University of Houston Law Center

Fall 2020

Applied Advocacy

Room ONLINE VIA ZOOM

Break-out Room TBD

**Course # 5107**

**Section # 26543**

Saturday from 9:00 am to 9:50 am

**Professors:** Kevin Hedges

Megan Daic

**Required Text:** Getting to Yes: Negotiating Agreement Without Giving In, by Roger Fisher and William Ury

**Recommended Text:** Negotiating the Nonnegotiable: How to Resolve Your Most Emotionally Charged Clients, by Daniel Shapiro

Persuasion: Convincing Others When Facts Don’t Seem to Matter, by Lee Hartley Carter

**Office Hours:** By appointment

**Phone: Kevin Hedges (713) 494-8905**

**Megan Daic (281) 701-6334**

**Email:** Everyone should have access to email and an email account. Email is the best way to contact Professor Daic. You can reach her at:

[megan@daiclaw.com](mailto:megan@daiclaw.com)

[khedges3@peoplepc.com](mailto:khedges3@peoplepc.com)

**Course Description:**

Pre-requisites: Member of the Blakely Advocacy Institute’s Alternative Dispute Resolution Team at the University of Houston Law Center.

This course will focus on in-depth analysis, planning, and practice of preferred systems and techniques for complex negotiations, mediations, arbitration, and client counseling. The analytical skills to be emphasized are: 1) Interest generation; 2) Development of options; 3) Effective listening and communication; 4) Negotiation and mediation strategies; and 5) Overall improvement and growth in advocacy skills. This class is closed to students who are members of the University of Houston Law Center’s ADR team.

**Course Goals:**

This is an applied advocacy course offered to students who have been selected for the Alternative Dispute Resolution team and who are interested in learning the basic concepts of negotiation theory and practice, mediation theory and practice, arbitration, and client counseling. These processes and techniques act as a means for disagreeing parties to come to an agreement prior to litigation ensuing. The following description of course goals for applied advocacy is accurate for this class as well, but we will be exploring the issues relating to preparation and opportunities for mutual gain in more depth than in introductory classes. Students will learn key concepts in class that will be utilized at ADR practices and competitions.

This course starts from the observation that the world of managers, lawyers, public officials, analysts, and other professionals is marked by interdependencies, fragmented sources of power, and an uncertain future. In this unruly world, the sources for understanding and stability are often provisional and the ability to learn and to manage change is at a premium. The diversity of our society and work force contributes to conflicts over goals, interests, and frames of reference. These characteristics create an ongoing need for the ability to craft stable agreements that advance interests, build trust, and construct understanding in complex and unstable environments. They create a need for alternative dispute resolution.

Some of the benefits of ADR include:

* Suitable for multi-party disputes
* Lower costs
* Likelihood and speed of settlements
* Flexibility of process
* Parties’ control of process
* Parties’ choice of forum
* Practical solutions
* Wider range of issues can be considered
* Shared future interests may be protected
* Confidentiality
* Risk management

To help you develop the understanding and skills necessary to respond to this challenge, we will explore the insights that currently shape alternative dispute resolutions, theory, analysis, and practice. The insights each describe ADR as interactive processes.

We hope to accomplish two (2) goals. First, we hope that you will develop skills that will make you a better advocate. Second, we hope to help you connect your developing understanding of alternative dispute resolution in terms connected to adjacent questions about learning rationality, ethics, organizational behavior, and other fields. In more substantive terms, the course should help you to diagnose conflict, prepare to negotiate, mediate, or arbitrate, and reason and rationalize purposefully and thoughtfully, and critically evaluate outcomes and experiences.

We will explore a systematic approach to alternative dispute resolution that we think constitutes good advice about what to do when your interests or beliefs are in tension with others’, and you cannot act unilaterally.

**Alternative Dispute Resolution Exercises:**

You will take part in several ADR exercises, including negotiation, mediation, arbitration, and client counseling exercises. For each case, you will be assigned a particular role, given background information, instructions, and confidential information to aid in your preparation. You will be asked to prepare in writing for these exercises, and you may be asked to present in class in front of the other students.

**Cases and Readings:**

**Required Text:** Fisher, Ury; Getting to Yes, Penguin Books, 1981.

**Recommended Text:** Negotiating the Nonnegotiable: How to Resolve Your Most Emotionally Charged Clients, by Daniel Shapiro

Persuasion: Convincing Others When Facts Don’t Seem to Matter, by Lee Hartley Carter

**Grading:**

This course will be graded on a Pass/Fail basis. Your grading will be based on the following components:

Class Participation

Skill Evaluation

Negotiation Representation Plan (“REP Plan”)

REP Plans require the following information: 1) Your interests; 2) the other party’s interests; 3) options for creating mutual gain; and 4) strategies for meeting your interests.

Mediation Preparation Memos

These memos must contain the same information as a negotiation preparation memo plus a section on how you intend to use the mediator.

PowerPoint Presentation

**Confidential Instructions:**

You will receive confidential instructions in each of the exercises. You may choose to reveal or discuss some or all of the contents of your confidential information with your opposing party. Indeed, to be successful, this kind of communication is often indispensable. However, you must not physically show your confidential information sheets to the other side. This rule is intended to mirror reality – in most real-life situations, you cannot simply show the full set of your underlying values and information to your opposing party.

**Counseling and Psychological Services**

Counseling and Psychological Services (CAPS) can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS ([www.uh.edu/caps](http://www.uh.edu/caps)) by calling [713-743-5454](tel:(713)%20743-5454) during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the “Let's Talk” program, a drop-in consultation service at convenient locations and hours around campus.

<http://www.uh.edu/caps/outreach/lets_talk.html>

**Face Covering Policy**

To reduce the spread of COVID-19, the University [requires face coverings](https://uh.edu/covid-19/return-to-campus-information/face-coverings-while-on-campus/) on campus including classrooms for both faculty and students. Face coverings must cover your mouth and nose and be worn throughout the class session. A mask with a valve is not considered an adequate face covering and should not be used, as it can expel exhaled air, increasing the risk to others. Eating or drinking during class is discouraged and is not an excuse for removing the face covering for any extended length of time. For additional information on the use of face coverings, please see [Face Covering FAQs](https://uh.edu/covid-19/faq/face-covering-faqs/). Failure to comply with the requirement to wear a face covering in class will result in your being asked to leave the classroom immediately and a disciplinary referral through the Dean of Students Office. Requests for accommodations relating to the face covering policy may be directed to the [Center for Students with DisABILITIES (CSD)](https://uh.edu/csd/).

**Required Daily Health Self-Assessment**

Your presence in class each session means that you have completed a daily self-assessment of your health/exposure and you:

* Are NOT exhibiting any [Coronavirus Symptoms](https://www.uh.edu/covid-19/information/coronavirus-symptoms/)
* Have NOT tested positive for COVID-19
* Have NOT knowingly been exposed to someone with COVID-19 or suspected/presumed COVID-19

If you are experiencing any COVID-19 symptoms that are not clearly related to a pre-existing medical condition, do not come to class. Please see [COVID-19 Diagnosis/Symptoms Protocols](https://www.uh.edu/covid-19/information/covid-19-diagnosis-symptoms-protocols/) for what to do if you experience symptoms and [Potential Exposure to Coronavirus](https://www.uh.edu/covid-19/information/potential-exposure-coronavirus/) for what to do if you have potentially been exposed to COVID-19.

**Recording of Class**

Students may not record all or part of class, livestream all or part of class, or make/distribute screen captures, without advanced written consent of the instructor. If you have or think you may have a disability such that you need to record class-related activities, please contact the [Center for Students with DisABILITIES](https://uh.edu/csd/). If you have an accommodation to record class-related activities, those recordings may not be shared with any other student, whether in this course or not, or with any other person or on any other platform. Classes may be recorded by the instructor. Students may use instructor’s recordings for their own studying and notetaking. Instructor’s recordings are not authorized to be shared with *anyone* without the prior written approval of the instructor. Failure to comply with requirements regarding recordings will result in a disciplinary referral to the Dean of Students Office and may result in disciplinary action.

**Syllabus Change**

Due to the changing nature of the COVID-19 pandemic, please note that the instructor may need to make modifications to the course syllabus and may do so at any time. Notice of such changes will be announced as quickly as possible through (*specify how students will be notified of changes*).

**Tentative Schedule:**

Class 1 (August 29) Course Introduction

Begin discussing Introductions/Opening

REP Plans

Class 2 (September 2) Begin discussing Introductions/Opening

REP Plans

Conflict Management & Negotiation Assessments

*Brief Discussion about “Picture Perfect” Demo*

Class 3 (September 9) Getting to Yes; Chapters 1 and 2

Breaking Down a Problem

BATNA / Background story / Strengths & Weaknesses / Theme / Structure / ZOPA

Class 4 (September 16) Getting to Yes; Chapters 3 and 4

Interest Generation OR Introductions

Class 5 (September 23) Getting to Yes; Chapters 5 and 6

Theme Development

(Guest Lecture, Brandon Schrecengost on Theme Development)

Class 6 (September 30) Getting to Yes; Chapter 7

Option Packages & Logrolling

Logrolling Video (Guest Lecture, Dr. Jeanna Abbott)

Class 6 (October 7) Getting to Yes; Chapter 8

Framing & Persuasion techniques

Framing Exercise

Class 7 (October 14) Getting to Yes; Chapter 9

Understanding Key Negotiation Concepts

BATNA Presentation (Possible Guest Speaker)

Class 8 (October 21) Mediation

Class 9 (October 28) Mediation continued

(Guest Speaker, Sherra Gilbert of Gilbert Law Firm, LLP)

Class 10 (November 4) Client Counseling

Class 11 (November 11) Self-Evaluations (or save time for topic of class choice)

Class 12 (November 18) Online ADR in the “Real World”