

Mediation Skills Syllabus Spring 2024

Room: _____

Professors: Cindy Moulton and Michael Hawash

Professor Moulton is a distinguished trial lawyer with over 30 years of experience.

Professor Hawash is a distinguished mediator and trial lawyer with 30 years experience.

Time: T/Th 2:30-3:50 P.M.

Email: cmoulton@moultonwilson.com; michael@houstonmediation.com As noted below, we will generally communicate through these email accounts.

Phone: 713-824-8066 (Cindy) and 713-658-9004 (Michael)

Texts

Getting to Yes, Negotiating Agreement Without Giving In, Roger Fisher and William Ury—ISBN: 978-0143118756

Never Split the Difference, Chris Voss—ISBN: 978-0062407801

*Please note these readings will be discussed early in the semester and plan accordingly.

Course Description

Dive into the world of alternative dispute resolution with this immersive, skills-based course focusing on mediation advocacy. Learn about the process of mediation, then engage in real-life simulations using mediation techniques. In addition to traditional mediation, you will also be introduced to the emerging field of Early Dispute Resolution (EDR), as an alternative to the traditional mediation model. Students will actively participate in a mock EDR and two simulated mediations, including an advanced mock mediation hosted at the Texas Justice Center conducted by seasoned mediators. This course offers students the hands-on opportunity to immerse themselves as legal counsel in very realistic scenarios that come from real world disputes.

Learning Objectives/Goals/Outcomes

The goals of this class are to:

1. Gain a foundational understanding of mediation and Early Dispute Resolution (EDR);
2. Develop the skills and understanding needed to plan, prepare for, and effectively represent clients in mediation;
3. Learn and develop presentation and negotiation skills and techniques;

4. Familiarize oneself with the role of mediation in the judicial process, especially in locales like Harris County where mediation is often mandated before trial;
5. Engage in practical simulations and derive insights from expert guest speakers including accomplished mediators, lawyers, and former judges.

Instructional Mode (IM)

This course is designated as a face-to-face course, which means classes are in person by default. If necessary, designated classes may be held via Zoom to accommodate scheduling needs or unforeseen circumstances. Students will be notified in advance of any classes that will be held remotely and a Zoom link will be provided.

Expectations and Guidelines

Attendance: Due to the collaborative nature of this course, punctuality and regular attendance are vital. It is recommended you enroll only if you foresee minimal absences. Though four missed sessions are permissible without penalty, exceeding this may affect your grade and may necessitate make up or home assignments. Nevertheless, prioritizing consistent attendance is more valuable than the grade impact.

Class Participation. Students are expected to meaningfully participate in class discussion, group break-out sessions, and colloquy/Q & A with guest speakers; and to be attentive. Computers should be used only for notetaking and should otherwise be closed. Participation counts for 15% of the final grade.

Assignments

Date	Description
January 16, 2024 (T)	Introductions; Syllabus review; Introduction to Alternative Dispute Resolution (ADR)
January 18, 2024 (Th)	The Steps of Mediation Mediation Considerations
January 23, 2024 (T)	cont'd Mediation Considerations/Steps Handouts, PowerPoints (Mediation Overview)
January 25, 2024 (Th)	<i>Getting to Yes, Negotiating Agreement Without Giving In</i> discussion BATNA, LATNA, WATNA, ZOPA Risk Analysis and Decision Trees (Silver Decisions/Eperoto)
January 30, 2024 (T)	Advocate Ethics in Mediation (Hawash) Discovery
February 1, 2024 (Th)	<i>Never Split the Difference</i> discussion Introduction to Early Dispute Resolution (EDR) (Hawash)

February 6, 2024 (T)	A Deeper Dive: The Four Steps of EDR (Hawash)
February 8, 2024 (Th)	Mock EDR (Hawash) Steps 1-3
February 13, 2024 (T)	Mock EDR (Hawash) Steps 4 Self-evaluation/feedback re: EDR
February 15, 2024 (Th)	Review Mock Mediation Cases
February 20, 2024 (T)	Review Mock Mediation Cases
February 22, 2024 (Th)	Discovery
February 27, 2024 (T)	Damages and settlement agreements
February 29, 2024 (Th)	Review case packets – mediation structure, memos, demonstratives, settlement sheets develop facts, Q & A about cases
March 5, 2024 (T)	Review case packets – mediation structure, memos, demonstratives, settlement sheets develop facts, Q & A about cases
March 7, 2024 (Th)	NO CLASS (potentially)
March 19, 2024 (T)	Introduce mediators/backgrounds; discuss openings, mediation memos, and mediation prep
March 21, 2024 (Th)	Mediation memos due before class; Practice openings w demonstratives
March 26, 2024 (T)	Practice openings cont'd (negotiation)
March 28, 2024 (Th)	Mock Mediation – Guest Mediator(s) TBD –
April 2, 2024 (T)	Self-evaluation and feedback re: Mock Mediation GUEST SPEAKER –
April 4, 2024 (Th)	Introduction to Final Mediation Cases, Review/assignment of teams & roles; Discovery
April 9, 2024 (T)	Work on finalizing discovery responses GUEST SPEAKER –
April 11, 2024 (Th)	Begin work on mediation memos and demonstratives
April 16, 2024 (T)	Practice openings
April 18, 2024 (Th)	Mediation memos due before class Practice openings
April 23, 2024 (T)	Mediation Prep

April 26, 2024 (F)	Mock Mediation – Guest Mediator(s) Self-evaluation and mediator feedback Lunch
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Grading

Your final grade will be a composite of your participation, preparation, written submissions, performance during the simulation sessions, and reflective self-evaluations.

Here is the detailed breakdown of the grading components:

1. **Class Participation (15%):** This encompasses:
 - Regular attendance and punctuality
 - Active engagement in class discussions
 - Interaction with our guest experts
 - Open communication with the instructor

2. **Participation and Presentation in EDR (20%):** Your involvement and demonstrative skills during the Early Dispute Resolution simulation will be evaluated.

3. **Skill Evaluation (10%):** This will focus on your mediation abilities, with emphasis on growth and development over the course.

4. **First Mock Mediation:**
 - Written Materials (10%): Submission quality and relevance
 - Presentation (10%): Effectiveness in presenting your case during the mock mediation

5. **Second Mock Mediation (35%):** A combined score for both your written submissions and the quality of your presentation during this advanced simulation

Email: We prefer to use our personal emails for communications:

Professor Cindy Moulton: cmoulton@moultonwilson.com

Professor Michael Hawash: michael@HoustonMediation.com

Office Hours: we are generally available to meet when mutually convenient. Please see us before or after class or email either or us to schedule a mutually convenient time.

Required information from UH administration

- **Syllabus Changes:** Due to a variety of factors, including class progress, weather, illness, global pandemic, etc., I may need to make modifications to the course syllabus and may do so at any time. Notice of syllabus changes will be announced as quickly as possible in class or through email.
- **Use of Technology:** Computers are required for remote classes and should be brought to in-person classes.
- **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 [Justin Dart, Jr. Student Accessibility Center](#). 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.
- **Attendance:** UHLC policy requires students to attend at least 80% of class meetings; excessive absences (absent extenuating circumstances) will be considered a lack of preparation and result in a deduction to your final grade.
- **Lateness:** Students entering the classroom late (particularly for face-to-face classes) can be distracting to the instructor as well as to your classmates. Out of respect for everyone, please make every effort to be on time for class. If there is an exceptional situation where an outside commitment or emergency requires you to arrive late, please let me know if possible. Unless you have received permission from me (either before or after class), students are required to attend the entire class session in order to certify their attendance.
- **Accessibility and Accommodations:** UHLC is committed to ensuring that all students enjoy equal access and full participation. If you anticipate or experience barriers based on a disability (including any chronic or temporary medical or mental health condition), please feel free to reach out to me so that we may discuss options. If you require any support services, you may contact Ms. Samantha Ary, Academic Records Coordinator. Ms. Ary is located in room 44A TU-II in the Office of Student Services suite, and she can be reached at sary@central.uh.edu or 713-743-7466. Requests for

accommodation that involve graded assignments must be directed to Ms. Ary and should be made as soon as possible to allow adequate time to document and to process the request.

If you observe religious or cultural holidays that will coincide with synchronous class sessions or conferences, please let me know as soon as possible, so that we may make arrangements.

- **Chosen Names/Preferred Pronouns:** I generally use last names when calling on students. I will honor requests to use alternate/preferred names or gender pronouns. If you wish me to do so, please advise me of your preference early in the semester.
- **Counseling and Psychological Services:** The University of Houston has a number of resources to support students' mental health and overall wellness, including CoogsCARE and the UH Go App. UH Counseling and Psychological Services (CAPS) offers 24/7 mental health support for all students, addressing various concerns like stress, college adjustment and sadness. CAPS provides individual and couples counseling, group therapy, workshops and connections to other support services on and off-campus. For assistance visit uh.edu/caps, call 713-743-5454, or visit a Let's Talk location in-person or virtually. Let's Talk are daily, informal confidential consultations with CAPS therapists where no appointment or paperwork is needed.

The Student Health Center offers a Psychiatry Clinic for enrolled UH students. Call 713-743-5149 during clinic hours, Monday through Friday 8 a.m. - 4:30 p.m. to schedule an appointment.

The A.D. Bruce Religion Center offers spiritual support and a variety of programs centered on well-being.

Need Support Now? - If you or someone you know is struggling or in crisis, help is available. Call CAPS crisis support 24/7 at 713-743-5454, or the National Suicide and Crisis Lifeline: call or text 988, or chat 988lifeline.org.

- **Anti-Discrimination and Sexual Misconduct Policy:** UHLC and the University of Houston are committed to maintaining and strengthening an educational, working, and living environment where students, faculty, staff, and visitors are free from discrimination and sexual misconduct. If you have experienced an incident of discrimination or sexual misconduct, a confidential reporting process is available to you. For more information, please refer to the University System's Anti-Discrimination Policy SAM 01.D.07 and Sexual Misconduct Policy SAM 01.D.08.

Please be aware that under the sexual misconduct policy, SAM 01.D.08, faculty and other University employees are required to report to the University

any information received regarding sexual misconduct as defined in the policy. Due to this reporting requirement, faculty members and other employees are not a confidential resource. The reporting obligations under the sexual misconduct policy extends to alleged conduct by University employees and students.

- **Title IX/Sexual Misconduct:** Per the UHS Sexual Misconduct Policy, your instructor is a “responsible employee” for reporting purposes under Title IX regulations and state law and must report incidents of sexual misconduct (sexual harassment, non-consensual sexual contact, sexual assault, sexual exploitation, sexual intimidation, intimate partner violence, or stalking) about which they become aware to the Title IX office. Please know there are places on campus where you can make a report in confidence. You can find more information about resources on the Title IX website at <https://uh.edu/equal-opportunity/title-ix-sexual-misconduct/resources/>.
- **Diversity, Inclusion and Wellness:** This is an inclusive learning space. At UHLC, we are committed to ensuring inclusive online and classroom learning spaces, where you’ll be treated with respect and dignity, and where everyone is provided the equitable opportunity to participate, to contribute, and to succeed.

In this course, all students are welcome regardless of socio-economic status, age, race, ethnicity, disability, religion, national origin, veteran’s status, sex, sexual orientation, gender identity, gender expression, political affiliation, marital status and other diverse identities that we each bring to class. Our class is richer for this diversity.

Inclusive learning spaces facilitate the innovation and creative thought that enhance student success. This success arises from the participation, support, and understanding of you and your colleagues. I encourage you to speak up and to share your views, but also understand that you are doing so in a learning environment in which we’re all expected to engage respectfully and with regard to the dignity of all others.

If you feel like your class performance is impacted in any way by your experiences inside or outside of class, please reach out to me. I want to be a resource for you. If you feel more comfortable speaking with someone besides me, Student Services is an excellent resource: 713-743-2182. Finally, I encourage you to bring any issues negatively impacting UHLC’s openness to diversity and inclusion to the Law Center’s Diversity and Inclusion committee. The D&I committee’s charge includes “[building] on the Law Center’s strengths as a diverse and inclusive environment.” You can contact the committee directly at UHLCD&I@uh.edu.

Your suggestions are encouraged and appreciated. Please let me know ways to improve the effectiveness of this course for you personally, or for other students or student groups.

- **COVID-19 Information:** Students are encouraged to visit the University's [COVID-19](#) website for important information including diagnosis and symptom protocols, testing, vaccine information, and post-exposure guidance. Please check the website throughout the semester for updates.
- **Reasonable Academic Adjustments/Auxiliary Aids:** The University of Houston is committed to providing an academic environment and educational programs that are accessible for its students. Any student with a disability who is experiencing barriers to learning, assessment or participation is encouraged to contact the Justin Dart, Jr. Student Accessibility Center (Dart Center) to learn more about academic accommodations and support that may be available to them. Students seeking academic accommodations will need to register with the Dart Center as soon as possible to ensure timely implementation of approved accommodations. Please contact the Dart Center by visiting the website: <https://uh.edu/accessibility/> calling (713) 743-5400, or emailing jdcenter@Central.UH.EDU.
- **Resources for Online Learning:** The University of Houston is committed to student success, and provides information to optimize the online learning experience through our [Power-On](https://uh.edu/power-on/learning/) website (<https://uh.edu/power-on/learning/>). Please visit this website for a comprehensive set of resources, tools, and tips including: obtaining access to the internet, AccessUH, Blackboard, and Canvas; using your smartphone as a webcam; and downloading Microsoft Office 365 at no cost. For questions or assistance contact UHOnline@uh.edu.
- **UH Email:** Please check and use your CougarNet email for communications related to this course. Please communicate using the email addresses above for Professors Moulton and Hawash.
- **Security Escorts and Cougar Ride:** UHPD continually works with the University community to make the campus a safe place to learn, work, and live. Our Security escort service is designed for the community members who have safety concerns and would like to have a Security Officer walk with them, for their safety, as they make their way across campus. Based on availability either a UHPD Security Officer or Police Officer will escort students, faculty, and staff to locations beginning and ending on campus. If you feel that you need a Security Officer to walk with you for your safety please call [713-743-3333](tel:713-743-3333). Arrangements may be made for special needs.

Parking and Transportation Services also offers a late-night, on-demand shuttle service called “Cougar Ride” that provides rides to and from all on-campus shuttle stops, as well as the MD Anderson Library, Cougar Village/Moody Towers and the UH Technology Bridge. Rides can be requested through the UH Go app. Days and hours of operation can be found at <https://uh.edu/af-university-services/parking/cougar-ride/>.

- **Honor Code:** The UHLC Honor Code applies to all aspects of my class. You are responsible for knowing all Honor Code provisions and for complying with the Honor Code. Please ask me if you have any questions regarding how the Honor Code’s provisions apply to specific activities or situations related to my course. It is an Honor Code violation to review the graded assignments distributed to, or written by, any of my students from prior years.
- **Artificial Intelligence (AI):** Your continuing enrollment in this course is deemed to be a pledge by you under the Honor Code to not prompt, generate, obtain, read, or use any AI Generated Text in relation to any activity or assessment in this course. This applies to AI Generated Text from yourself or others. This pledge includes that your assessment work product in the course is without any contribution from AI Generated Text.

Other UH Resources

- Diversity and Inclusion Statement: <https://uh.edu/about/diversity-statement/>
- Non-Discrimination Statement: <https://www.uh.edu/equal-opportunity/anti-discrimination/policies/>
- Center for Diversity and Inclusion: <https://www.uh.edu/cdi/>
- Center for Students with DisABILITIES: <https://uh.edu/accessibility/>
- LGBTQ Resource Center: uh.edu/lgbtq/
- Cougars in Recovery: <https://uh.edu/cir/>
- Counseling and Psychological Services: <https://uh.edu/caps/>
- Veterans Services: <https://uh.edu/veterans/>
- Cougar Cupboard: <https://uh.edu/dsa/cougarcupboard/>
- CoogsCare: <https://uh.edu/dsa/coogscare/>
- DACA: What You Need to Know: <https://uh.edu/dsa/resources/daca/>
- Student Health Center: <https://uh.edu/healthcenter/>
- Wellness: <https://uh.edu/wellness/>