

Case of Jay Lopez and the Webster Company - Overview

John Lande
University of Missouri School of Law

This is a multi-stage simulation for negotiation of an employment discrimination case. The simulation begins with initial client interviews and leads up to a final negotiation. The facts involve an employee of Mexican heritage who claims that s/he didn't receive the pay raise and promotion s/he was entitled to and that the supervisor retaliated after the employee complained to him.

You can request a complete package of materials by sending an email to lande@missouri.edu. The package includes role-play instructions, written assignments, logistical information for each stage, self-assessment forms, and teaching notes.

Throughout this simulation, half the students in this simulation play parties and half play lawyers. Ideally, students should have the opportunity to do another multi-stage simulation in the course so that each student has the chance to play both a party and a lawyer in a multi-stage simulation.

The chart below shows the sequence of stages I used, followed by a brief discussion of each stage. Each instructor is likely to use the simulation differently, not necessarily using all the stages provided – and possibly adding new ones. I generally have students do these simulations during class time but you can have them to do some parts of the simulation outside of class.

This schedule is based on 75-minute classes in which students generally do each stage in class for about 15-30 minutes. In my course, the classes begin with a discussion of the task for that day, including the lawyers' (and sometimes the clients') goals at that stage. After students do the simulation, they complete a brief self-assessment form and then the class debriefs the experience together.

Class	Task
1	Initial client Interview
2	Lawyers prepare clients for negotiation
3	Lawyers meet each other to prepare for negotiation
4	Negotiation
5	Debriefing the negotiation

1. The instructions for the initial client interview are similar to instructions for one-stage simulations where students negotiate or mediate the ultimate resolution.

In this simulation, the general goals of this stage are for the lawyers to develop good relationships with their clients, elicit basic information (including the clients' interests), and decide what additional information they need.

The lawyers are given instructions about their perspectives as specialists in handling employment discrimination complaints but they are not given the facts of the case, which they must elicit from their clients. The defendant is represented by a human resources professional, who handles many similar complaints.

After the interviews, lawyers submit requests to the instructor for additional information. Following submission of these requests, the instructor provides all students with the same summary of information developed through discovery. There is an extensive body of law including detailed rules about shifting burdens of proof, with rules that vary between different federal circuits. This simulation provides a brief summary of rules, which can be elaborated if desired. If desired, you can modify the instructions to encourage or require students to do additional legal research.

In addition to the preceding information that is provided to all students, the lawyer-client pairs on each side get separate instructions about how to respond to this information. If desired, you could divide these instructions for each role instead of providing the same instructions to the lawyer and client on each side.

I did not give specific responses to each student's submission or grade them, though you may do so. The simulation materials probably contain all the information the students need, though some of the students' information requests may prompt you to add some information you think would be helpful.

2. This stage takes place after the lawyers have exchanged information and taken depositions of the principal witnesses. Each pair of lawyers and clients meets to prepare for negotiation. You may require the lawyers to prepare negotiation plans in connection with this stage.
3. Each pair of lawyers meets to prepare for the negotiation based on the conversations with their clients in the prior stage. Counterpart lawyers are instructed to start by getting to know each other and building a working relationship, which can have a profound effect in real life and in simulations.

This stage could be done outside of class if desired. If you do it in class, while the lawyers are meeting, you may meet with all the parties as a group to discuss what they have learned by playing a party in this simulation. Students are often surprised by their reactions playing parties in multi-stage simulations, because it is very different from how they view cases as future lawyers. Discussing their reactions can lead to valuable learning experiences.

4. Each group of parties and lawyers attempt to resolve the issues. You might assign pairs of lawyers to write up a simple stipulated order.
5. The entire class is devoted to debriefing the negotiation. You may want to start by asking each group to indicate whether they reached agreement and, if so, what were the terms of the agreement as well as any other information you want to compare between groups. You might write this information on a blackboard or project it on a screen so that students can visually compare the results.

The rationale for including multi-stage simulations in a negotiation course is described in my articles, [Teaching Students to Negotiate Like a Lawyer](#), 39 Washington University Journal of Law and Policy 109, 128-36 (2012) and [Lessons from Teaching Students to Negotiate Like a Lawyer](#), 15 Cardozo Journal of Conflict Resolution 1, 14-23 (2013). See generally [Suggestions for Using Multi-Stage Simulations in Law School Courses](#).