Course Information Sheet The George Washington University Law School Negotiations 6648-10—Spring 2020

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Office hours: Coffee anytime any class-day my treat. We'll meet at Stuart 102. Call before Tuesday so we can set the time to

meet on Thursday.

Course title: Negotiations

Required Reading: The Architect's Essentials of Negotiation by Ava J. Abramowitz (New York: John Wiley & Sons, 2009)

Beyond Winning: Negotiating To Create Value in Deals and Disputes by Robert H. Mnookin, Scott R. Peppet, and Andrew S. Tulumello (Cambridge: Harvard University Press, 2000)

The SPIN® Selling Fieldbook by Neil Rackham (New York: McGraw-Hill, Inc. 1996)

Hand-outs and other brief additional materials will be assigned from time-to-time.

Class Hours: All classes will be held Thursdays from 2:45 PM to 5:50 PM.

There will be no class April 9th. That class will be made up on Saturday, February 8th from 9:00 AM to 12:00 PM. Attendance is mandatory.

Other Requisites:

This course is a highly interactive course requiring you to work on all cylinders. You will be required to keep, in Word, a 12-point font, 2.0 line-spaced log of your learning and progress, including critical analysis and reflection of your growth as a negotiator and as a student of negotiations. Each week's log is to be e-mailed to aabramowitz@law.gwu.edu by 2:00 PM the Monday after class. A half-grade will be deducted for log assignments received late. You will be required to attend all classes, including the make-up class, and participate fully in them, preparing ahead of class for the exercises and joining in class in their implementation. You will also be required to develop your own personal preparation sheet to be submitted along with your final log. Both your final log and your personal preparation sheet are to be e-mailed to me no later than March 30th. A full grade will be deducted for final logs and final personal preparation sheets received late.

Mandatory attendance is the rule so that people will think twice before missing class as it can wreck the class for everyone else in it. (You will be negotiating weekly and pre-assigned partners lose out when their Other noshows. You are *that* important to the success of the class.) But, with every rule there is an exception. You can miss a class *if*:

- 1) It is the only class you plan to miss during the semester,
- 2) Ample notice is given (at least three weeks),
- 3) The reason for missing is worthy of the adverse impact on your colleagues, and,
- 4) You read a book from the appendix in my book or a book written since then with my pre-approval and submit a book report on that book by the final day of class when all submissions are due.

Basis of Grading:

70%— your logs

20%—class participation

10% —your final personal preparation sheet

Each of these activities will be evaluated for substance and contribution quality. Those logs and participation efforts that 1) explicitly incorporate class reading and discussion, 2) make good use of the law, 3) spot and delve deeply into negotiation issues and challenges, and that 4) demonstrate growth in critical thinking, creativity, and mindful doing will fare better than those that do not. Negotiation failures will not be penalized as such, but failures to analyze thoroughly and to negotiate or think strategically most certainly will be. Negotiators that accomplish client strategic objectives ethically and in a way that facilitates future negotiations will fare best.

Participation points' policy: This is not a class that presupposes an ideal negotiation style. Indeed, students will be encouraged to develop their own negotiation style. Rather, it is a course based on research about what skilled negotiators do and why. Accordingly, people conversant with that research and capable of applying it in their in-class contributions, as well as in their negotiations and strategic thinking, will receive more points for classroom participation than those who merely

parrot what they have heard or read.

Other policies: All school policies, including policies on Class Attendance, Disability Support Services, Academic Integrity, and Recording of Classes, apply to this class.

Course objectives: At the end of this course you should be able to:

- Know how to explore client positions, needs and strategic interests, as well as how to negotiate with and around them
- Know how to explore the positions, needs and strategic interests of other parties, as well as how to negotiate with and around them
- Know why and how various communication behaviors, negotiation strategies, and techniques work and be aware of how those behaviors, strategies and techniques work for you
- Know how to prepare for and function effectively in one-on-one, as well as in team negotiations
- Know how to collaborate
- Know how to coach
- Spot ethical issues and know how to deal with them
- Be able to apply your new negotiation skills and understandings to dispute prevention and conciliation, as well as to team building and deal making
- Be aware of your own negotiation style and know how to maximize your strengths and manage your weaknesses, as a Reflective Practitioner
- Enjoy a higher level of Communication, Collaboration, Critical Thinking, and Creativity skills than you had before you took this class

Day	Content	In Class Exercises	Learning Objective	Assignment for Class
Pre-first Class		To provide an even playing field by giving everyone a personal starting point, as well as an overview of their personal understanding of negotiation		Log #1: Begin the semester by answering these questions: Why are you taking this class? What do you want to get out of it? What does negotiation mean to you now? Have you read any books about negotiation? What? Taken any courses? Which? How have they informed your thinking? Describe a negotiation where you succeeded and one where you felt you failed. Give any insights you have as to why one ended in success and the other did not. Review your experiences as a negotiator: • What aspects of negotiation are you comfortable with? • What aspects of negotiation are you unsure of? Challenged by? Being as specific as possible, if you had one negotiation goal for yourself for this class, what would it be? Why? This log is NOT graded. You MUST e-mail it to me though by Monday, January 6th. Please double space your logs. Also, no PDFs.

Day	Content	In Class Exercises	Learning Objective	Assignment for Next Class
January 9	Introductions	Play Red-Blue	Understand course cadence	Before you do the reading, complete Thomas-Kilmann Conflict Mode Instrument (a hand-out).
	Win-Lose Negotiation	When is a win-win negotiation preferred? A win-lose negotiation?	Develop understanding of cooperative and competitive negotiation	Reading: <i>The Architect's Essentials of Negotiation</i> (AEN), Chapter 4, "Power and Leverage" and <i>Beyond Winning</i> (BW), pp. 1 – 43: "Introduction" and "The Tension Between Creating and Distributing Value." And the handout " <i>The Behaviour of Successful Negotiators</i> " Part 1
	Debriefing Break Competitive, Cooperative,		Recognize negotiation strategy is a question of choice Recognize negotiation style is a matter of choice	 Log #2 Red-Blue: Think back on how you played "Red-Blue" and apply the reading. Was creating and distributing value an un-witting issue for your team? If yes, how did it play out? If not, what were the issue(s) facing you? Think back on the Conflict Mode Instrument. What does the Instrument tell you about you? Think back on how you personally wanted to
	Compromising, Avoiding, Accommodating: The when, whys and wherefores		Introduction to Communication Behaviors	 play "Red-Blue." Do you now agree with the Instrument's assessment? Why? Why not? Think back on the Communication Behaviors. Which behavior did you primarily use during "Red Blue"? And your group? What impact did those choices have on your deliberations and the final result? Focus on any one communication behavior that will stretch your negotiations "utility kit." Use it often this week. What do you think of that behavior now? As a communications tool? As a negotiations tool? Anything special you want to keep in mind about you, about the negotiation process, the next time you negotiate?

Day	Content	In Class Exercises	Learning Objective	Assignment for Next Class
Day January 16	Content Log Feedback—Debrief on Kilmann with chart on the 5 choices and how they play out Introduction to modern negotiation theory. The attributes of effective and ineffective negotiators Break Prepare for Jockey Exercise – as a group Negotiate one-on-one	In Class Exercises Group work	Explore Collaborative and Competitive Negotiation Learn preparation basics Try out your new negotiation skills - Learn directly the power of negotiation Understand there is no one answer to a negotiated problem.	Reading: AEN, Chapter 5, "Preparation Tips," Chapter 6, "The Communication Behaviors of Expert Negotiators," and a handout, "The Behaviour of Successful Negotiators," Part 2 Log #3 Jockey: • What party did you represent in today's exercise? Who was your "Other?" (Please identify the student by name.) • How well do you think your group prepared for the jockey negotiation? Did their choice of communication behaviors have a role in that assessment? • How did your preparation affect your negotiation strategy? What strategy did you decide on? • How did the negotiation play out? Did your strategy hold up? Why? Why not? • Did your choice of communication behaviors have an impact on the negotiation? • Did you learn anything from the Other that you liked? Didn't like? • Given today's exercises, the reading, and your answers to this log, is there anything you, as a negotiator, are particularly proud of? What? Why? • If you had to negotiate again, is there anything you would do differently? What? Why? • Take a stab at creating your own preparation sheet. What do you need to add and why?
			Know also the impact of preparation on results	

Day	Content	In Class Exercises	Learning Objective	Assignment for Next Class
January 23	Log Feedback Watch ALI-ABA tape Debrief	Group discussion: How did they do? How would you coach	Start developing analytic skills	Reading: BW pp. 44-68: "The Tension Between Empathy and Assertiveness" and pp. 69-92: "The Tension Between Principals and Agents," and assorted preparation sheets handouts Start your legal research for the Landlord-Tenant case. Log #4: Landlord-Tenant Prep: Log #4 is a
		them for next time?	Start developing Coaching skills	combined two-week prep log which does not need to be e-mailed to me until Monday, February 3 at 2:00 PM.
	Break			Next week you will interview a client and prepare together for the negotiation. The week after you will be negotiating the case. Use this week's reading and
	Preparation Skills of Expert Negotiators	Interactive lecture – with ALI-ABA tape as agent provocateur (#2 and #3)	Learn how experts plan differently. Learn how to set ranges. Learn how to	your group's discussions to help you start thinking through your strategy. Then answer these questions: • What are the client's key interests? Key positions? Any way to achieve their key interests
			advance a negotiation.	 without achieving their precise positions? What are the Other's key interests? Key positions? Any way to achieve their key interests
	Prepare for the Landlord- Tenant Case	Prepare in groups for case	Spot issues and decide who will research what, and	without achieving their precise positions?
		 Landlords Their Attorneys Tenants Their Attorneys 	when and how you will share that information before the next class	positions with your client/your attorney? With the Other?Test your thinking with your client. What interests, issues, positions do they see for
		,		themselves? For the Other?

January 23 (continued)	 How will the law help you? Hurt you? How will you maximize the help? Minimize the hurt? Think framing and think reframing. How can you discuss issues in a way that can be heard? How do you think the negotiation will pan out? Review all the preparation sheet handouts. What is your favorite? Why? Anything from any of them that you want to incorporate into yours? Why? You will need to think through these issues to be effective next week.
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Day	Content	In Class Exercises	Learning Objective	Assignment for Next Class
January 30	Coaching	Group work: Think back to when you have been coached. What made coaching succeed? Fail?	Develop a commitment to coaching as a learning mechanism	Reading: AEN, Chapter 2: "Front-End Alignment" and BW, pp. 127-155 "The Challenges of Deal Making" Finish your legal research for next week
	Prepare in groups for the Landlord-Tenant Case Landlords Their Attorneys Tenants Their Attorneys Break Attorney-client meeting: prepare for negotiation		Learn collaborative and coaching skills. Discover the power of the well-asked question Learn how to manage the first client meeting and secure client expectations, a prerequisite to successfully representing a client	 Log #4: Landlord-Tenant Prep: How did your attorney-client interview go? What communication behaviors did you choose? Did they help you build common ground between you and your client? Think of the strengths and weaknesses in your client's/attorney's case, as well as in the Other's. Are there statements you can make or questions you can ask to maximize the strengths of your case or maximize the Other's weaknesses? Work on your personal preparation sheet, adding any changes you want as a result of learning about Front-End Alignment (FEA) Re-read your log. Any re-thinking about your negotiation strategy? About how the negotiation will pan out? This combined Log #4 and your prep sheet should be strong enough to support you in next week's negotiation, allowing you the freedom to figuratively "tear them up," literally set them aside, and "go in, listen, and deal."

Day	Content	In Class Exercises	Learning Objective	Assignment for Next Class
Day February 6	Negotiate Millie and Sam: The Landlord – Tenant Case Debrief Prepare for Dubinski	Prepare in groups for the Dubinski case, spotting issues and determining who will research which issues and by when	Practice collaborative negotiation in a law-driven setting Practice competitive negotiation in a law-driven setting	Reading: AEN, Chapter 9: "When The Best Laid Plans" and BW, pp. 93-126 "The Challenges of Dispute Resolution" and pp. 224-248 "Advice for Resolving Disputes." Read also: BW, pp.: 274-294 "Professional and Ethical Dilemmas" Log #5: Landlord-Tenant Negotiation: • What party did you represent in today's exercise? Who were your Others? Your Observers? • How (and how well) did you prepare your client/your attorney? Any special challenges? • How did the negotiation play out? Did your strategy hold up? Why? Why not? • Any changes to your preparation sheet? What? Why? • How did Seeking Information work for you? Was asking questions effective in building common ground? In affecting perceptions? Understandings? Why? When? • Perhaps Giving Information worked better for you Yes? No? Why and to what end?
				 Yes? No? Why and to what end? Did you learn anything from the Other that you liked? Didn't like? Given today's exercises, the reading, and your answers to this log, is there anything you, as a
				negotiator, are particularly proud of? What? Why? If you had to negotiate again, is there anything you would do differently? What? Why?
				Also, finalize your Dubinski legal research.

Day	Content	In Class Exercises	Learning Objective	Assignment for Next Class
February 8 (Saturday)	Log Feedback			Log work: This log is for you alone. No need to submit it, although I will be happy to review it if it will advance your learning.
"Immunization Day" This is the make-up class for April 9th It will meet 9 AM to 12 PM	Managing Confrontations	In-house confrontation exercise	"Self-immunization"	 Addressing each exercise, what AHA's did you walk away with from today? What challenges are you now aware of and how will you handle them? Any implications for your personal preparation sheet? What? Why?
on Saturday. Attendance is mandatory.	Managing Difficult People	Identify various tools of the trade and ways to handle them	More "Self-immunization"	
(Coffee and bagels will be served.)	Managing Difficult Situations	Prepare and negotiate on your own on the fly	Still more "Self-immunization"	

Day	Content	In Class Exercises	Learning Objective	Assignment for Next Class
February 13	Negotiate Dubinski Exercise Break Debrief		Learn the power of competitive negotiations Learn the power of setting ranges Get practice distinguishing empathy and sympathy, understanding and agreeing Learn the impact of assumptions on strategy	 Reading: BW, pp. 173-223, "Behind the Table" and "Across the Table" Log #6: Dubinski: What party did you represent in today's exercise? Who was your Other? How did your preparation affect your negotiation? Regardless of your preparation, what was your personal strategy? How did the negotiation play out? Did your strategy hold up? Why? Why not? What skills, new learnings did you apply? How did they work for you? Did you learn anything from the Other that you liked? Didn't like? Given today's exercises and this week's reading, if you had to negotiate again, is there anything you would do differently? What? Why? Notwithstanding the question above, is there anything you, as a negotiator, are particularly proud of? What? Why? Any differences/similarities between collaborative and competitive negotiations you want to remember? Any AHA's you want to keep in mind? (If you want to know more about single issue negotiation, you may enjoy Making Money Talk by J. Anderson Little)

Day	Content	In Class Exercises	Learning Objective	Assignment for Next Class
February 20	Prepare for Grady in groups Gradys Grady Attorneys CEOs CEO Attorneys		Learn the power of: • a well thought out question • the difference between implied and explicit needs • the problems that result from jumping to solutions • developing shared understanding	The next two weeks will be dedicated to mastering the <i>SPIN® Selling Fieldbook</i> (SPIN). As you read it, look for every opportunity to apply it in "real life" and in class, starting with Grady. For this log, please read up to at least page 73. Log #7: Grady Prep: Use what you have learned about front-end alignment, deal-making, and communication behaviors in team settings to start thinking about your strategy for Grady. Complete your legal research and your own version of a preparation sheet first. Then answer these questions:
	Grady Preparation	Attorney-client meeting: prepare for negotiation	Apply your new learning	 What party did you represent? Who was your Other? Your Observer? How did your attorney-client interview go? Did SPIN® help you build a shared understanding of the issues? What are the client's key interests? Their key positions? Any way to achieve their key interests without achieving their precise positions? What questions do you need answered to be an effective negotiator? How will you ask those questions? (Think SPIN) What information must you relay to be an effective negotiator? What information do you have that the Other likely does not? Should it be revealed? Withheld? Eluded? Why to all three? If disclosure is an option, how and when should you disclose it?

February 20		• How good are the parties' BATNAs? Any way to
(continued)		strengthen yours? Weaken theirs?
		• Anything special you/the client want the client to
		do during the negotiation?
		• What negotiation strategy will you pursue?
		• Regardless of your strategy, for each interest, list several ways to meet it. Then think priorities and ranges of each option. Now, list in priority order your interests. Then, your positions and for each your starting, target, and reservation point?
		 Can you group your options into acceptable
		alternatives that meet your client's explicit needs?
		The Other's?
		Have you a concession strategy? A trade-off
		strategy? What?
		• Have you any ideas to make the pie bigger?
		 How will you front-end align the agreement so the parties' implementation has a solid chance to succeed?
		• How do you think the negotiation will pan out?
		This log should be strong enough to support you in next week's negotiation, allowing you the freedom to set it aside and "go in" and listen and deal.
		This log needs to be e-mailed to me by Tuesday, February 25th by 2:00 PM to allow you maximum time for the log and allow me enough time to peruse them.

Day	Content	In Class Exercises	Learning Objective	Assignment for Next Class
February 27	Advocacy: The power of well rendered arguments	Interactive lecture	Learn how lawyers develop and expound arguments effectively when not in front of a jury	Reading: Continue reading SPIN applying it to today's exercises to build shared understanding and common ground. Log #8: Grady Negotiation: The Grady case is a
	Organizing arguments for	Prepare a 5 minute		quasi-mid-term. Use this log to pull the class together for yourself:
	comprehension and impact	opening statement		What party did you represent? Who was your Other?
				• What are the client's key interests? Key positions? Any way to achieve their key interests without achieving their precise positions?
	Break			How did your preparation affect your negotiation strategy? What negotiation strategy did you end we show in a?
	Negotiate the Grady Employment Contract	Deliver your opening statement; negotiate one-on-one	Practice opening statements in a difficult negotiation setting	 what was your opening statement? Your elevator message? How did they affect the negotiation? How did the negotiation play out?
		One		 What skills, new learnings from class and the reading did you apply? How did they work for you?
	Debrief			• Give some examples of each type of SPIN question that you asked.
				• Did you learn anything from the Other that you liked? Didn't like?
	Hand-out Partnership Negotiation		Spot issues and divvy up research to help you prepare for next week's	 Given today's exercises, the reading and your answers to this log, is there anything you, as a negotiator, are particularly proud of? What? Why?
			class	Continued -

February 27 (Continued)		 If you had to negotiate again, is there anything you would do differently? What? Why? Any implications for your preparation sheet? What? Why? What negotiation challenges are facing you that you would really like to work on during the rest of the semester? Which challenge do you want to work on first?

Day	Content	In Class Exercises	Learning Objective	Assignment for Next Class
March 5 SPRING				Think how you will integrate all you have learned, including SPIN, and apply it over Spring Break. It will make it easier for you to apply all to the
BREAK				partnership negotiation.
NO CLASS TODAY				
There is reading though.				
Read: "What Negotiators Can Learn From Modern				
Sales Theory" (H/O)				

Day	Content	In Class Exercises	Learning Objective	Assignment for Next Class
March 12	Prepare for Partnership Negotiation Break Prepare your client	Meet in groups		Reading: AEN, Chapter 8 "How to Say Yes: How to Say No" – especially pp. 278 to 280 "Title to Drawings, Specifications, and Other Data," and BW, pp. 249-272 "Advice for Making Deals" Log #9: Partnership Preparation: Complete your legal research and your own version of a preparation sheet applying it to the facts of this negotiation. Then answer these questions: What party did you represent? Who was your Other? Your Observers? What are the client's key interests? Key positions? Any way to achieve their key interests without achieving their precise positions? What questions does your team need answered to be an effective negotiator? How will you ask those questions? What information do you have that the Other likely does not? Should it be revealed? Withheld? Eluded? Why to all three? If disclosure is an option, how and when should you disclose it? How good are the parties' BATNAs? Any way to strengthen yours? Weaken theirs? List in order of priority starting with the most important interest, your most favored position, and its starting, target, and reservation point. Given that, what negotiation strategy will you pursue? What concession strategy have you in mind?

Anything special you/the client want/s the to do during the negotiation? Any Implication and Need/Payoff questioned to ask? How will you front-end align the agreem the parties' implementation has a solid client succeed? Have you any ideas to make the pie bigg. How do you think the negotiation will parties it aside and "go in" and listen and deal. Per submit your Partnership Preparation She with your log. Both are due next Tuesday, PM, to give you enough time to thoughtful and me, peruse.	ons you nent so hance to hance to you in eedom please eet along, by 2:0
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Day	Content	In Class Exercises	Learning Objective	Assignment for Next Class
March 19	Partnership Negotiation		Pull the class together – reading, doing, and learning. See where it takes you.	Reading: AEN Chapter 7: "Collaboration and Team Building" and BW, pp. 156-172, "Psychological and Cultural Barriers"
	Break			Log #10: Partnership Negotiation: These efforts are your opportunity to prove to yourself how much you have learned about negotiation. To write your final submissions, you will have to review your all logs to date, the semester's reading, your class notes, and your experience in the Partnership Negotiation.
				 What party did you represent? Who were your Others? Review last week's log. Did your preparation's negotiation strategy change any during the negotiation? How and why?
	Debrief			 How did the negotiation play out? What skills, new learnings from class and the reading did you apply? How did they work for you? Anything you are particularly proud of? If you had to negotiate again, would you do anything differently? What? Why?
	Hand-out Collaboration Exercise			 Did you learn anything from the Others that you liked? Didn't like? Now that you have been "A Lawyer" and "A Client" and "An Observer" what learnings do you want to carry forward into practice? Review your pre-class log. Did you accomplish your objective? If not, coffee.
				Continued -

March 19 (continued)	 Now look over all your logs. What was your biggest success? Your hardest challenge? Assess your progress to date and give yourself tips on how you want to handle negotiations in the future. You're not done analyzing yet. What one skill will you work on next? Now, set a personal goal for your last exercise. E-mail your weekly log to me by 2 pm Monday, as usual. In addition, e-mail to me and also bring to the March 26th class, the three questions you would like to ask the Pros who will be joining us on April 2nd. (And do ask away: This is your chance to get questions answered and doubts resolved, so that, when you negotiate, you negotiate comfortably, ethically, and effectively for your client.)
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Day	Content	In Class Exercises	Learning Objective	Assignment for Next Class
March 26	Log Feedback			Reading: BW, pp. 295-315, "Organization and Multiple Parties", and SPIN: "Sharpening Your Skills" and "Getting Help and Helping Others," pp. 167-193.
	MC Metals	Collaboration Exercise	Use all your negotiation skills in a collaborative setting	Log work #11: This log, along with your Personal Preparation Sheet that you will take into practice, provide you the opportunity to pull the class learnings together for yourself. Use them that way.
	Break			 On the collaboration exercise, answer these questions: What skills and communication behaviors did you call on as a collaborator? What challenges did you face? Was collaboration any different for you than negotiation? How so? If you were to do this exercise again, would you, in your role, do anything differently? Would you, as the leader, have done anything differently? What do these answers tell you about
	Debrief			 collaboration? Think first as a collaborative negotiator, and then think as a competitive negotiator. What strengths and challenges do you bring to each? How would you deal with someone with an opposing strategy? Perhaps you are neither collaborative nor competitive, having developed your own negotiation style. What is its strengths (and
	Questions for the Pros (Prep)	Use your collaboration skills to form a class list of questions for the Pros		challenges) vis a vis you? The negotiators you expect you'll meet?

Day	Content	In Class Exercises	Learning Objective	Assignment for Next Class
Day April 2 This is the last day of class	Content Class Feedback Trouble Shooting Clinic – A chance to reflect and build on Final thoughts	In Class Exercises	Learning Objective	Assignment for Next Class Congratulations on completing this class. Do well on your exams. Please keep in touch.