
Negotiating, Counseling and Interviewing

Syllabus

Introduction

NCI will introduce you to the roles lawyers take on in interviewing and counseling their clients and then negotiating on their behalf. Our goals are to teach you how to perform these basic lawyering skills while examining the principal theories underlying the performance of these tasks. We will use a variety of teaching methods—live demonstrations, video recordings, collective discussion and analysis, in-class student role-plays, and more extended out-of-class student simulation exercises. There will be reading assignments on each of the various skills. In general, your work in this class will be experiential: you will either observe the actions of others or you will conduct interactive legal work yourself. Together we will critically analyze each interaction.

There are two regular NCI class session times in W320, Tuesday evenings from 6-7:40 and Thursday evenings, 7:50-9:30. We will meet in two different configurations: either as a large group with all students, or in small sections. Each of you also will meet periodically with your small section teachers individually or pairs. These latter meetings will be scheduled separately.

The two different kinds of class meetings will NOT meet at the same time or on the same days each week. Therefore you must regularly check the course calendar to make sure that you know where to go and what to prepare for each class meeting, section meeting, or simulation.

Course Objectives

This course is intended to offer practice and feedback on professional lawyering skills while teaching you what it means to handle your own cases. Over the course of the semester I will expect you to develop your proficiency in:

- Working with clients to solve problems
- Interviewing and fact-gathering skills
- Developing facts from a record
- Conducting, presenting and using legal research
- Legal analysis
- Providing legal counsel to clients
- Negotiating
- Critically examining lawyers' interactions
- Understanding and adhering to attorneys' obligations for professional conduct

Course Materials

- Franklin, *THE LAWYER'S PRACTICE* (2011) ["text"] *Available in the Bookstore.*
- Stark & Flaherty, *THE ONLY NEGOTIATING GUIDE YOU'LL EVER NEED* (2d ed. 2016) ["Stark"] *Available in the Bookstore*
- NCI READINGS PACKET (2020) *Available in the Copy Center*

All assigned reading should be completed before attending the class or section indicated on the

calendar. **The documents and materials you will need for your case are included in the text.** The text is perforated, and you are advised to remove the documents and file them in ways that allow you to access and use them as needed. **The case documents must be read when indicated on the calendar, and should also be reviewed repeatedly** as needed as the case and class progress.

Simulations

There will be four simulation exercises in which you act as a lawyer, numbered Sims I-IV. Each covers some aspect of interviewing, counseling and negotiating. It is important to remember that all of the Sims will build on one another throughout the semester, so your performance in early simulations may affect your options in subsequent ones. Some of the Sims will be graded (your preparation, performance and critical analysis of Sims II & III, and your written settlement or report on the outcome of Sim IV). Others will be the subject of ungraded critique by you, your colleagues, and your section professor. Two of the simulations will involve live clients/actors from outside the law school, and two will involve live negotiations between you and a classmate who is representing the other side of the case.

The purpose of these simulations is to give you the opportunity to perform various lawyering tasks in role and then to analyze those performances. To facilitate those critiques, we will record all of the simulations. A major goal for this course is to help you develop your ability to analyze the lawyering performances of yourself and others. It is this critiquing skill that is central to your long-term learning. You will be required to do your own review of all recordings of your performances and those of some of your classmates.

Written Assignments

There will be short written assignments throughout the semester, including: assigned preparation for and reports of your simulation work, critiques of your own or other students' videotaped performances, and a take-home final examination.

Dates when written assignments are due will be indicated in yellow on the class calendar, and parameters of the assignment will be spelled out in the Exercise in the textbook as indicated on the class calendar.

Grading and Evaluation

There will be four components in your course grade:

- a) **simulation grades** [Sims II and III] = 50% (25% for each, including preparation, performance, and critique for each simulation);
- b) **written assignments**
 - settlement agreement or outcome report for Sim IV = 15%;
 - research report for Class 6 = 5%;
- c) **take-home final examination** = 25 %;
- d) **classroom and section contributions** = 5%.

Unexcused absences will result in a reduction in the classroom component(s). If you are not going to be in class please let Professor Franklin know in advance by e-mail. If you need to miss a section meeting, please contact your section professor by her preferred method. In the event of a true emergency necessitating the rescheduling of a simulation, please contact course administrator Cameron Smith, at Cameron.Smith@nyls.edu, (212) 431-2125.

The final exam will be distributed at the last class: Thursday, April 30th. It will be due to the Registrar's Office by 6 p.m. on Thursday, May 14th.

Faculty

Professor Franklin can usually be reached by email at kris.franklin@nyls.edu, though you should feel free to drop by C-245 any time I am in. Your Section Professors will tell you how best to contact them.

Calendar

Attached is a calendar showing when classes, section meetings and exercises will take place and when reading and written assignments must be completed. Due dates are shaded in yellow, and dates when simulations may be scheduled are indicated in large purple text. Dates in which school is closed or our classes are cancelled are shaded in blue.