

Civil Collaborative Law Syllabus
Southern Methodist University Dedman School of Law – 3 hours credit
Instructor: Sherrie R. abney

Materials: *The Conflict Resolution Toolbox* (CRT) by Gary T. Furlong
Civil Collaborative Law (CCL) by Sherrie R. Abney
Handouts: Forms, Surveys, and Case Studies.

Grade: Participation in role play, class discussions, surveys, and assignments 50%
Final Exam 50%

Purpose: In-depth examination and development of skills necessary for the collaborative process and other interest-based, non-adversarial, negotiation processes through lecture, group discussion, and role-play. Each student will submit three completed surveys from interviews with practicing lawyers exploring the lawyers' use of interest-based negotiation and other ADR procedures.

Assignment prior to first class: Read Chapter 1 of *Civil Collaborative Law* (CCL).

Week 1. Chapter 1 - History of Dispute Resolution—Introduction to Collaborative Law: Lecture and group discussion regarding the evolution of the law and dispute resolution.

Assignment: Chapter 2 CCL, Texas Lawyer's Creed, Civil Practice and Remedies Code Chapter 154. Various Alternative Dispute Resolution Procedures.

Week 2. Chapter 2 - Forms of Dispute Resolution: – Lecture and group discussion: an overview of litigation, arbitration, mediation, collaborative law, cooperative law, Ombudsmen, special judges, mini-trial, moderated settlement conference, and summary jury trial as well as necessary ethical considerations for these processes.

Assignment: Chapter 3 CCL.

Week 3. Chapter 3 - Positional Bargaining v. Interest-Based Negotiation: –Discussion of strengths and weaknesses of the two approaches to dispute resolution, examination of the paradigm shift, and non-adversarial communication and behavior. Students will participate in role-play employing interest-based negotiations.

Assignment: Chapter 4 and Appendix E of CCL, Chapter 1, Introduction, of CRT.

Week 4. Chapter 4 – Candidates for the Collaborative Process: – Lecture, discussion, and role-play regarding screening clients to determine appropriate dispute resolution procedures, the necessity of obtaining informed consent, and ethical considerations for client representation.

Assignment: Chapter 5 CCL, Chapters 3 & 4 CRT.

Week 5. Chapter 5 – Overview of the five steps in the collaborative process: Lecture, discussion, and Role-play to discover interests, concerns, and goals of parties.

Assignment: Chapter 6 & Appendix C in CCL, Ethics Opinions on Collaborative Law published by the ABA Ethics Committee (Opinion #47 adopted 2007) and the Colorado Bar Association Opinions #101 adopted 1998, amended 2006 and #115 adopted 2006. Uniform Collaborative Law Act (UCLA adopted in July, 2009), and current and proposed Collaborative Law Statutes in Texas.

Week 6. Chapter 6 – The Participation Agreement: Lecture and discussion regarding contents of collaborative participation agreements and the necessity of the withdrawal provision in true collaborative cases.

Guest Speaker regarding the UCLA

Assignment: Chapter 7 and Appendix D in CCL.

Week 7. Chapter 7 –Standards for Collaborative Practice: Discussion of how these standards differ from those of other forms of dispute resolution in the areas of voluntary disclosure; the use of experts; collaborative lawyers’ relationships with clients, other parties, and other collaborative lawyers; and the protection of the integrity of the process.

Assignment: Chapters 8 and 9 and Appendix F in CCL and Chapter 8 in CRT.

Week 8. Chapter 8 – Experts in the Collaborative Process: lecture and discussion regarding the utilization of other professionals when building family and civil collaborative teams. Chapter 9 – Introducing the Collaborative Process. Discussion concerning introducing the concepts of interest-based negotiation and collaboration to prospective clients, the public, and the legal community. Discussion of Trust Model.

Assignment: Chapter 10 in CCL and Chapter 6 in CRT. Assign parts for role play.

Week 9. Chapter 10 –Preparation for First Joint Meeting: Review the use and purpose of Client Note Book. Students will role-play a) initial client interview, b) lawyers’ meeting to agree on participation agreement, and prepare first agenda, c) lawyers and clients meet separately to begin preparation of interests and concerns to be shared at first face-to-face meeting.

Assignment Chapter 11. Surveys done with practicing attorneys due next class.

Week 10. Chapter 11 – Step One, Discovering Interests and Goals: Students will role-play a) the pre-conference attorneys’ meeting, b) the face-to-face meeting to share and develop interests, concerns, and goals of each of the parties, c) the attorney/client debrief, and d) the attorney/attorney debrief.

Assignment: Chapters 12 and 13 in CCL and Chapter 7 in CRT. Surveys are due.

Week 11. Chapter 12 – Step Two, Gathering Information: Students will role-play the second collaborative meeting and discuss and analyze the participants’ communication and listening skills including active listening and non-adversarial communication. Chapter 13 – Step Three, Developing Options. Students will continue role-play with the third step of the process and discuss and analyze the parties’ brainstorming sessions comparing this approach to positional bargaining.

Assignment: Chapter 14 in CCL and Chapter 5 in CRT.

Week 12. Chapter 14 – Step Four, Evaluating Options: Lecture and discussion regarding developing criteria for discovering viable options and the ability to “Live in the Question.” Role- play will continue to Step Four and the evaluation of options developed during the case study.

Assignment: Chapters 15 and 16.

Week 13. Chapter 15 – Step Five, Negotiating Resolution: Students will role-play the fifth step of the collaborative process, and each group will report the results of their negotiations to the class.

Chapter 16 – Transferring the File to Litigation Counsel. Lecture and discussion on alternatives to impasse and the collaborative lawyers’ responsibilities should it be necessary to transfer a file to litigation counsel.

Assignment: Chapters 17 and 18.

Week 14. Chapter 17 – Creating Models for Dispute Resolution: Lecture and discussion on creating the appropriate dispute resolution model for a particular client and his or her dispute. Review client interview procedure and discuss various questions that assist lawyers in making proper recommendations. Chapter 18 – Discussion regarding the use of collaborative skills to resolve disputes in various, social and commercial settings. Lecture and discussion concerning the pros and cons of employing Med/Arb and Arb/Med in collaborative cases. **Review for Final Exam.**

Final Examination will be closed book.