

Negotiation- Fall, 2024

Prof. Joan Stearns Johnsen

Mondays: 9:00 – 12:00

Room: Holland Hall 382

E-mail: johnsen@law.ufl.edu

Cell: 617-549-0742

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 required readings and videos 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. There is also 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. Our movie class is also our review class.

Throughout the semester my assistant Michele Benedict will distribute role plays from the Harvard Program on Negotiation for use in class in the “Assignments” tab on Canvas. These Harvard role plays will be distributed electronically one by one via canvas throughout the semester.

We pass along the copyright fee to you from the Bookstore. You must pay for these required role-play materials through the bookstore. Watch for the email from Dean Inman with instructions for purchasing. Roleplay instructions for our first and second classes will be handed out on paper in class. You do not need to do any role play preparation for these first two exercises.

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. Lawyers negotiate transactions, the settlement of a lawsuit, their salaries and promotions, and strategies with their clients. Just as importantly, almost all interpersonal interaction involves some aspect of these all important negotiation skills.

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, negotiate more effectively, and improve your results. You will also have an appreciation of the particular ethical 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 the text, watching videos, 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 credit 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. As the semester progresses, these worksheets should become more thorough. You will be expected to demonstrate your understanding and growth throughout the semester through your preparation worksheets. You will lose credit towards your preparation grade if these preparation worksheets do not reflect a thorough understanding of the role play and your understanding of the negotiation theory we will be covering.

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, read your materials carefully. As appropriate do some research on relevant norms and standards, and 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. As a neutral observer, you provide valuable observations which you should with your participants. Provide a factual basis for any conclusions and 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 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 thoroughly as directed.

Course Grading: Your grade for the course will be based on the following subject to a class curve: 100 possible points available- Preparation and Participation 35 points, Quiz 10 points, Final Exam 55 points.:

- 1) Preparation and Participation. Your preparation and participation grade will be comprised of 35 possible points allocated as follows:
 - a Class Participation 5 points maximum
 - b Preparedness for Role Plays 5 points maximum

- c Preparation Worksheets 15 points maximum (2.5 points each- If we do not get to our final role play, each preparation worksheet will be worth 3 points)
- d Free Stuff Share and Reflection 5 points maximum
- e Interschool Negotiation Practicum Reflection and Survey 5 points maximum

To earn the maximum points for each sub-category:

- a. You will be expected to participate in class discussions and to be prepared to be called on in class. Your responses should reflect that you have read and understand the assigned materials, role plays, and have watched the assigned videos and understand the theoretical principles covered in the readings and in the class lectures.
- b. I will be observing your role plays randomly. I will expect to see that you have adequately prepared for these exercises. This means that you should be thoroughly familiar with the general facts of the role plays as well as your own confidential facts, should have analyzed those facts and any provided legal framework or data, and conducted any appropriate research or synthesis of the facts, law, and relevant norms and standards.
- c. As is stated above, beginning with week 5, you will be expected to prepare Preparation Worksheets for each negotiation. There will be 6 preparation worksheets in total. (NB If we do not get to our final role play due to time constraints, then there will be 5 worksheets with each one worth 3 points.) You will be required to submit your worksheets on Canvas before class begins on the date we are negotiating the corresponding role play. Please check my weekly Announcements in Canvas and pay attention in class for accurate due dates. The dates of the role plays are highly likely to change throughout the semester. You may not submit preparation worksheets after 9:00 am. the Monday of the class we are negotiating the corresponding role-play. The thoroughness with which you complete these preparation worksheets will be considered for your point score. I expect to see improvement in your worksheets over the course of the semester. I will look to see your application of the principles discussed in class and in the readings reflected in your work product. You must timely submit a preparation worksheet even if you are absent. You must submit a worksheet even if you are assigned the role of client. No late submissions are permitted.
- d. Throughout the semester you will be required to volunteer for our “Free Stuff” assignment once during the semester. You will also be required to submit a 1-2 page reflection of your “share.” We will discuss this more fully in class. While I encourage you to write and submit your reflection paper near the time you share in class, the final date for submission of these reflection papers will be Friday, November 8.
- e. Inter School Negotiation Practicum: . **You must register individually for this!!!! I will post the registration link in “Announcements” as soon as Prof. Berman makes it available.** During the semester, we will participate in the Inter-school Negotiation Practicum where you will negotiate with a student from another law school using email, phone, and video conferencing. This is organized by Professor Debra Berman at South Texas College of Law. We will discuss this in class. This practicum will take place out of class during the month of October. At the conclusion of the exercise, in addition to

providing your survey responses to Prof. Berman, you also will be required to upload a photocopy of your survey and a one page reflection analyzing your negotiation to Canvas. This will be due Friday, November 15. You will upload the COMPLETE survey and your 1-2 page reflection together on Canvas. (Complete means don't just screenshot the first page. I actually want to read your survey responses. Together means- yes, there is one "Assignment" location. Submit both the survey and reflection in the same designated Canvas "Assignment" location.)

- 2) A quiz of one hour in length to test your knowledge of *Getting to Yes* and Part I of *Negotiation Genius* will be given on Canvas outside of class during the fifth week of class. It will count for ten points.
- 3) The final exam will be a three hour open book, fixed date exam on the date set by Student Affairs. Check the exam calendar for the date. The final exam will count for 55 points.

Artificial Intelligence Policy:

I do not permit students to use artificial intelligence for assignments, the quiz, or the exam for this class. As a caveat, I find that AI tends to be too generalized to be useful for your personal reflections or for the specific questions posed on the quiz and exam. You may use it to assist you in other ways, but beware of AI hallucinations!

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>.

Subject to the class curve, 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 records all classes 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 9 until 12. 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 in an Announcement on Canvas.

Office Hours: My in-person Office Hours are Mondays 8:00-9:00. Zoom Office Hours are Tuesdays from 8:30 to 9:30 am. Additionally, I am always available for meetings by appointment. The Zoom Office Hour Link will be posted to an Announcement on Canvas. (Use the same link each week.) It will be posted 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 weekly announcements I post on Canvas. You will also access the role play instructions and private facts as well as the pairing assignments on Canvas. I also regularly post supplemental materials to Canvas in Modules. If you have difficulty accessing or working with Canvas, please reach out to the Help Desk.

Attendance: Your attendance is critical to your success in this class. Most weeks, you will be paired with another student or group of students. If you are absent from class or late, you will disrupt the exercise for your partners and classmates. For this reason, regular and *punctual* attendance at classes is mandatory. Classes will begin promptly at the scheduled time. Students arriving late will receive partial credit for attendance for that day. Anything in excess of 2 missed three hour classes regardless of whether excused or unexcused may lower your grade or even render you ineligible to receive credit for the class. If you will miss class or be late, send an email to me and cc Michele Benedict at Benedict@law.ufl.edu. Give us as much notice as possible to enable us to adjust the pairings.

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 352392-1111 (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.

UF Levin College of Law Class Recordings and Course Evaluations:

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>

Assignments and Important Dates and Events: Given the number of exercises and guests, I expect to make changes to this part of the syllabus during the semester. Please pay attention to announcements in class and read the weekly Announcements posted to Canvas. You may also reach out to me. Thank you in advance for your patience and flexibility. Please note, this list role plays may change as the semester progresses! For accuracy, check the Announcements each week in Canvas and listen in class.

Week One: An Introduction to “The Method”

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

Introduction of Course and Basic Factors Affecting Negotiation

The Rug (This will be handed out in class—no advance preparation necessary)

Week Two: “The Method” cont’d.

(Registration (likely) opens for the Inter-School Negotiation Practicum) *Read: Getting to Yes: Finish book*

Basic Factors Affecting Negotiation, cont’d.

UGLI Orange (*This will be handed out in class—no advance preparation necessary*)

Week Three: Negotiation Style

Complete the Conflict Assessment Tool (Available on Canvas)

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

The Law Library (*Beginning with The Law Library your instructions will be posted to Canvas in “Assignments.” You also will need to prepare in advance.*)

Week Four: (On Zoom) Preparation

Review Getting to Yes and Negotiation Genius: Introduction and Part I, The Negotiator’s Toolkit
Preparation:

Prepare for Parker Gibson including—Complete the Inventory/Satisfaction Questionnaire (Part 1 Pre-negotiation survey only. We will complete the Post-negotiation Survey after you have negotiated.)

Parker-Gibson

Week Five: The Negotiation Process

Quiz- on Getting to Yes and Part I of Negotiation Genius-Your quiz will be available on Canvas beginning this Thursday, September 26, until Sunday, September 29, 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 special accommodations.

Super Slipster

(Beginning with Super Slipster and continuing for the remainder of the semester, you will be required to prepare and submit Preparation Worksheet. They are assigned per role play not per week of class. They will be due before class begins at 9:00 am. No late submissions permitted.)

Week Six : Communication

(Begin negotiating the Inter-school Negotiation Practicum)

Reading: Email Negotiation, Noam Ebner. Also read: Choosing Among Modes of Communication, by Schneider and Honeyman. Both are available in the “Different Modes of Communication” Module on Canvas

Complete Super Slipster

Week Seven: Negotiation Ethics

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)

The Don's (Negotiate)

Week Eight: Persuasion and Evaluation in Negotiation

Reading: 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 Nine: Mediation Assisted Negotiation

Read: Mediation materials posted on Canvas Module "Mediation Facilitated Negotiation"

Mediation Assisted Negotiation (Guest Mediator, Jerry Roscoe

<https://www.jamsadr.com/roscoe/>)

Camilia Pictures

Week Ten

Reading: Finish Negotiation Genius

Debrief of Inter School Negotiation Exercise

MAPO

Week Eleven

Flagship Airways

Week Twelve: Review

Debrief. **Flagship Airways**

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: Further Review(11/21)

Review