not prohibited, I would encourage you to use them judiciously. I understand that you may rely on them for your readings and your notes, but please close all other browser windows, including your email. Unfortunately, many of us succumb to the temptation to multi-task, and for the time we are together, you owe yourself, your classmates,

and me your focused attention. I appreciate eye contact and engagement (laughter at my bad jokes can count as engagement) and participation is part of your grade. If I can detect a lack of responsiveness due to other activities on your laptop, you may jeopardize your grade in this class. More importantly, I reserve the right to unilaterally impose a laptop ban at any time during the semester.

Statement Related to Accommodations for Students with Disabilities

Students requesting accommodations for disabilities must first register with the Disability Resource Center (<https://disability.ufl.edu/>). Once registered, students will receive an accommodation letter, which must be presented to the Assistant Dean for Student Affairs (Assistant Dean Brian Mitchell). Students with disabilities should follow this procedure as early as possible in the semester, as accommodations are not retroactive. It is important for students to share their accommodation letter with their instructor and discuss their access needs as early as possible in the semester. This course does not have an exam, but questions about exam delays and accommodations can be found here: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/forms-applications/exam-delays-accommodations-form>.

Student Course Evaluations

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Click here (<https://gatorevals.aa.ufl.edu/students/>) for guidance on how to give feedback in a professional and respectful manner. Students will be notified when the evaluation period opens and may complete evaluations through the email they receive from GatorEvals, in their Canvas course menu under GatorEvals, or via <https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students here: <https://gatorevals.aa.ufl.edu/public-results/>.

Preferred Name and Pronouns

Many of you may have a preferred name that is not the name given to me on the official roll. It is important to the learning environment that you feel welcome and safe in this class. I want you to be comfortable participating in class discussions and communicating with me on any issues related to the class. I would like to refer to you by your preferred pronoun and last name. As such, if your preferred name is not the name listed on the official UF roll, please let me know as soon as possible by e-mail or otherwise before the first day of class. Feel free to ask for instructions on changing your display name in Canvas.

Discourse, Inclusion, and the Classroom

As a law student and future lawyer, it is important that you be able to engage in rigorous discourse and critical evaluation while also demonstrating civility and respect for others. This is even more important in the case of controversial issues and other topics that may elicit strong emotions. As a group, we are likely diverse across racial, ethnic, sexual orientation, gender identity, economic, religious, and political lines. As we enter one of the great learning spaces in the world—the law school classroom—and develop our unique personality as a class section, I encourage each of us to:

- commit to self-examination of our values and assumptions;
- speak honestly, thoughtfully, and respectfully;
- listen carefully and respectfully;

- reserve the right to change our mind and allow for others to do the same;
- allow ourselves and each other to verbalize ideas and to push the boundaries of logic and reasoning both as a means of exploring our beliefs as well as a method of sharpening our skills as lawyers.

Health and Wellness Resources

Law school can be a daunting experience, especially when life outside the law becomes challenging and when you are expected to function at high levels during a pandemic. UF Law provides numerous resources for your support, and I encourage you to seek help if you have concerns. Any student who has difficulty accessing sufficient food or lacks a safe place to live is encouraged to contact the Office of Student Affairs. If you are comfortable doing so, you may also notify me so that I can direct you to further resources.

- *U Matter, We Care*: If you or someone you know is in crisis, please contact umatter@ufl.edu, (352) 392-1575 (available 24/7), or visit the [U Matter, We Care website](#) to refer or report a concern and a team member will reach out to the student in crisis.
- *Counseling and Wellness Center*: [Visit the Counseling and Wellness Center website](#) or call (352) 392-1575 for information on crisis services as well as non-crisis services.
- *Student Health Care Center*: Call (352) 392-1161 for 24/7 information to help you find the care you need, or [visit the Student Health Care Center website](#).
- *University Police Department*: [Visit UF Police Department website](#) or call (352) 392-1111 (or 9-1-1 for emergencies).
- *UF Health Shands Emergency Room / Trauma Center*: For immediate medical care call (352) 733-0111 or go to the emergency room at 1515 SW Archer Road, Gainesville, FL 32608; [Visit the UF Health Emergency Room and Trauma Center website](#).

Other information about UF Levin College of Law policies, including compliance with the UF Honor Code, Grading, Accommodations, Class Recordings, and Course Evaluations can be found at this link: <https://ufl.instructure.com/courses/427635/files/74674656?wrap=1>

Weekly Course Schedule of Topics and Assignments:

This syllabus is offered as a guide to the direction of the course. I suggest you use the Canvas site to access your assignments as everything should be linked and easy to find there. I will post future assignments on Canvas at least a week before the class and may be adjusted. Our pace will depend in part on the level of interest and the level of difficulty of each section, but I try hard to keep us on track so you should try hard not to fall behind.

Date	Class	Reading/Assignments
8/22	<i>Class 1: Introduction & Course Overview: Introduction to ADR</i>	Readings: • TB 3-8 Readings from Canvas: • Fitting Forum to the Fuss • Vanishing Trial • Multi Door Courthouse • Against Settlement <i>Assignment #1 (prepare for in-class and upload on canvas): Choose a law journal article from among winners of the James Boskey ADR Writing Competition at: http://www.americanbar.org/groups/dispute_resolution/awards_competitions/james_b_boskey_law_student_essay_contest_on_dispute_resolution.html</i> <i>I will call on you in class to make a short presentation. Please be ready to answer the following questions. Think about the the elements of a good paper, using the paper you read as an example. 1. What, about the paper, drew you to the topic? Or, put another way, what made you read the article you chose? 2. Was the title a good choice? Elaborate on what makes a good title. 3. How did the writer introduce the subject? What necessary background was given? 4. Analyze the skeleton of the paper. How was it constructed? 5. What sources did the writer use? How did the footnotes contribute (or not) to the paper? 6. How did the writer pull together the strands of the paper for the conclusion?</i> <i>For each question, please extract general conclusions about excellence in writing that you can concretely illustrate with the</i>

		<i>paper you chose. The overall effort is to inspire your colleagues with the elements of success in paper writing.</i>
8/29	<i>Class 2: Client Counseling Intro to Negotiation</i>	Reading: • TB 9-28 • TB 29-47 Optional: • GTY
9/5	<i>Class 3: Negotiation Theory</i>	<i>Assignment #2 (on canvas): Submit Two Abstracts and Be Prepared to Present on Two Ideas to the Class and Receive Feedback</i> Reading: • Toward Another View of Negotiation • Bargaining in the Shadow of the Law • The Limits of Integrative Bargaining Optional Reading: GTY
9/12	<i>Class 4: Guest Librarian: Introduction to Research in ADR with Emily Mayers-Twist Introduction to Mediation</i>	<i>Reading:</i> • TB 49-92 <i>Optional Reading:</i> • Middle Voice
9/19	<i>Class 5: Mediation Practice Role Play</i>	<i>Canvas Reading:</i> • Understanding Mediators Orientations Strategies and Techniques <i>Optional Reading:</i> • Middle Voice <i>Assignment #3: Thesis Approval Required from Professor Erez Navot (individual meetings on zoom or office hours required)</i>
9/26	<i>Class 6: Mediation Theory</i>	<i>Canvas Reading:</i> • Mediation--Its Forms and Functions • Grillo Mediation Alternative Process • The Theory and Practice of Mediation: A Reply to Professor Susskind

		Assignment #4: Refined Abstract & List of Resources (minimum of 10-15 substantial sources required which includes law review, specialty journals, books, NOT websites or newspaper/blogs etc.)
10/3	Class 7: Domestic & International Arbitration Guest: Professor Joan Stearns Johnsen, Professor Cristina Cardenas, and Dan Visiou	Reading: TB 175-223
10/10	Class 8: Individual and Group Meetings @ Papers Guest Librarian: Emily Mayers-Twist	Assignment #5: Upload to Canvas and Bring Final Outline to Class to Share with Colleagues and Professor Erez Navot
10/17	Class 9: Hybrid Processes and Dispute System Design	Reading: TB 225-249
10/24	Class 10: Restorative Justice Guests: Jeffrey Weisberg & Eric Estling River Phoenix Center for Peace Building Gainesville, Florida https://www.centerforpeacebuilding.org/	Readings:
10/31	Class 11: Student Presentations	Assignment #6: Paper Draft due to Prof. Erez Navot and to your Student Partner(s)
11/6	Event: Institute of Dispute Resolution Speaker Series with Professor Amy Schmitz at 12 PM at Bailey Event Space (Lunch Provided)	
11/7	Class 12: ODR – Professor Amy Schmitz, Ohio State Law School7	Assignment #7: Comments Due Back to Student Partner(s) and Both Drafts with Comments Uploaded to Canvas
11/14	Class 13: Final Class and Final Student Presentations	Assignment #8: Full Draft Paper for Prof. Erez-Navot
11/21		Receive Edits Back from Prof Erez-Navot on the Final Draft.
12/08		Final Assignment #9: FINAL PAPER DUE at 5:00 pm (25 pages double- spaced). Final Paper must be submitted in form according to document on Canvas “FINAL PAPER GUIDELINES”