Alternative Dispute Resolution
Spring 2020

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A.   COURSE DESCRIPTION AND OBJECTIVES

This course will introduce the concepts and practice of alternative dispute resolution. We will focus primarily on the particular processes of ADR – negotiation, mediation and arbitration – and then examine these forms in the context of different areas of the law and the judicial system. Our objectives for this course are for each student:

1. To understand the importance of client counseling skills in furthering the ADR processes.
2. To be able to counsel a client about the use of all three processes of ADR.
3. To know, understand, and be able to explain the advantages and disadvantages of each ADR process given the client's particular interests and context.
4. To develop of an understanding of the terminology, different styles and typical stages of the negotiation process.
5. To learn about the role of the mediation in and out of the court system. To understand the differences in approaches, the laws applicable to court-connected mediation, and the differing style used by mediators.
6. To learn about the variety of arbitration processes in different contexts and to understand the current Supreme Court rulings and their affect on the arbitration process.

B.   ASSIGNED READING MATERIAL

The following texts are required for the course:

Dispute Resolution: Beyond the Adversarial Model (3rd Edition) by Carrie Menkel-Meadow, Lela Love, Andrea Kupfer Schneider & Michael Moffitt. Available at the Book Marq.

Dispute Resolution: Examples & Explanations (4th Edition) by Michael Moffitt & Andrea Kupfer Schneider. Available at the Book Marq.

C.   COURSE REQUIREMENTS

Students will be expected to attend class regularly, to read the assigned materials before class, and to participate actively in class discussions. Grades will be based on the following:

1. 7 quizzes, totaling 50% of the grade.
2. A final exam worth 30% of the grade
3. Course participation worth 20%.

1. **Quizzes.** An in-class quiz will be given at the conclusion of each respective section. Quizzes are closed book and will test the material assigned from the text as well as activities, discussions, and videos from class. Each student will take 1 quiz individually and another as a team based on team-based learning strategies. The quiz grade is a combination of your individual and team quiz scores. (Please note that, while your individual quiz score is confidential, your team score is shared among your team and the TA's)

   Team Based Learning (TBL). This course uses the strategy of team-based learning, which has been used for over 30 years and is implemented in 23 countries across a wide range of disciplines, including medicine, business, science, technology, and many others.

   Teams mimic the professional environment and develop essential lawyering skills. In practice, you will work with others frequently to serve your clients effectively. You will work with lawyers, clients, consultants, court and agency staff, and assistants. Studies have shown that, across all disciplines, the ability to work well with others is as important to success as substantive expertise. Team-based learning develops the skills and values necessary to practice law, while also allowing you to apply class materials and get immediate feedback on your analysis.

   In this course, you will be working in teams of 5-6 students; these teams will last the entire semester. Teams will be assigned during the first week of the semester. I expect each team to work together effectively and efficiently; each team member is responsible for achieving these goals.

   Team-based learning has two major components: individual out-of-class preparation and in-class teamwork focusing on applying the materials prepared out-of-class on exercises. Teams will develop and refine team contribution guidelines, and assess how well each member of the team contributes at various points in the semester.

What if I have a problem with my team?

Try to work it out. The biggest reason that teams do not function effectively is that team members avoid conflict. Remember, this is a class on conflict so view any team conflict as an opportunity to practice your skills. Be aware that most teams take about 4-6 weeks to become truly effective. Be patient, keep the lines of communication open, and come talk to me if you have questions or concerns.

You may have addressed conflicts between teammates effectively in your previous work, service, academic, and extracurricular experiences. Address the issue with your team as you would in a professional office. Consider how you would want to hear the message if your behavior was a challenge for your teammates. If the problem is not resolved using the team contribution guidelines, talk to me, and I can suggest ways for you and your teammates to work through the problem. In the rare case of alleged student misconduct, I will likely intervene.

Finally, TBL represents 10% of your grade through class participation. Though each teammate will assign points to his or her team members, I consistently monitor teams to observe professionalism. If there is evidence that a team member is using team points to lower a classmate's final grade without justification, I reserve the right to nullify the team points and award the grade myself. This is obviously not a preferred option, as it indicates that the team was unable to work professionally.

2. **Final Exam.** The final exam will be on Wednesday, April 29th at 8:30 a.m. The exam will be 3 hours. Students are strongly encouraged to use their laptops.

3. **Course Participation.** Course participation will be judged on several criteria:
   (a) daily attendance;
   (b) response when called on in class;
   (c) participation in exercises and on the team (the TBL grade); and
   (d) commenting on the **Indisputably blog**. Each student is expected to comment on the Indisputably blog at least once during the course of the semester.

Topic(s)	Pages assigned for reading
Intro to ADR	3-42
Lawyer as Problem-Solver	43-57
Lawyer as Problem-Solver	57-74 & E&E Chapter 10
Negotiation Concepts	75-94 & E&E Chapter 1
Quiz 1-Lawyer as Problem Solver	
Choosing in Context	94-103
Negotiation Skills: Preparing, Talking & Criteria	105-124
Negotiation Skills: Listening & Relationship	124-144 & E&E Chapter 3
Movie Day	E&E Chapter 2
Quiz 2-Negotiation Concepts & Skills	
Negotiation Law & Ethics	145-164
Negotiation Law & Ethics	164-182
Mediation Concepts	183-210
Quiz 3-Negotiation Law & Ethics	
Mediation Models	210-220 & E&E Chapter 4
Mediation Skills	221-248
Advocate Skills	248-259
Quiz 4-Mediation Concepts & Skills	
Mediation Law & Ethics	261-281 & E&E Chapter 5
Mediation Law & Ethics	281-299 & E&E Chapter 6
Quiz 5-Mediation Law & Ethics	
Arbitration Models & Context	303-322
Arbitration Enforcement	322-340 & E&E Chapter 7
Arbitration Enforcement & Challenges	343-373 & E&E Chapter 8
Quiz 6-Intro to Arbitration	
Arbitration Review	373-382 &

Topic(s)	Pages assigned for reading
	E&E Chapter 9
Arbitration Ethics	385—389; 392-400; 407-428
Multiparty	503-508
Quiz 7-Arbitration Enforcement & Ethics	
Choosing a Process	517-537
Choosing a Process, continued	537-549