

Course	Mediation and Collaborative Lawyering: Consensual Dispute Resolution
Section	
Professor	Unmani Sarasvati, JD
Term	Spring 2012
Meetings	Monday from 4:30 to 6:10pm

Professor's Contact Information

Office Phone	1-800-486-0220
Other Phone	
Office Location	Adjunct Office
Email Address	ums@mediationoffices.net
Office Hours	By appointment only
Other Information	

Faculty Assistant**Teaching Assistant****Phone Number****General Course Information****Required Texts & Materials**

- Stuart G. Webb and Ronald D. Ousky, *The Collaborative Way to Divorce: The Revolutionary Method That Results in Less Stress, Lower Costs, and Happier Kids--Without Going to Court*
- Woody Mosten, *Collaborative Divorce Handbook*
 - Available at www.mostenmediation.com (type "GGU law student" in the name section after your name and they'll give you a \$5 discount)
- Roger Fisher and Daniel Shapiro, *Beyond Reason: Using Emotions as You Negotiate*
- Bill Eddy, *High Conflict People in Legal Disputes* (Third Printing)
 - Available at Amazon and www.highconflictinstitute.com
- J. Kim Wright, *Lawyers as Peacemakers: Practicing Holistic, Problem-Solving Law*

**Suggested Texts,
Readings, &
Materials**
All on reserve in
the library

- Available at www.abanet.org and might be available at Amazon
- All reading assigned as Handouts posted on TWEN for each individual class date
- Reader

- Robert Mnookin, *Bargaining With the Devil: When to Negotiate, When to Fight*
- Sharon Strand Ellison, *Taking the War Out of Our Words*
- Nancy Cameron, *Collaborative Practice: Deepening the Dialogue*
- Catherine Conner, *Collaborative Practice: Resolving Disputes Respectfully* (practice materials)
- Katherine Stoner, *Divorce Without Court: A Guide to Mediation and Collaborative Practice* (Nolo Press)
- Julie Murphy Casserly, *The Emotion Behind Money*
- Marjory Silver, *The Affective Assistance of Counsel*
- Susan Swaim Daicoff, *Lawyer, Know Thyself*
- Douglas Stone, *Difficult Conversations: How to Discuss What Matters Most*

**Web-enhanced
elements**

TWEN <http://lawschool.westlaw.com/twen>

To sign up, you will need your Westlaw account information; if you do not have a Westlaw account or have lost your password, please see Marisa Diehl in the Law Library, who will provide you with one (442-6683, mdiehl@ggu.edu). Go to the Westlaw homepage for law students (lawschool.westlaw.com), click the link on the top menu bar labeled “TWEN, enter your Westlaw password in the lefthand frame, and then click on “go.” In the right hand upper quadrant, click on “drop/add a course.” Select this course by putting a checkmark in the box. Scroll to the bottom of the page and click on submit. You will now be looking at the TWEN Homepage; click on the course title to access the information.

Course Objectives

We will:

- examine facilitative mediation skills, and the art of Collaborative Practice;
- explore the working relationship between attorneys, mental health professionals and financial specialists in interdisciplinary practice;
- consider how to navigate efficiently and effectively in a non-adversarial legal or interdisciplinary process;
- analyze popular conceptions of an attorney’s services in light of growing discontent with traditional litigation system
- synthesize philosophical/academic views of non-adversarial processes and contrast them with the challenges of everyday practice with clients and colleagues
- translate family law conventional wisdom into neutral legal information your clients can understand;

- critique the view of non-adversarial attorneys as doing “better” work than traditional attorneys or “helping” society
- practice how to keep up a non-adversarial atmosphere in your processes despite the common adversarial mindset, and
- learn to operate as a non-adversarial attorney successfully in light of the State Bar’s ethics requirements

Does this course satisfy the Upper Division Writing Requirement?

No.

Does this course satisfy the Experiential Learning Requirement?

Yes.

Attendance policy: final grade reduced if student misses more than 2 classes during the semester, in addition:

- final grade reduced by an entire grade for each of the following classes (unless excused by a doctor):
 - Saturday, January 21st from 9am to 12:30pm
 - Monday, March 5th with extended class time of 4:10 to 6:10pm
 - Monday, April 2nd
 - Monday, April 9th

Attendance, Preparedness, and Class Participation

Push/Pull points will also be given on the basis of class participation. These may raise or lower your grade by one step/grade level (e.g., from “B” to “B+” or “B-”).

If a student fails to meet the standards for both preparedness and attendance, the student’s grade can be reduced by two steps/grade levels (e.g., from a “B-” to a “C”).

Computer and Internet Policy

Laptops are allowed during class for the purpose of taking notes. Use of the internet that is not related to classroom work is distracting and interferes with class discussion. Internet use and computer games are not permitted during class.

Accommodations

Golden Gate University School of Law seeks to provide reasonable and necessary accommodations to students with disabilities. Please meet with the Disability Service Coordinator in Room 3339 or email lawds@ggu.edu for information on how to receive accommodations. All communications with the Disability Service office are confidential.

Grading Method

Midterm: 25%, Written Assignment: 25%, Final Paper, 50%

Midterm Exam

1) Midterm: Potential Collaborative Client Consultation

Final Exam

2) Final Paper: 8-10 pages, double or 1.5 spaced, 10 to 12 point text, standard margins, page numbers, foot or end notes; discussing readings/further research/four way meeting experiences, etc.; get topic approval from Prof. Sarasvati prior to March 7th

-DUE APRIL 30th —emailed to Prof. Sarasvati by 5pm

Papers

3) Written Assignment on Client Consultation: 3 or more page paper, double or 1.5 spaced, 12 point text, standard margins, page numbers: stating realizations from experience of being a non-adversarial attorney in the client consultation versus reading about it

You could write about your pre-conceived notions going into the consultation and how they were either reinforced or changed...you could write about your preparation and what worked for you or didn't work for you...you could compare and contrast elements of your reading with the experience of trying to put it into practice.....

Assignments & Academic Calendar

CLASS ONE

January 9th

*How the Bar's Ethical Requirements Apply to the Non-adversarial Practice of Law

Guest Speaker: David Fink, JD; San Francisco CDR Specialist and SuperLawyer; mediation and CP trainer

CLASS TWO and THREE

January 21st

*The Craft of Collaborative Practice

SATURDAY MANDATORY DOUBLE CLASS—from 9am to 12:30pm
Bagels and coffee provided

Guest Speaker: Chip Rose, JD; internationally known mediator and Collaborative Practice trainer, author, etc.

CLASS FOUR

January 23rd

*Deconstruction of Dispute Resolution Models: Where do your strengths take you?

- lawyer as guide/lawyer as expert
- adversarial v. non-adversarial
- CDR defined; facilitative mediation and Collaborative Practice
- social impact of underlying philosophy of different models

Reading: *Lawyers as Peacemakers*, chapters 1-3; *The Collaborative Way to Divorce*, chapter 1; *Collaborative Practice Handbook*, chapter 2; **from your reader:** Julie MacFarlane, *The New Lawyer*, chapters 1 and 2

Handout: ABA Law Student Magazine Article on ADR; 26 Characteristics of a Successful Lawyer, Civil CP Training Flyer

CLASS FIVE

*Collaborative Practice Models
Referral versus team

January 30th

Mandatory Team Members/Optional
Role of other professionals

Reading: *The Collaborative Way to Divorce*, chapter 4 and appendix I; from your reader: Nancy J. Cameron, *CP: Deepening the Dialogue*, chapter 8; Gerald Monk, *Practicing Narrative Mediation*, chapter 5
Handouts: San Diego model by Peter Roussos, Child Specialist article by Mary Harnish, MFT, Dr. Chandler Hoffman's Powerpoint "Coaching Parents Through Divorce"

CLASS SIX
February 6th

*Meet Your Team Members: Working With Other Professionals
Guest Speakers: Lisa Schneider, CDFP (financial specialist), Dr. Chandler Hoffman, PsyD (family relations and child specialist)
Reading: *Collaborative Practice Handbook*, chapter 5; from your reader: Nancy J. Cameron, *CP: Deepening the Dialogue*, chapters 9-11

CLASS SEVEN
February 13th

*Lawyering in a Consensual Process aka The Role of the Law in a non-adversarial system; being an attorney in a values-based process; setting the tone
-Ongoing focus on clients' values and goals from the beginning/in conjunction with your co-counsel
Reading: *The Collaborative Way to Divorce*, chapters 6 and 7, appendix E; Collaborative Practice Guidebook, chapters 4 and 9; from your reader: Julie MacFarlane, *The New Lawyer*, chapter 7

CLASS EIGHT
Tuesday, February 21st

*The Everyday Practice of Consensual Dispute Resolution
Managing Information—phone, not email; get contact preferences; TEAM ONLY; agendas; predictability lessens stress
Minutes
Working with other professionals
Reading: *Lawyers as Peacemakers*, chapter 5; from your reader: Patrick Lencioni, *Overcoming The Five Team Dysfunctions*, Sections 1 and 2

CLASS NINE
February 27th

*Guarding the Door to Consensual Dispute Resolution Services
-Assessment of appropriateness: should CP professionals do this? At what point? Which professionals?
Reading: *The Collaborative Way to Divorce*, chapters 2 and 3, *High Conflict Personalities*, Part II
Handouts: Chip's Silence article, Chip Rose's Relationship Process Map and his A to Z; Sonoma Conflict and Communication Assessment; Article on ENE

CLASS TEN
March 5th

*Mid-term exam: Potential Collaborative Client Consultation (you are the CP attorney and CP attorney volunteers are your potential client)
MANDATORY EXTENDED CLASS TIME—4:10 TO 6:10PM TO ACCOMMODATE YOUR EXAM
Guests: local CP attorneys
Reading: two (lame production value) videos of one hour CP consultations are available in the library, one by SF attorney David Fink

and one by Prof. Sarasvati for you to view as part of your preparation; written preparation resources are posted on TWEN

FINAL PAPER TOPIC DUE

CLASS ELEVEN
March 19th

- *Who Are Our Clients? And How Do We Serve Them?
 - The average client capacity and their needs beyond legal information
 - Normalizing the divorce transition: getting out of crisis mode
 - The high conflict client

Reading: *High Conflict Personalities*, Part I; *The Collaborative Way to Divorce*, Appendix H; *Beyond Reason*, sections I and II ; from your reader: Gerald Monk, *Practicing Narrative Mediation*, chapters 1-3

Handouts: John Weir, drug/alcohol issues, Divorce Onion

WRITTEN ASSIGNMENT ON CLIENT CONSULTATION DUE

CLASS TWELVE
March 26th

- *Introduction to Class Cases
 - how to prepare your client for the first meeting
 - how to prepare yourself for the first meeting—interaction with co-counsel and other team members

Students will be assigned to teams of four alternating between attorney and client roles over the two weeks

Reading: *The Collaborative Way to Divorce*, chapters 5, 8 and 9

Handouts: Psychology, Collaborative Law, and the New Legal Paradigm by Stephen Sulmeyer, JD; Nancy Foster's A-BEAR; Sharon Strand Ellison's One Pager; ABA Article on How Attorney Became a CDR Professionals

Assignment for next class: Interact with your co-counsel and client to prepare for your assigned first four way meeting

CLASS THIRTEEN
April 2nd

In Class Four Way Meetings with students assigned to be either a client or CP attorney

CLASS FOURTEEN
April 9th

In Class Four Way Meetings with switch of CP attorneys and clients

CLASS FIFTEEN
April 16th

Debrief Four Way Meetings and Wrap Up of Class

These descriptions and timelines are subject to change at the discretion of the Professor.