VERMONT LAW SCHOOL
NEGOTIATION
ADR 415.A (2 Credits)

Professors Tad Powers and Adam Powers

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Course Description

THIS IS AN INTENSIVE COURSE TO BE OFFERED OVER THE COURSE OF 4 DAYS. We will explore what it means to be an effective negotiator and we will practice this important professional and life skill. Theories from law, economics, psychology, sociology and management will be discussed and put into practice in interactive simulations. We will emphasize the negotiation skills needed in deal making and dispute resolution. We will explore how dynamics change when moving from two-party to multi-party negotiations and look at how personal values and codes of ethics influence our behavior. Readings must be completed before classes.

Scheduling
We will begin promptly, so plan on arriving at least 5 minutes early. If you arrive after the start time, you will be marked late. We will meet:

- Friday, September 30 2:10 pm - 6:30 pm
- Saturday, October 1 8:00 am - 6:30 pm
- Friday, October 14 2:10 pm - 6:30 pm
- Saturday, October 15 8:00 am - 6:30 pm

Attendance

This is a skills-building class. You will be playing roles as negotiators attorneys and clients; the learning of the whole class depends on your participation. Attendance at all class sessions is mandatory.

Textbooks and Class Materials


The Syllabus and Course Handouts will be available on TWEN
SCHEDULE OF COURSE ASSIGNMENTS

1. **Assignments for Class 1 (9/30/16):**
   a. Read *Negotiation Genius, Parts I and II:*
      Required Reading: Chapters 1 and 2 (Pages 15-82.);
         Chapters 4 and 5 (Pages 105-138).
      Chapters 3 and 6 recommended but not required.
   b. Read Model Rules of Ethics 4.1, 1.6, and 8.4.
   c. Complete first Journal assignment (letter to your future self) to hand in at beginning of class.

2. **Assignment for Class 2 (10/1/16):**
   a. Read roles to prepare for Class 2 exercises (t.b.d.).

3. **Journal entries following Weekend 1, due by email on 10/09/16 (Sunday evening, before midnight).**

4. **Assignment for Class 3 (10/14/16):**
   a. Read Part III of *Negotiation Genius:*
      Required Reading: Chapters 7 and 8 (Pages 159-195);
         Chapters 11 and 12 (Pages 236-279).
      Chapters 9 and 10 recommended but not required.
   b. Read roles to prepare for Class 3 exercises (t.b.d.).

5. **Assignment for Class 4 (10/15/16):**
   a. Read roles to prepare for Class 4 exercises (t.b.d.)

6. **Journal Entries following Weekend 2, due by email on 10/23/16 (Sunday evening, before midnight).**

7. **Final Debrief Journal due by email on Sunday, 10/30/16.**

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**Course Goals for Learning Outcomes and Competencies**

By the conclusion of this course, a successful student will have demonstrated the following, BOTH in journal submissions and in class discussions:

- A grasp of theories and principles of negotiation, joint problem-solving and joint decision-making;
- Appreciation of contrasting characteristics of deal-making negotiation vs. dispute resolution negotiation and facility for negotiating in both contexts;
- Personal development of negotiation skills, including Interest-Based AND Value Claiming Negotiation Skills;
• Ability to detect and work with parties' hidden or unstated motivators, interests, or biases.
• Experimentation with a variety of negotiating techniques in different contexts, including legal, personal, business, bilateral, multi-lateral and multi-issue matters;
• Recognition and application of ethical issues in negotiation;
• Facility with alternatives to negotiation; and
• Exploration of individual negotiation style, personal reactions to conflict, and attitudes toward conflict and dispute resolution.

Course Requirements

You will be expected to read, write, discuss and perform in this course. You will be required to apply what you learn through participation in negotiation exercises. Specifically, you will be expected to:
• attend all scheduled classes on time, prepared and ready to participate in the exercises and discussion;
• complete all the assigned reading;
• contribute to in-class discussions;
• actively engage in exercises and simulations;
• reflect on your negotiation skills, be open to feedback and be prepared to offer constructive comments to your classmates; and
• write and submit reflective journal entries for each simulation, as well as an opening and final journal assignment

Journal Exercises

1. Opening Journal entry. Your first journal entry should be submitted, in hard copy, at the first class as a letter to your future self (500 words), addressing:
   • What you hope to get out of this seminar and any questions or concerns you have.
   • What you perceive to be your strengths and weaknesses as a negotiator and what skills you hope to improve in this course.
   • Any general propositions or "rules of thumb" about negotiation that you subscribe to.
     (You have negotiated your whole life: with parents, neighbors, friends, and employers. What do you generally assume about negotiation and negotiators?)

2. Journal entries for each class exercise. Journal entries should be submitted for each in-class exercise. These journal entries should be both personal reflections and evaluations of your counter-part in the simulation. You should reflect on your performance and that of your colleague. Suggested topics for discussion:
   a. your goal(s);
   b. how you valued different issues and why;
   c. your initial strategy;
   d. how your strategy changed during the negotiation or why it did not;
   e. an assessment of any tactics that you deployed or observed that were particularly
effective, or counterproductive. For things that worked well, why? For things that didn't work well, why not, and, in hindsight, what would have been a better move?

Journal entries for each exercise should be 500 words, concise, with focus on the process of the negotiations. For each weekend, you will submit several Journal entries, and you may submit them as one document. Journal entries should be submitted by email on or before the Sunday evening following the class weekend. (Entries for the first weekend's exercises should be emailed by 12:00 pm on Sunday, October 11. Entries for the Second weekend's exercised should be emailed by 12:00 pm on Sunday, October 25.

3. **Final Debrief Journal.** The final debrief Journal entry (700 words) should be written as a response to the letter that you wrote to your future self before classes started. This memo should address the following points:

   a. Have you gotten out of this course what you hoped?
   b. Were your questions/concerns answered?
   c. What do you perceive your strengths/weaknesses as a negotiator to be compared to when you began this course (as mentioned in your first journal).
   d. The most important things you have learned about negotiation and yourself, as well as any areas in which you would like to improve.

Final Debrief Journals should be emailed on or before Sunday, November 1, 2015.

All Journal entries submitted by email should be addressed to tad@markspowers.com AND adam@markspowers.com.

Please write your name on each Journal entry, and label the file names with your name and the Journal entry number(s). For example: AdamPowersJournals234.docx Please submit journals in .doc, .docx, or pdf format.

Note that word count requirements are a minimum. Substantially shorter entries will receive a reduced grade. Students may submit longer entries but will receive no additional credit for content beyond the requested word count.

Your journals are confidential and will be seen only by the instructors. We may share useful excerpts with the class without attributing names or working groups.

**Grading**

Two thirds of your grade will be based on participation in class and your development and application of skills in the simulations. Think process, not necessarily results of individual exercises.

One third of your grade will be based on your Journals, graded on:

1. analysis;
(2) application of theory, readings and practice principles;
(3) self-reflection and self-critique;
(4) creativity; and
(5) writing style, grammar and organization.

THIS COURSE WILL BE GRADED DIFFERENTLY FROM MOST LAW SCHOOL COURSES! Active participation in class discussion will be heavily weighted. Excellent work in simulations and excellent Journal entries will not produce a stellar grade without excellent participation in class discussion. In-class debriefs are vital in absorbing the skills to be learned from each exercise. Your comments and reactions will provide a crucial frame of reference for your classmates' learning. We will expect you to make contributions that connect exercises and reading or lecture concepts, or that provide constructive feedback to your peers, without dominating the conversation.

If speaking in class is difficult for you, or if you have questions about expected in-class participation, please let us know sooner than later. We don't typically provide unsolicited grading feedback during the course, but we are happy to offer guidance for students who ask. Speak to us after class, or email us any time. If you wait until the end of the course, it's too late to adapt.

A Note on Confidentiality and Exercises:

It is a basic premise of this course that the best way to learn negotiation is to do it. During the course, you will be role-playing parts as both attorneys and clients in order to understand and experience negotiation from different perspectives.

Most of the simulations rely on confidential instructions that are specific to the particular role you will be playing. You will often be working with a partner or with other groups on the same "side" of a problem (for example, a client and her attorney or co-defendant). Please do not share confidential instructions about a problem with others, even if they are on your side. It is difficult to design and refine effective negotiation problems for a course such as this; please do not share the written instructions with students not taking this course.

Feedback in Person and on Journals

Constructive feedback is integral to your learning. During this Seminar, you will be receiving feedback from your peers and from your instructors, as well as giving feedback. The following "ground rules" for giving feedback are expected to be followed in this Course – Please read them carefully:

Be self-reflective. You are often the best judge of whether a particular style or technique is effective.

Be open to feedback. We can all improve. If you are open to feedback, it encourages others to do the same.

Giving constructive feedback to peers is an important skill in itself. Note strengths first,
then areas for development, then finish with a strength (make it a “feedback sandwich” that goes down easily).

**Note specifics, not generalities.** Mention specific instances, statements, body language, phrasing. Use "I" statements. For example: "I became angry and I decided to withhold information about the transaction when you said X."

In suggesting areas for development, give alternatives. Suggest ways that the negotiator could have handled the situation differently. For example, "Rather than just saying no when I suggested that our expert examine your books and records, you might have said that this is a very sensitive area for your management, and asked whether there was another possible source of the information."

**Course Feedback.** Questions are always welcome at any point during the course. Please let us know about any problems or confusion you have about the course, its conduct or content.