

March 15, 2022

Negotiation and Dispute Resolution Design (Spring 2022)
EXPR 936 Syllabus (updated)

I. Details

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Office hours: Fridays, 10-11:00 AM (or via
appointment), 229 Katz

Class: Fridays, 1-4:00 PM, 116 Katz Building
[Note: We will also be using rooms 236 and 241
for negotiation role plays]

II. Course Overview

This course focuses on identifying opportunities for negotiating and resolving conflicts before they are litigated in the courts. We will explore both negotiation theory and practice and how to design systems and processes for managing disputes. This experiential learning course depends on students regularly role playing negotiation scenarios. During this class, we will address and explore real world challenges, opportunities, and ethical questions that may come up for attorneys in practice, including in person and online. Finally, we will be partnering with several local governments on a project examining management of single use plastics through the Sustainable Communities Collaborative hosted by Penn State's Sustainability Institute.

III. Course Objectives

By the end of the course, students will:

1. Understand more about negotiation theory and practice;
2. Be able to think about different types of dispute resolution systems appropriate for any given situation;
3. Understand more the role of lawyer as problem solver, including ethical issues;
4. Gain skills and practical hands-on experience, especially how to listen.

IV. Texts/Class Preparation

We have two required books this semester: *Designing Systems and Processes for Managing Disputes* (2nd Ed., Rogers et al. 2019), and *Beyond Winning: Negotiating to Create Value in Deals and Disputes* (Mnookin et al. 2000). In addition, please read *Getting to Yes: Negotiating Agreement without Giving In* by Fisher, Ury & Patton. This is readily available in many formats.

In addition, we will be reading several excerpts from *Psychology for Lawyers: Understanding the Human Factors in Negotiation, Litigation, and Decision Making* (Robbennolt & Sternlight, 2012). You do not need to purchase this book but readings will be on Canvas, along with other readings as listed in the syllabus below. Finally, we will be tapping into other ways of viewing and understanding research, including podcasts, online talks, and other media.

V. Assistance

I will be available in class, after class, and by appointment to answer questions, as well as during the hours listed at the beginning of the syllabus. Because I have a joint position at Penn State, please email me to set up a time to meet if not during office hours. Due to covid, I will be in my office (Katz 229) during office hours; please knock if the door is closed.

March 15, 2022

VI. Course Approach

(1) General Format of the Course

Class sessions will include some lecture, but be more focused around discussion, role plays, and experiential learning activities (including some out of class experiences). We also will have periodic guest lectures. You will have readings from the books or other readings as assigned for each class session, along with a few assignments to be done in preparation for class. While we will spend some time discussing the reading in class, more emphasis is on discussion and role plays; very active participation is expected. If you cannot make class, please tell me as soon as possible (see student responsibility #3 below).

The current plan is for this class to meet in person. Recognizing the impacts of covid are still widespread, we will have a zoom link available for remote participation. Try to come in person as it will make the class easier for everyone; however; if you don't feel well, are sick, or are in quarantine, please participate remotely (if you let me know before class, this will count as regular attendance).

(2) Grading and Evaluation

Assessment for this course depends on the following areas:

- Attendance, general class preparation, and participation in online discussions (10%)
- Interview an attorney about negotiation: list of questions, results of interview (5%)
- Interview 1-2 people for the Sustainable Communities Collaborative project; research assigned topic and provide short write up (10%)
- Participate in the South TX College of Law Inter-School Negotiation Practicum; submit terms of your agreement reached and self-analysis of negotiation (5%)
- Preparation for and participation in in class role plays; contribution to evaluative discussion of role plays; reflections (5 role plays; 10% for a total of 50% of your grade).
- A final written project (6-7 pages single spaced) analyzing a situation, exploring potential dispute resolution design appropriate for the situation. Short presentation in class. (20%).

There is no final exam for this class.

VII. Student Responsibilities

Students are expected to:

- (1) Read the assigned materials before each class and to be prepared to engage in class and through the online discussion forums.
- (2) Complete all written assignments in a timely manner. If you turn in an assignment after the deadline and do not have an approved extension, it will be marked incomplete and will negatively impact your grade.
- (3) Attend class on time. Attendance is mandatory. Your participation is an important and valued component of the class. Because we do so many role plays, your absence makes setting up the role plays difficult for you and your colleagues. If you are unable to attend class, please communicate with me before class (ideally as soon as you know you will miss class or at least an hour before). You are allowed a maximum of two excused absences in this course without potential impact to your final grade.

March 15, 2022

- (4) Maintain focus on class discussion and activities. Multi-tasking in class is prohibited, unless required by an in-class assignment. *Prior to the beginning of class, please exit all laptop applications and internet browsers other than a word processor (word, etc.)*
- a. Laptops may be used in class only for note-taking and other tasks authorized by your professor. Unauthorized use may result in loss of laptop privileges in class for the remainder of the semester.
 - a. Unauthorized use of laptops includes instant messaging, e-mailing, gaming, shopping and accessing other sites not related to the classroom topic. Any unauthorized use will result in you being marked absent for the day and a deduction for your final grade.
- (5) Respect each other and do not talk over one another. In addition, please avoid off topic conversations. Please ask questions!

VIII. Other Information

(1) Canvas

I have created a course website on Canvas with the syllabus, any assignments, and any extra reading or materials. It is your responsibility to check your email every day. All assignments are to be submitted in Canvas for time and date stamping.

(2) Course Recordings

A student enrolled in this course may view a recording of class. Recordings are posted on Canvas and do not require permission to watch.

A student may not record any part of a class by any means without my prior written authorization. If a student receives authorization to record a class, the student may not copy or download such recording to a computer or other device, distribute it to any other person, or use the recording for any purpose other than personal education and study except with the prior express authorization of the faculty member. Unauthorized recording, distribution, or use of a class recording is a violation of the Honor Code.

A student may not use course materials such as slides or other documents posted on Canvas for any purpose other than personal education and study and may not disseminate, publish, or alter course materials without prior express authorization of the faculty member. Unauthorized use of course materials is a violation of the Honor Code.

(3) Honor Code

The Honor Code is in effect for all assignments related to this course. Do not allow anyone to do your work for you, nor should you do anyone else's work for them. In addition, work submitted in this course must not be submitted in any other course (e.g., you may not write a paper for another course and submit it in this class for credit or vice versa).

Students must avoid plagiarism in their written submissions, whether graded or ungraded. If you have any questions about plagiarism, please see me and/or consult the Penn State Law Honor Code Appendix, which gives a detailed definition of plagiarism and is posted at <https://pennstatelaw.psu.edu/honor-code>.

For the final papers, see also the guidance in the Penn State Law Student Handbook, Regulations Governing Papers Submitted for Course Credit, posted at <https://pennstatelaw.psu.edu/current-students/student-academic-handbook/regulations-governing-papers-submitted-course-credit>.

March 15, 2022

(4) Accommodations for Disability

Penn State welcomes students with disabilities into the University's educational programs. Every Penn State campus has an office for students with disabilities. The Student Disability Resources website provides contact information; see <http://equity.psu.edu/student-disability-resources/disability-coordinator>. For further information, please visit the Student Disability Resources website: <http://equity.psu.edu/student-disability-resources/>.

To receive consideration for reasonable accommodations, you must contact the appropriate disability services office at the campus where you are officially enrolled, participate in an intake interview, and provide documentation: see documentation guidelines online at <http://equity.psu.edu/student-disability-resources/guidelines>. If the documentation supports your request for reasonable accommodations, your campus disability services office will provide you with an accommodation letter. Please share this letter with your instructors and discuss the accommodations with them as early as possible. You must follow this process for every semester that you request accommodations.

(5) Counseling and Psychological Services

Many students at Penn State face personal challenges or have psychological needs that may interfere with their academic progress, social development, or emotional wellbeing. The university offers a variety of confidential services to help you through difficult times, including individual and group counseling, crisis intervention, consultations, online chats, and mental health screenings. These services are provided by staff who welcome all students and embrace a philosophy respectful of clients' cultural and religious backgrounds, and sensitive to differences in race, ability, gender identity and sexual orientation.

- Counseling and Psychological Services at University Park (CAPS): 814-863-0395, <http://studentaffairs.psu.edu/counseling/>
- Penn State Crisis Line (24 hours/7 days/week): 877-229-6400
- Crisis Text Line (24 hours/7 days/week): Text LIONS to 741741

(6) Educational Equity/Reporting Bias

Penn State takes great pride to foster a diverse and inclusive environment for students, faculty, and staff. Acts of intolerance, discrimination, or harassment due to age, ancestry, color, disability, gender, gender identity, national origin, race, religious belief, sexual orientation, or veteran status are not tolerated and can be reported through Educational Equity via the Report Bias webpage: <http://equity.psu.edu/reportbias/>.

March 15, 2022

VI. **Class Sessions:** This syllabus is subject to change depending on class needs; I will provide updates!

Week/Date	Overview of class sessions	Reading (read before class)	Assignment or notes (due dates listed below)
<p>Week 1 Jan. 14</p>	<p>Class overview (including introduction of Sustainable Communities Collaborative project)</p> <p>Introductions</p> <p>Discussion:</p> <ul style="list-style-type: none"> • Why negotiate? • Why design dispute resolution systems? • Role of lawyers as problem solver • Approaches towards negotiation 	<ol style="list-style-type: none"> 1. Designing Systems- Chapter 1 2. Beyond Winning-Introduction, Chapter 1 3. Podcast: Invisibilia “Flip the Script” (link on Canvas) 4. RPCs- Preamble (on Canvas) 	<p>Short description of what you are hoping to learn from this class – discussion thread on Canvas (due by class)</p> <p>Questionnaire about approach to conflicts (bring results to class)</p>
<p>Week 2 Jan. 21</p>	<p>Overview of design processes Tension between empathy & assertiveness</p> <p>Role Play #1: Sally Soprano (all role plays will include in class preparation, role play, and time to debrief. Most role plays will include prep before class).</p> <p>SCC project guests: Ilona Ballreich, Centrice Martin, Jasmine Fields, Betsy Whitman</p>	<ol style="list-style-type: none"> 1. Designing Systems- Ch. 2 2. Beyond Winning- Ch. 2 3. TedTalk: Sam Richard on empathy (link on Canvas) 4. 7 tips for difficult conversations (on Canvas) 5. Role play instructions 	<p>Discussion thread: what triggers your emotions? (due by class)</p> <p>Role play reflection #1 (due by Sun., Jan. 23rd, 11:59 pm)</p>
<p>Week 3 Jan. 28</p>	<p>Planning process:</p> <ul style="list-style-type: none"> • Taking design initiative • Clarifying roles <p>Tension between principals and agents Preparing for a negotiation</p> <p>Remote tour: Centre County Recycling/Refuse Authority (speakers: Amy Schirf, Shelly Mato)</p>	<ol style="list-style-type: none"> 1. Designing Systems- Ch. 3 2. Beyond Winning- Ch. 3 3. Negotiation prep sheet 4. Online (TBD) 	<p>Discussion thread: why might single use plastics require negotiation?</p> <p>Interview an attorney about a negotiation (part 1): Develop a list of potential questions (due by Jan. 29, 11:59 PM)</p>
<p>Week 4 Feb. 4</p>	<p>Diagnosing or assessing stakeholders, goals and interests, and contexts</p> <p>Organizations & multiple parties</p> <p>Role play #2: Eazy’s Garage</p>	<ol style="list-style-type: none"> 1. Designing Systems- Ch. 4 2. Beyond Winning- Ch. 12 3. Online (TBD) 4. Role play instructions 	<p>Discussion thread: potential stakeholders/questions for SCC project</p> <p>Role play reflection #2 (due by Sunday, Feb. 7, 11:59 pm)</p>

March 15, 2022

<p>Week 5 Feb. 11</p>	<p>Why create dispute resolution systems? - In class film: End Game</p> <p>Creating dispute management processes/systems</p>	<ol style="list-style-type: none"> 1. Beyond Winning- Ch. 4 (read first) 2. Designing Systems- Ch. 5 3. Material on apartheid (online) 	<p>Discussion thread/reflection on End Game</p>
<p>Week 6 Feb. 18</p>	<p>Selecting, engaging, preparing participants in a new process</p> <p>Thinking about roles, mindset, assumptions</p> <p>Role play #3: Plastics role play</p>	<ol style="list-style-type: none"> 1. Designing Systems- Ch. 6 2. Beyond Winning - Part III intro (pgs 173-177) - Ch. 7 3. Online (TBD) 4. Role play instructions 	<p>Role play reflection #3 (due by Feb. 24th, 11:59 pm)</p>
<p>Week 7 Feb. 25</p>	<p>Determining extent of confidentiality and openness in the process</p> <p>Professional/ethical dilemmas</p> <p>Role play #4: DONs role play</p>	<ol style="list-style-type: none"> 1. Designing Systems- Ch. 7 2. Beyond Winning- Ch. 11 3. RPCs- confidentiality (on Canvas) 4. Online (TBD) 	<p>Interview an attorney about a negotiation (part 2)</p> <ul style="list-style-type: none"> - Interview the attorney - Submit summary to Canvas by Feb. 24, 11:59 pm
<p>March 1</p>	<p>Instructions for inter-school negotiation practicum (graded exercise)</p>		<p>Participate in negotiation practicum (during March). Final results, reflection due by March 31st (see below)</p>
<p>Week 8 Mar. 4</p>	<p>Advice for resolving disputes</p> <p>Advice for making deals</p> <p>Gender & negotiation</p> <p>Salary role play (not graded)</p>	<ol style="list-style-type: none"> 1. Beyond Winning- Ch. 9, 10 2. Excerpt from Women Don't Ask: Gender and Negotiation 3. Online (TBD) 	<p>Role play reflection #4 (due by March 3, 11:59 pm)</p>
<p>Week 9 Mar. 11</p>	<p>Spring break</p>	<p>No reading</p>	<p>Sleep</p>
<p>Week 10 Mar. 18</p>	<p>Interschool negotiation practicum</p> <p>Sustainable Communities Collaborative continued</p> <p>Enhancing relationships</p> <p>Interpersonal communication</p>	<ol style="list-style-type: none"> 1. SCC update memo and 2019 materials (on Canvas) 2. Designing Systems- Ch. 9 3. Psychology for Lawyers- Ch. 7 (on Canvas) 4. Newspaper articles (on Canvas) - White Crescent - Budget impasse 5. Podcast (optional- on Canvas) 	<p>Sign up for interviews, research topics for SCC project</p> <p>Submit 2-3 ideas for potential situation you would be interested in analyzing for final paper (due by March 21st, 11:59 PM)</p>

March 15, 2022

<p>Week 11 Mar. 25</p>	<p>Justice, safety, reconciliation, change, personal and public understanding, and other goals</p> <p>Truth & reconciliation commissions</p> <p>In class small group discussions</p>	<ol style="list-style-type: none"> 1. Designing Systems- Ch. 8 2. Psychology for Lawyers- Ch. 8 (on justice) (on Canvas) 3. Online materials re: implicit bias (Canvas) 4. Materials re: State College Area School District processes 	<p>Research for SCC jurisdiction due by March 28th (11:59 PM)</p>
<p>Week 12 April 1</p>	<p>Using technology in dispute management systems and processes</p> <p>Prep for online dispute resolution roleplay (#5)</p>	<ol style="list-style-type: none"> 1. Designing Systems- Ch. 10 2. eBay dispute resolution code (on Canvas) 3. Youtube video (link on Canvas) 	<p>Online dispute resolution roleplay (conducted outside class).</p> <p>Reflection on negotiation practicum and submission of results (due by April 4, 11:59 PM)</p>
<p>Week 13 April 8</p>	<p>Debrief from online dispute resolution roleplay</p> <ul style="list-style-type: none"> - What worked? - What didn't? <p>Implementation of agreements</p> <p>Review final writing assignment</p>	<ol style="list-style-type: none"> 1. Designing Systems: Chapters 11, 12, 13 2. Online (TBD) 	<p>Results, role play reflection #5 due by April 7, 11:59 pm</p>
<p>Week 14 April 15</p>	<p>Evaluating and revising</p> <p>On being productive, successful and happy</p>	<ol style="list-style-type: none"> 1. Designing Systems- Ch. 14 2. Psychology for Lawyers- Ch. 15 3. Online (TBD) 	<p>Share interview results for SCC project (due by April 13th, 11:59 PM)</p>
<p>Week 15 April 22</p>	<p>Skills for designers</p> <p>Short presentations</p>	<ol style="list-style-type: none"> 1. Designing Systems- Ch. 15 2. Online (TBD) 	<p>Final writing assignment due by Wednesday, April 20, 11:59; short presentations due by class, April 22nd</p>
<p style="text-align: center;">Last day of all classes is Monday, April 25th. Good luck with finals (no exam for this course)</p>			