Instructions for Writing Simulations
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There is some evidence that students can learn a lot from writing simulations of dispute resolution processes. The following are instructions for writing a simulation for your project in this course. Note that these instructions use the word "must" in a number of places indicating requirements, as distinguished from flexible guidelines.

For this assignment, a simulation must include (in the following order): (1) teaching notes, (2) general information available to all participants, and (3) private information for each participant. To provide some general guidance, these instructions indicate an approximate number of double-spaced pages for some parts of the assignment.

The simulation may be about any kind of dispute or transaction where negotiation is used. Preferably, you should write about cases where lawyers are typically involved (such as contract, tort, or family law cases), but you may write about other applications, such as victim-offender, internal workplace, health care, education, community, or international matters if this would be relevant to your learning goals for the course.

The facts should be plausible to make the simulation most useful. Sometimes it is interesting to use a common fact pattern to explore nuances in a case. Other times it is interesting to take a somewhat unusual (but plausible) case to illustrate special dynamics that might arise. You may adapt the facts of an actual case. If you do so, remember that the purpose is not to recreate the case but rather to use the case to deepen your understanding of important issues.

Teaching Notes

The teaching notes are the most important part of this assignment, so spend most of your time on them. The teaching notes must include a brief summary of the facts of the case, usually at the beginning. The factual summary should be no more than about 2 double-spaced pages. **The teaching notes should primarily focus on one or two challenging negotiation issues raised by the case.** These must be negotiation issues (e.g., mistrust, partisan perceptions, cultural differences, gender) rather than legal issues (e.g., what the likely court outcome would be).

An issue is challenging if there is **not an easy solution**. By definition, if the problem is not easy, there will be at least several plausible solutions and the teaching notes should identify and analyze the most important ones. Papers will be viewed much more favorably for making a serious effort to grapple with a difficult problem than for providing the "correct" answer to an easy problem. The discussion must describe suggested strategies for analyzing or handling the issue, and, if appropriate, advantages and disadvantages of those strategies. The teaching notes should be about 12-15 double-spaced pages and must include at least 10 pages of analysis.

Although this is not primarily a research paper, your analysis must relate to discussion of the problem in the dispute resolution literature. The paper must include citations to some of the most useful publications in the literature. Discussion of and references to the literature should be integrated into your discussion and not merely "tacked on." Citation of authorities should not be exhaustive and you should not include anything near the amount of citations in law review articles. The main focus is your analysis rather than primarily summarizing others' ideas. You should take the initiative to do the research – and I am happy to suggest a few sources you might check out.

You are encouraged to recruit friends to do a "test run" of the simulation. If so, you might briefly describe what happened and what you learned from the experience. If you include such a discussion, it must focus on the negotiation issues and not issues in designing simulations.

Instructions for Role-Players

In virtually all negotiations, there is some common knowledge between the parties (and lawyers) and it is important to convey to the role-players what the other side knows.

The private information for each participant must include: (1) the person's "story" about what happened in the underlying dispute or transaction, (2) the person's story about prior efforts to deal with the matter (e.g., prior negotiations and whether a lawsuit has been filed), (3) a brief description of the tone of the relationship between key participants, (4) facts relevant to the issues being highlighted in the simulation, (5) a summary of the person's interests (this is extremely important), (6) the person's assessment of the merits of key issues and expectations about would happen if they do not reach agreement, (7) a tentative strategy going into the negotiation including at least a planned opening offer, and (8) a tentative "bottom line" below (or above) which the person would not accept an offer. The instructions for each participant should be about 2-4 double-spaced pages.

The parties must be represented by counsel unless that would be unrealistic for the type of case involved. The private information for a lawyer and client will overlap but there are always some differences and these differences should be reflected in separate instructions for attorneys and their clients. Some common differences between lawyers and clients involve the state of the relationships (e.g., the attorneys get along pretty well but the parties are very angry), interests, expectations about likely results, bottom lines, etc.

To make the simulation work well, it helps if the merits of the dispute or the bargaining positions in a transaction are roughly evenly balanced (and, if the matter might go to court, the likely court outcome is uncertain). Part of the trick in writing good simulations is capturing the uncertainty of the participants about what might happen and what they might do depending on what might happen in the negotiation. For example, many cases settle because discussion causes people to reassess the case and change their bottom lines. There are sometimes problems in simulations where the instructions are

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too rigid and do not leave the role-players room to make the adjustments that often occur in real life.

It is hard to provide just the right amount of information for role-players in a simulation. If they do not get enough information, they may not really "get into" role and may flounder as a result. With too much information, role-players are overwhelmed and can't use it all. Do the best you can to find a good balance. Because it is impossible to convey all the information that each participant would bring to a mediation, it is especially important to provide a good description of each participant's interests.

Don't use names that are too cute. This can get in the way of role-players (and simulation writers) being serious and getting the roles right.