

Negotiation- Fall, 2023
Prof. Joan Stearns Johnsen
Mondays: 9:00 – 12:00
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Class Syllabus and Policies

Required Course Materials:

Getting to Yes: Negotiating Agreement Without Giving In, Roger Fisher, William Ury, and Bruce Patton. (Penguin Books, 2011), *Negotiation Genius*, Deepak Malhotra and Max H. Bazerman (Bantam Dell, 2008). There will also be supplemental readings posted to Canvas and you will also be required to watch the movie *A Civil Action* (1998) directed by Steven Zaillian, starring John Travolta and Robert Duvall. One copy is available in the library on DVD. I am told there is now a streaming version available from the library. Other streaming versions of the movie are available to rent on YouTube, Amazon, Apple TV, and other sites for a nominal charge (approx. \$2.99, last I looked). Please watch the movie in preparation for our Movie Class, class. This movie will also help you to prepare for the final exam. **You will also be required to purchase Harvard Program on Negotiation role plays from the Bookstore. You must pay for these required role play materials in advance.** We will distribute them electronically via canvas throughout the semester.

Description of the Course, Objectives, and Learning Outcomes:

Everyone negotiates. Lawyers engage in negotiation as part of their work regardless of the area of practice in which they specialize. Just as importantly, almost all interpersonal interaction involves some aspect of the skills we will cover in negotiation.

In this course you will learn the foundational theory underlying negotiation, as well as communication, culture, and psychological factors that impact negotiation. Importantly, through your roleplay exercises you will learn how the theory applies to practice.

At the conclusion of this course, you should be able to understand how negotiation fits into the continuum of dispute resolution processes; manage the emotional and psychological aspects of negotiation; manage communication and cultural issues in negotiation, and negotiate more effectively as you progress from an intuitive negotiator to a more intentional one. You will also have an appreciation of the particular ethical constraints risks lawyers must appreciate when negotiating.

Expectations: This course is a three credit hours. Please note that ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every “classroom hour” of in class instruction. Therefore, expect that you will spend six hours out of class time preparing for each Monday class by reading and importantly by preparing for the in-class role play exercises.

To succeed in this class, you must spend a sufficient time reading and familiarizing yourself with the role plays, some of which are quite complex. With some of the role plays, you may be working as part of a team and will need to meet with a classmate outside of class time as part of your preparation. You may also need to do some legal or factual research or analysis of legal standards or other data as part of your preparation. You do a disservice to the class and to your classmates if you do not fully prepare for these role plays. You will also lose points towards your participation grade and ultimately your final grade if it appears that you are under prepared.

Starting with the 5th week of class, you will be required to complete and submit a negotiation preparation worksheet for each role play. It is possible that on days when we have two negotiations scheduled, you will need to prepare two preparation worksheets. On days when we are continuing a role play you may not have a preparation worksheet to submit. Although your preparation worksheets will not receive a letter grade, they will be randomly reviewed and will count towards your preparation grade.

Guidelines for participation in roleplays:

1. Take the roleplay seriously; what you (and other participants) get from the roleplay is directly related to the effort you put into it.
2. If you are assigned to play the role of a client or party, do not deviate from the facts that are in either the general or your confidential instructions. You may, however, “fill in the blanks” in playing your role.
3. Play the role as a party the way you think the person in the specific situation would play it – not necessarily as you personally would respond. In all cases, **follow your instructions for your emotional state.**
4. If you are playing the role of a lawyer representing a party, take time to confer with your client before the negotiation to learn as much as you can about their matter and to be sure you understand what your client really wants as an outcome.
5. Feel free to experiment and try different approaches to negotiation. This is the time to take a risk.

6. Do not share your confidential information instructions with the other participants until after the roleplay is completed.
7. Enjoy the roleplay experience. No one says you can't have fun playing roles.

Instructions for Observers: From time to time, you may be asked to play the role of observer. This is an excellent opportunity to learn. As an observer you are not immersed in the exercise as a participant and can have perspective of both sides. Take full advantage of this opportunity. There are guidelines posted on Canvas. Here are some additional suggestions.

1. Please help get exercise started on time and stop them on time.
2. Don't interrupt role play unless to remind participants to stay in roles.
3. Observe non-verbal, as well as verbal, communications. Take notes on what you see and hear so you can make specific reference to what transpired, i.e., active listening examples.
4. At conclusion of the exercise distribute comparative factual summaries, if available, or ask participants to exchange confidential facts.
5. Share your observations with the participants but be sure to point out positive behaviors as well as negative.
6. Be prepared to report on what you observed and the outcome, if any, in class and succinctly state any outcome determinative or significant factors.

Again, regardless of the role you will play in the exercise, you must come to class having carefully read the materials that have been handed out in advance of class and having prepared as directed.

Inter School Negotiation Practicum: During the semester, we will participate in the Inter School Negotiation Practicum which involves negotiation with a student from another school using email, phone, and video conferencing. This is organized by *South Texas College of Law* and Prof. Debra Berman. We will discuss this in class.

Course Grading: Your grade for the course will be based on the following:

- A) Preparation, Attendance and Participation. **(20% of grade.)** You are expected to read the assigned materials before class, prepare for and participate in class discussion and in class exercises and role-plays. Because this is a participatory class with assigned roleplays, your classmates and I depend on your attendance each class. If you must miss a class or be late, please communicate to me and to your teammates your likely absence or tardiness before class. You must also let me know the reason.
- B) As is stated above, beginning with week 5, you will also be expected to prepare Preparation Worksheets for each negotiation. While ungraded, you will be required to submit your worksheets on Canvas before class begins. I will be observing your negotiations randomly. If it appears to me that you are unprepared, I will consider that in your participation grade. If you are prepared and participate in good faith during the class, you will receive full credit for this grading component for the week. If you have an unexcused absence or are unprepared, you will receive a grade of D for the week. Given that we remain in the midst of a pandemic, I encourage you to stay home if you are not well.
- C) Quiz of one hour in length will test your knowledge of Getting to Yes and Part I of Negotiation Genius. It will be given on Canvas outside of class during the seventh week of class. It will be open book and will count for **10%** of your final grade.
- D) The Interschool Negotiation Practicum will take place out of class during the month of October. This assignment will count for **5%** of your grade.
- E) For your final exam, you will be asked to watch a video of a negotiation and respond to prompts. The exam will be a three and one half hours take home, open book, fixed date exam on December 4, 2021. This will NOT be a flex exam. The final exam will count for **65%** of your grade.

Both your quiz and exams will be in short answer format and will be open book:

For questions about delays in submitting assignments, please refer to the law school's policy, available at <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/currentstudents/forms-applications/exam-delays-accommodations-form>.

The grading scale for the course is:

<u>Grade</u>	<u>Point</u>	<u>Grade</u>	<u>Point</u>	<u>Grade</u>	<u>Point</u>
A (Excellent)	4.0 0.67	C+	2.33	D-	
A-	3.67 0.0	C (Satisfactory)	2.00	E (Failure)	
B+	3.33	C-	1.67		
B (Good)	3.00	D+	1.33		
B-	2.67	D (Poor)	1.00		

Information on current UF grading policies for assigning grade points may be found at <https://catalog.ufl.edu/ugrad/current/regulations/info/grades.aspx>.

UF Student 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 <http://www.dso.ufl.edu/students.php>.

Accommodations: Students with disabilities requesting accommodations should first register with the Disability Resource Center (352-392-8565, www.dso.ufl.edu/drc/) by providing appropriate documentation. 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.

Class Recording Policy: The Office of Student Affairs will continue to record all classes 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.

Preferred Name and Pronouns

It is important to the learning environment that you feel welcome and safe in this class; and that you are comfortable participating in class discussions and communicating with me on any issues related to the class. 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. I would like to acknowledge your preferred name, and pronouns that reflect your identity. Please let me know how you would like

to be addressed in class if your name and pronouns are not reflected by your UF-rostered name. I welcome you to the class and look forward to a rewarding learning adventure together.

When class is on Zoom- you may also change your “Display Name” in Canvas. Canvas uses the "Display Name" as set in myUFL. The Display Name is what you want people to see in the UF Directory, such as "Ally" instead of "Allison." To update your display name, go to one.ufl.edu, click on the dropdown at the top right, and select "Directory Profile." Click "Edit" on the right of the name panel, uncheck "Use my legal name" under "Display Name," update how you wish your name to be displayed, and click "Submit" at the bottom. This change may take up to 24 hours to appear in Canvas. This does not change your legal name for official UF records

Discourse, Inclusion, and the Classroom Ethos

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

As part of my commitment to teaching and serving the diverse UF Law community, I have signed the UF Law Anti-Racism Resolution.

Class Schedule: We will meet once each week. Monday’s class will be from 2:15 until 5:15. Class will be in-person- although there will be some classes held on Zoom. You will be given notice in advance of classes that will be conducted on Zoom. When this is the case, you will find the link posted to Canvas.

Office Hours: My regular Office Hours are Mondays 8:00-9:00 am for in-person Office Hours and Tuesdays from 8:30 to 9:30 am for Zoom meetings. Additionally, I am always available for meetings by appointment. The Zoom Office Hour Link will be a recurring link. (Use the same

link each week.) It will be posted to an “Announcement” on Canvas prior to the first online office hour meeting.

Online Course Evaluations: Students are expected to provide professional and respectful feedback on the quality of the instruction in this course by completing online evaluations via GatorEvals at <https://evaluations.ufl.edu>. 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. Summary results of these assessments are available to students at <https://evaluations.ufl.edu/results/>.

Canvas: Please check Canvas regularly for new postings. Make certain that your Canvas Account is set to receive emails, **and that you have not disabled the email forwarding feature.** Canvas is my primary method of communication, and you put yourself at a serious disadvantage if you cannot access the emails and announcements I post on Canvas. You will also access the role play instructions and private facts as well as the Pairs and Teams on Canvas. I also regularly post supplemental materials to the Modules. If you have difficulty accessing or working with Canvas, please reach out to the Help Desk.

Attendance and Preparation: Your attendance and preparation are critical to your success in this class. **If you do not adequately prepare, you will lose credit!** You are expected to spend 6 hours each week on this class. Much of that time should be spent preparing for the role plays.

Most weeks, you will be paired with another student or group of students. If you are absent from class, you will disrupt the exercise for you and for your partners and classmates.

Further, your attendance is essential to your ability to apply the theory discussed to the exercises. For this reason, regular and punctual attendance at classes is mandatory. I do take attendance. However, we remain in a pandemic. If you are ill, please stay home. Your absence will be excused.

Classes will begin promptly at the scheduled time. Students arriving late will receive partial credit for attendance for that day. Anything in excess of 15% unexcused absences may render a student ineligible to receive credit for the course. Excused absences are consistent with University policies (<https://catalog.ufl.edu/ugrad/current/regulations/info/attendance.aspx>) and may require appropriate documentation.

Health and Wellness Resources:

- *U Matter, We Care*: If you or someone you know is in distress, please contact umatter@ufl.edu, 352-392-1575, or visit [U Matter, We Care website](#) to refer or report a concern and a team member will reach out to the student in distress.
- *Counseling and Wellness Center*: [Visit the Counseling and Wellness Center website](#) or call 352-392-1575 for information on crisis services as well as noncrisis 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](#).

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.

Assignments and Important Dates and Events: Please note, this list of exercises and role plays will likely change as the semester progresses! A role play may extend over two classes for example. I greatly appreciate your flexibility and patience. Changes will be posted on Canvas in an Announcement, or I will tell you in class. Generally, role play general facts and confidential information will be posted on Canvas or handed out in class.

Week One

Read: Getting to Yes; Introduction, The Problem, and The Method

Introduction of Course and Basic Factors Affecting Negotiation

[The Rug Cosmetics Company/Drug Company](#)

Week Two (Registration Opens for the Inter-School Negotiation Practicum) *Read: Getting to Yes: Finish book*

Basic Factors Affecting Negotiation, cont'd.

The Law Library

Week Three

Complete the Conflict Assessment Tool (Available on Canvas) **Style**

Oil Pricing Exercise (No preparation required for this in-class exercise)

Week Four

The Negotiation Process **Preparation**

Prepare for Parker Gibson including—Complete the Inventory/Satisfaction Questionnaire (**Part 1 ONLY**)

Parker-Gibson

Week Five

Read: Negotiation Genius: Introduction and Part I, The Negotiator's Toolkit

*Use the Preparation Worksheet (located in "Assignments" and/or "Modules" on Canvas) to help you begin your preparation for next week's negotiation of **Super Slipster***

The Negotiation Process

Super Slipster

Beginning with this week and continuing for the remainder of the semester, you will be required to prepare and submit Preparation Worksheets on Canvas for all your negotiations. They will be due before class begins. Do not submit them after 2:15.

Week Six (Begin negotiating the Inter-school Negotiation Practicum)

Read Email Negotiation: Reading- by Noam Ebner which has been posted to a Module on Canvas

Communication including different modes of communication.

Orlen v. Bryson

Week Seven:

Review: Model Rules of Professional Responsibility: 1.6, 4.1, 3.3, 8.4

The Don's (Outside of class- meet in groups of client/lawyer as part of your preparation for this week's class)

Quiz- on Getting to Yes and Part I of Negotiation Genius-Your quiz will be available on Canvas beginning this Wednesday, March 7, until Sunday, March 12, at 11:59 pm. Once you open the quiz you will have one hour to complete it. Please see Dean Mitchell in Student Affairs for accommodations.

The Don's (Negotiate)

Week Eight:

Read: Mediation Reading posted on Canvas

Mediation Assisted Negotiation (Guest Mediator)

Camilia Pictures

Week Nine:

Read: Negotiation Genius Part II, The Psychology of Negotiation

Optional Read: Neuroscience and Settlement, Richard Birke which has been posted to Canvas
Evaluation and Decision Making: Psychological Factors Impacting Negotiation

Bullard Houses

Week Ten:

Read: Finish Negotiation Genius

Preparation for MAPO (Meetings in teams)

Week Eleven:

MAPO

Debrief MAPO

Week Twelve:

Different Modes of Communication—Debrief of Inter School Negotiation Exercise **MAPO**

Movie Class: *A Civil Action* (As stated in the syllabus—you must have watched this movie **before** this Movie Class) This is a review/preparation for your exam.

Week Thirteen: (11/21)

Debrief MAPO

Review