

SYLLABUS

VIRGIL HAWKINS COUNTY MEDIATION CLINIC FALL 2002

DON PETERS

Welcome to the Virgil Hawkins Mediation Clinic. Our course materials are:

(1) ***The Art of Mediation*** by Mark D. Bennett and Michele S.G. Hermann, [NITA, 1996] [hereafter ***Text***]; and

(2) ***Give Peace A Chance: Supplemental Readings and Problems for the Mediation Clinic***, by Don Peters [Fall 2002, Edition] [hereafter ***Peace***].

Please purchase these materials as soon as possible. I recommend reading pages 3-153 of the ***Text*** either before the course begins or as early in the term as possible. This will help you meet the challenges of mediating effectively in simulated exercises scheduled before all the instructional units have been completed. You should complete all assigned readings before we begin to mediate actual cases.

The following reading assignments are concentrated early in the course to prepare you for mediating actual cases during the remainder of the semester. These assignments separate the seamless web of effective mediation into individual components and describe critical action theories that facilitate analysis and skills development. In addition, this course requires use of a small recorder for taping and reviewing simulated mediations. You are responsible for providing this recorder and tapes.

This course's goals include:

- (1) providing instruction about mediation theory, procedure, ethics, and skills allowing you to counsel and represent clients effectively before and during mandatory and voluntary mediations;
- (2) providing sufficient opportunities to apply this knowledge and practice these skills allowing you to develop your abilities and improve your competence levels;
- (3) providing a required county court mediation course, four required observations, and the four co-mediations required for certification as a County Mediator by the Florida Supreme Court and the Florida Dispute Resolution Center.

This is a learning-by-doing course. Grades are based entirely upon the cumulative evaluation of your observed performances and written assignments. This course has no final examination. A more thorough discussion of our grading approach follows later in this Syllabus.

This course provides opportunities to participate in at least four [and possibly more] mandatory small claims mediations; additional county court mediations if they can be scheduled; other types of mediations if they can be arranged; several simulated mediations; and numerous short, focused role plays. All actual mediations and portions of many of the simulated mediations will be observed and critiqued. More details about these performance assignments follow in this Syllabus.

This course also requires ten short, graded written assignments. All of your first four actual mediations require a short reflection paper. In addition, several mediations you observe require short reflection papers, as a few of the two longer, simulated mediations. A final paper briefly evaluating mediation theory and skills ends the course. The point values for these assignments, specific suggestions for them, and the dates each are due are summarized later in this Syllabus.

The writing assignments have very short deadlines to ensure that: (1) you write while the experience is fresh without the distractions that intervening time inevitably brings; and (2) your papers can be reviewed before discussing your experiences in class. Handing in papers later reduces the points awarded for them.

Florida Supreme Court Rules require attendance for the required certification training, our intensive seminar for this course. I must take roll and certify that all participants meet this attendance requirement. After the intensive seminar, Standard 304(e) of the ABA Standards for the Approval of Law Schools, which requires "regular and punctual class attendance," governs. I define satisfactory attendance under this standard as presence at 90% or more of the post-intensive seminar classes and reduce grades for students who do not satisfy this interpretation. Missing a scheduled simulated mediation creates enormous problems. I also deem class participation important to your learning and award up to 15 points for it. Some classes involve distributing materials for performances to be done in future classes. If you miss a distribution, you are responsible for picking up the materials promptly from me or one of the secretaries in the Clinic Suite.

The following class schedule is quite detailed. Any questions you have about this schedule or these assignments to be directed to me at 392-0412. If you cannot reach me, Helen Stoneking, the Office Manager of the Virgil Hawkins Clinics, will be able to respond. My fax number is (352) 392-0414 and papers may be submitted by fax. My e-mail address is petersdon@law.ufl.edu.

COURSE SCHEDULE

The first three weeks of this term provide our intensive seminar and supply the instruction required to earn Supreme Court certification as a county mediator. We will schedule twenty-one classes during this period to provide the intensive instruction in mediation theory, procedure, ethics, and skills that enable us to participate in Alachua County Court's Volunteer Small Claims Mediation Program. These classes have also been authorized by the Florida Supreme Court as sufficient to permit county mediation certification pursuant to a letter from Chief Justice Gerald Kogan dated November 29, 1997.

These classes, except for the Wednesday morning sessions, will ordinarily last two hours. We will use our regularly scheduled class times and arrange remaining classes to avoid conflicting with your other course commitments. You will need to be flexible with non-academic obligations during this period.

INTENSIVE SEMINAR

TUESDAY, AUGUST 20

INTRODUCTION TO MEDIATION, THE VIRGIL HAWKINS MEDIATION CLINIC AND MANDATORY MEDIATION IN FLORIDA: Read pages 3-14 of *Text* and pages 1-18 of *Peace*.

WEDNESDAY, AUGUST 21

INTRODUCTION TO CONFLICT THEORY AND THE PRINCIPLES OF DISPUTE SETTLEMENT: Read pages 108-114 of *Text* and be prepared to apply this information to short video clips showing aspects of human conflict and communication theory. In addition, we will do the Broken Squares exercise which will be described and distributed in class.

THURSDAY, AUGUST 22

FIRST CLASS: GETTING OUR FEET WET--EXPERIENCING MEDIATION AND ARBITRATION: We will apply what we have read and discussed thus far by working with the *Family Assets and Family Feuds* exercise, pages 170-171 of *Peace*. We will mediate it for 30 minutes, and then arbitrate it for 10 minutes, and then discuss our experiences. Role assignments and confidential information for disputants will be distributed on Wednesday, August 22. We will also view and evaluate a demonstration video tape showing a small claims/ landlord-tenant mediation prepared by the Florida Dispute Resolution Center.

SECOND CLASS: MEDIATION COMPONENTS AND STAGES; INTRODUCTION TO COURT PROCESS; MBTI; AND MODE: Read pages 25-34 of *Text* and skim pages 176-218 of *Peace*. We will spend the first hour discussing how county and small claims

court mediations work and some recurring problems in these systems. During the second hour, the Myers-Briggs Type Indicator [MBTI] and the Thomas Kilman Management of Differences Exercise [MODE], valuable tools facilitating mediation skills learning, will be administered.

FRIDAY, AUGUST 23

FIRST CLASS: MEDIATION MODELS AND MEDIATOR ROLES: Read pages 17-21 of *Text* and pages 19-22 and 30-45 of *Peace*. We will discuss and apply questions and insights about mediation models and mediator roles to the description of a small claims mediation, pages 30-45 of *Peace*, and to demonstration video clips.

SECOND CLASS: FACT-FINDING/LISTENING: Read pages 73-86, 91-99 of *Text* and pages 45-52 and 66-80 of *Peace*. We will apply the important action theories outlined in these readings to video clips that demonstrate them and then practice these core mediation skills in role plays that will be described in class. After class, do the listening homework exercise in the Handout Packet, and submit it at the beginning of our next class.

MONDAY, AUGUST 26

FIRST CLASS: ISSUE DEVELOPMENT, QUESTIONING AND NOTE-TAKING: Read pages 41-60 of *Text* and pages 54-65 of *Peace*. During the first hour we will discuss the listening home work assignment and critically evaluate excerpts from an actual small claims mediation taped in Cambridge, MA. In the second hour we will do questioning role plays that will be discussed in class and discuss your listening homework assignment.

SECOND CLASS: BEGINNING MEDIATION CONFERENCES: Read pages 35-40 of *Text*. We will discuss these readings, critically evaluate video clips of mediator opening statements, and then practice opening statements in focused role plays that will be announced. After class, do the perceptions and interests homework assignment in the Handout Packet and submit it at the beginning our next class.

TUESDAY, AUGUST 27

INTRODUCTION TO NEGOTIATION THEORY: THE STRATEGY-STYLE MATRIX: Read pages 100-107 of *Text* and pages 82-96 of *Peace*. We will discuss these negotiation theories and apply them to video excerpts.

WEDNESDAY, AUGUST 28

THE QUARRELING NEIGHBORS MEDIATION: We will mediate the quarreling neighbors, page 172 of *Peace*, in four person groups. Each group will have two co-mediators, two disputants, a staggered starting time and an assigned room. Role and room assignments, along with confidential information for disputants, will be distributed on August 27. These mediations will be videotaped. I will observe the first 60 minutes

of each mediation, selecting excerpts to show the entire class when the experience is discussed.

Co-mediators should also audiotape their sessions to facilitate preparing their action choices chart [page 29 of *Peace*] that must be submitted with their reflection papers. Suggestions for completing these charts are found on pages 23-28 of *Peace*. Disputants are also encouraged to audiotape their sessions to facilitate preparing their reflection papers. They do not, however, need to complete and hand in action choices charts.

A reflection paper discussing this mediation, the Family Assets and Family Feuds mediations, and the intensive seminar thus far, is due no later than 9:00 a.m. on Friday, August 30. It is worth 15 points.

THURSDAY, AUGUST 29

FIRST CLASS: REVIEWING THE QUARRELING NEIGHBORS MEDIATION:

We will discuss experiences in this mediation and analyze short segments from the tapes made of these performances. We will also evaluate video clips showing another mediator handling aspects of this situation in joint sessions.

SECOND CLASS: PERCEPTIONS, INTERESTS, AGENDAS, AND REVIEWING MBTI AND MODE: Read pages 147-155 of *Peace*. We will discuss aspects of these topics and apply these action theories to video demonstrations. We will also discuss the MBTI and MODE instruments, distribute your individual type profiles, share aggregate class data, and what this information may mean in mediation contexts.

FRIDAY, AUGUST 30

FIRST CLASS: FRAMING, REFRAMING, AND USING NEUTRAL LANGUAGE:

Read pages 87-90 of *Text* and pages 143-146 of *Peace*. We will critically evaluate video demonstrations.

SECOND CLASS: GENERATING SETTLEMENT 1: CAUCUS PROCEDURE, ATMA-CHECKING, AND TESTING: Read pages 118-126 of *Text*. We will critically evaluate video demonstrations and practice testing skills in focused role plays that will be distributed in an earlier class.

TUESDAY, SEPTEMBER 3

FIRST CLASS: GENERATING SETTLEMENT 2: FACILITATING NEGOTIATION: Read pages 54-63 of *Text* and pages 96-142 of *Peace*. We will apply these action theories to video clips and practice aspects of these skills in focused role plays that will be announced.

SECOND CLASS: CULTURAL AND DISABILITY AWARENESS, CULTURAL INFLUENCES ON NEGOTIATING AND MEDIATION, GENERATING AND TESTING SOLUTIONS: Reread pages 115-117 of *Text*. We will discuss aspects of cultural and disability awareness, potential cultural influences on negotiating and mediating, and generating solutions. We will evaluate video demonstrations, and do a focused role play that will be described in class. After class, complete the ethics quiz in the Handout Packet, using the Florida Rules for Certified and Court Appointed Mediators, pages 196-212 of *Peace*, and hand it in at the beginning of our next class.

WEDNESDAY, SEPTEMBER 4

ETHICAL DILEMMAS: Read pages 127-130, 139-143, 169-172, and 179-185 of *Text* and pages 196-212 of *Peace*. We will review the ethics quiz, discuss ethical issues in mediation, and do focused role plays that will be distributed in an earlier class. After class complete the agreement writing exercise in the Handout Packet and submit it at the beginning of our next class.

FRIDAY, SEPTEMBER 6

FIRST CLASS: CLOSING MEDIATIONS, WRITING ENDING DOCUMENTS, AND THE FINAL AGREEMENT: Read pages 65-70, 249-252 of *Text* and the sample agreements in the Handout Packet. We will review your agreement writing exercises, discuss ending mediations, and talk about drafting issues.

SECOND CLASS: INDIVIDUAL MEDIATION SIMULATIONS: We will meet in three person groups so that every member of each group can individually mediate one of three simulations that will be distributed on September 5. Greater Gator Health Club v. Brown; Blake v. Northern Caribbean Van Lines, Inc., and the Mouthy Macaws. Each mediation may last up to 45 minutes in length and will be observed and critiqued by a certified county mediator. Each student also receives a written critique from this mediator on the form provided by the Dispute Resolution Center.

Students should audio tape their mediation and then listen to it, charting their action choices on the form on page 29 of *Peace*, and handing in their chart with their reflection paper.

A reflection paper analyzing your performance in your individual mediation, as well as additional insights, evaluations, and comments regarding the intensive seminar, is due no later than 5:00 p.m. on Monday, September 9. It may run up to 5 pages in length and it is worth 15 points.

MONDAY, SEPTEMBER 9

FIRST CLASS: DISCUSSING THE INDIVIDUAL MEDIATIONS. We will discuss experiences, insights, comments, and questions from your individual mediations.

TUESDAY, SEPTEMBER 10

REVIEWING A MEDIATION DEMONSTRATION: We will review and critically evaluate a demonstration mediation Saving the Last Dance.

THIS CONCLUDES OUR INTENSIVE SEMINAR. From this point classes meet only at regularly scheduled times.

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FRIDAY, SEPTEMBER 13: MEDIATION OBSERVATIONS -- FIRST ROUND: We will attend the 9:00 and 10:00 a.m. dockets of the Small Claims Division of Alachua County Court and observe mediations. You may have opportunities to observe sessions from both the 9 and 10:00 dockets. Your goal is to complete four observations in two weeks so that you can start doing actual mediations as soon as possible. It is also your responsibility to learn the case number of the cases you observe, and get the mediators to sign your mentor sheet. We will receive an orientation session with local program administrators at 8:40 a.m..

A reflection paper analyzing the performance of the mediators you observed is due no later than 5:00 p.m. on Monday, September 16. It may run up to 3 pages in length and it is worth 15 points.

TUESDAY, SEPTEMBER 17: DISCUSSING THE FIRST ROUND OF OBSERVED MEDIATIONS AND FLORIDA LANDLORD/TENANT PRACTICE: We will discuss experiences, insights, comments, and questions from your first round of observed mediations and review Florida landlord-tenant practice and procedure along with common mediation experiences in these contexts.

THURSDAY, SEPTEMBER 19: WHERE THERE IS SMOKE MEDIATION: We will mediate the Where There Is Smoke, page 172 of *Peace*, exercise in four person groups. Each group will have two co-mediators, two disputants and an assigned room. We will use a staggered start so I can observe and videotape most of each role play. Room and role assignments, along with confidential information for the disputants will be distributed on September 17.

FRIDAY, SEPTEMBER 20: MEDIATION OBSERVATIONS--SECOND ROUND: We will again attend the small claims mediations seeking to complete our mentoring requirement of four observations. Hopefully at least four students will complete this week so that they can start our actual mediations next week.

A reflection paper analyzing the “Smoke” mediation and the performance of the mediators you observed is due no later than 5:00 p.m. on Monday September 23. It is worth 15 points.

TUESDAY, SEPTEMBER 24: DISCUSSING THE SECOND ROUND OF OBSERVED MEDIATIONS AND THE WHERE THERE IS SMOKE MEDIATION.

THURSDAY, SEPTEMBER 26: CRITIQUING A BREACH OF WARRANTY MEDIATION DEMONSTRATION. We will observe and critically evaluate a demonstration video of a consumer dispute, a mediation analogous to some of the cases we will handle in our clinic.

FRIDAY, SEPTEMBER 27: FIRST ROUND OF ACTUAL MEDIATIONS: Four students will do their first co-mediations with either Don or volunteer certified mediators. Two will attend the 9:00 a.m. docket and two will attend the 10:00 a.m. docket. Any students who have not completed their four required observations must attend and observe mediations to finish this aspect of their mentoring requirement so that they can start actual mediations next week.

Starting with this Friday and continuing until every one has completed four mediations under supervision, half the firm will mediate every indicated week; working with Don or volunteer certified mediators. We will seek cases on both the 9 and 10 a.m. dockets. Don may do more than one mediation each day so feedback and discussion time during Friday morning may be limited. If so, mediators are encouraged to schedule 30 minute feedback discussions with Don at mutually convenient times as soon as possible after they mediate.

The four students who are not scheduled on that week have no Friday class responsibilities. Rotations will occur every other week so that no one goes longer than two weeks between mediation experiences. We will also rotate the 9 and 10 a.m. dockets to provide everyone experiences with both. We may offer Clinic mediation services for contested eviction and pro-bono, non-small claims county cases, and other types of mediations that we can generate. These will be scheduled by a member of the Clinic office staff at mutually convenient times following a protocol that will be distributed.

Students who mediate under supervision must write a reflection paper evaluating their experiences and action choices. These papers are due no later than 5:00 p.m. on the Monday afternoon following their Friday mediations. Four of these papers are required during the term. Non-small claims mediations may also serve as the basis for these required papers.

TUESDAY, OCTOBER 1: DISCUSSING THE FIRST ROUND OF ACTUAL MEDIATIONS AND CONFLICT MANAGEMENT: We will discuss our first mediation experiences and analyze conflict management techniques that we have used or observed.

THURSDAY, OCTOBER 3: MULTIPLE CLAIMS, PARTIES, AND OTHER PROCEDURAL ISSUES AND CHALLENGES: We will discuss issues raised by multiple claims and parties and do focused role plays that will be distributed.

FRIDAY, OCTOBER 4: SECOND ROUND OF ACTUAL MEDIATIONS: The four students who did not mediate earlier will mediate this week.

TUESDAY, OCTOBER 8: DISCUSSING THE SECOND ROUND OF ACTUAL MEDIATIONS AND OVERCOMING PSYCHOLOGICAL AND OTHER SETTLEMENT OBSTACLES: We will discuss our actual mediation experiences, common psychological barriers to agreements, and ways to overcome them.

THURSDAY, OCTOBER 10: HOW FAMILY MEDIATION DIFFERS FROM COUNTY MEDIATION: We will discuss ways that family mediation differs from county and circuit mediation, reviewing video demonstrations. We will also discuss the narrative model of mediation that grew out of family practice. Starting now, everyone must observe one family mediation conducted by our local program mediators, following a protocol that will be distributed. A reflection paper analyzing that observation experience is due by 5 p.m. on the Monday following the week in which the event occurred.

FRIDAY, OCTOBER 11: THIRD ROUND OF ACTUAL MEDIATIONS.

TUESDAY, OCTOBER 15: DISCUSSING THE THIRD ROUND OF ACTUAL MEDIATIONS AND TYPE THEORY, CHANGE, PERSUASION, AND CROSS-TYPE COMMUNICATION: We will discuss our experiences the previous Friday and what type theory can teach us about how people respond to change. We will also discuss cross type persuasion communication and apply these concepts to our mediation experiences this term.

THURSDAY, OCTOBER 17: FOCUSED FAMILY ROLE PLAYS IN THE MARRIAGE OF ALEX AND LYNN ABRAHAM: We will experience some of the differences between family and county mediations by doing focused role plays regarding the divorce of Alex and Lynn Abraham, pages 173-176 of *PEACE*.

FRIDAY, OCTOBER 18: FOURTH ROUND OF ACTUAL MEDIATIONS.

TUESDAY, OCTOBER 22: DISCUSSING THE FOURTH ROUND OF ACTUAL MEDIATIONS AND REVISITING EVALUATION v. FACILITATION: We will discuss our experience the preceding Friday and revisit the facilitative and evaluative models of mediation again. We will apply these models to our experiences this term and speculate more about the transformative vision of mediation.

THURSDAY, OCTOBER 24: SECOND ROUND OF FOCUSED FAMILY ROLE PLAYS. We will do another set of three focused role plays in the Abraham divorce, pages 173-176 of *Peace*, which will be distributed before class.

FRIDAY, OCTOBER 25: FIFTH ROUND OF ACTUAL MEDIATIONS.

TUESDAY, OCTOBER 29: DISCUSSION OF FIFTH ROUND OF ACTUAL

MEDIATIONS AND THE ROLE OF LAWYERS IN SMALL CLAIMS PRACTICE: We will discuss our experience the preceding Friday and evaluate the role of lawyers in small claims practice. Some states bar lawyers from small claims representation, should Florida?

THURSDAY, OCTOBER 31: REPRESENTING CLIENTS EFFECTIVELY BEFORE AND DURING MEDIATION: Read pages 156-168 of *Peace*. We will critically evaluate video vignettes and discuss the ways lawyers add to and detract from effective mediation, incorporating actual experiences whenever possible.

FRIDAY, NOVEMBER 1: SIXTH ROUND OF ACTUAL MEDIATIONS [IF NEEDED, IF NOT, NO CLASS]:

TUESDAY, NOVEMBER 5: FOCUSED COMMERCIAL MEDIATION ROLE PLAYS ONE: We will tackle commercial mediation by doing a set of focused role plays on international commercial disputes dealing with the Virtual Troubles, Paradise Lose and Power Brands Scenarios will be distributed.

THURSDAY, NOVEMBER 7: FOCUSED COMMERCIAL MEDIATION ROLE PLAYS TWO: We will do another set of focused role plays in our international commercial disputes.

FRIDAY, NOVEMBER 8: SEVENTH ROUND OR ACTUAL MEDIATIONS [IF NEEDED, IF NOT, NO CLASS]

TUESDAY, NOVEMBER 12: FOCUSED COMMERCIAL MEDIATION ROLE PLAYS THREE: We will do a third set of focused role plays in our commercial disputes.

THURSDAY, NOVEMBER 14: FOCUSED COMMERCIAL MEDIATION ROLE PLAYS FOUR: We will do our fourth set of focused role plays in our international commercial disputes.

TUESDAY, NOVEMBER 19: MANAGING DIFFERENCE AND MEDIATING AS A CAREER: Read pages 133-138, 144-153, and 115-117 of *Text*. We will review a demonstration video tape illustrating aspects of valuing and managing differences and discuss how differences affected the mediations we conducted and observed this term. We will also discuss future mediation possibilities and challenges.

Your final paper, a no more than five-page essay, is due by 5:00 p.m. on Wednesday, November 20. This paper should analyze the following topics in any way that you wish: (1) a self-evaluation of your strengths and weaknesses as a mediator, using the Skills Performance Standards in *Peace* as a reference; (2) the aspect of mediation theory presented in this course that was the most valuable for you, explaining why; (3) the piece of mediation theory that you found least

valuable, indicating why; and (4) a course critique that evaluates the strengths and weaknesses of this educational experience and offers concrete suggestions for improving subsequent clinical courses. This paper should be a thoughtful, clear piece of writing that uses examples to illustrate points. It is worth 19 points.

THURSDAY, NOVEMBER 21: LOOKING BACK: We will explore your course experiences, discuss points and suggestions raised in your final papers, and evaluate anything else that seems relevant.

SCHEDULE OF WRITTEN ASSIGNMENTS

1. *First Reflection Paper* - Analyze the Quarreling Neighbors and Family Assets & Feuds Mediations exercise and the first two thirds of the intensive seminar, due no later than **9:00 a.m., Friday, August 30** [worth 15 points].
2. *Second Reflection Paper* - Analyze your individual mediation and the last third of the intensive seminar. This paper may not exceed five pages and is due no later than **5:00, Monday, September 9** [worth 15 points].
3. *Third Reflection Paper* - Analyze the First Round of Observed Mediations, due no later than **5:00 p.m., Monday, September 16** [worth 15 points].
4. *Fourth Reflection Paper* - Analyze the Second Round of Observed Mediations and the Where There Is Smoke Mediation, due no later than **5:00 p.m. on Monday, September 23**. [worth 15 points]
5. *Fifth, Sixth, Seventh and Eighth Reflection Papers* - Analyzing actual small claims mediations conducted, due by **5:00 p.m. on the Monday** following the Friday experience [worth 15 points each].
6. *Ninth Reflection Paper* - Analyzing your observed family mediation, due no later than **5:00 p.m. on the Monday** following your observation. [worth 15 points].
7. *Tenth and Final Reflection Paper* - Analyzing skills level and critiquing course, due no later than **5:00 p.m., Wednesday, November 20** [worth 19 points].

SUGGESTIONS FOR REFLECTION PAPERS

The following suggestions stem from my hunch that focusing your reflection papers provides valuable practice identifying specific behaviors and then reflecting on their effectiveness. It also gives me greater understanding of your experiences. Finally, these suggestions may respond to uncertainties about what gets good grades for these papers.

Reflection papers should provide specific examples of and reflections about your experiences. They should describe what happened that was significant, why it was important, and what you think about it now. They should not narrate or chronologically describe what you and others did. They should analyze specific behaviors rather than listing conclusions. For example, writing statements like "I did a good job finding underlying interests," does not identify specific action choices. It also does not evaluate whether these specific behavioral decisions were effective or ineffective and why you make that judgment.

Following these general precepts, reflection papers following simulated and actual mediations may appropriately analyze, using examples and detailed interpretations, specific topics, such as:

1. What you or the observed mediators did that was effective and why it was effective [and focusing on what was most effective can be useful];
2. What you or the observed mediators did that was not effective and why it was not successful [and focusing on what was least effective can be useful];
3. How ineffective action choices could have been improved and why these suggestions are likely to be effective in similar future situations;
4. What the other participants (lawyers, parties, supervisors) did that bothered you the most and why;
5. What were the decisive or turning points in the mediation, why were they critical, and what effective and ineffective action choices occurred then;
6. What surprised you during the mediation, why it surprised you, how you reacted, and how you evaluate your reactions.

In addition, reflection papers may appropriately consider, in specific ways using examples, topics such as:

- A. Lessons drawn from the mediation experiences;
- B. Questions stimulated by the mediation experiences;

- C. Suggestions for improving course procedures, training exercises and readings.

These lists are neither exclusive nor mandatory but rather illustrative of the kinds of issues that are appropriately addressed in reflection papers. Please do not conceptualize the task as requiring a chronological description of the mediation from start to finish. You also do not have to write about every point that occurred to you in thinking about the experiences. Choose three to five points, context them effectively, and then develop them fully using specific examples. Avoid rambling, conclusory descriptions of what happened that never analyze specific behavioral choices.

Except where indicated otherwise, these papers must not exceed three typed or legibly hand-written, double-spaced, 8 ½ by 11-inch pages. If you do not type, please make margins and line-spacing choices that resemble double-spacing, leaving room for me to comment on your papers before returning them. The short deadlines contained in this Syllabus are essential to insure that you reflect, analyze, and write about these mediations while the experiences are still fresh.

ETHICAL ISSUES

Actual and simulated mediations are laden with ethical dilemmas that we will discuss when they are encountered. Simulated mediations present additional complications that will be discussed briefly.

Specifically, each simulated mediation involves written confidential information distributed to disputants. Although this information obviously influences what disputants say and do, the documents themselves may **NOT** be shared with anyone else. Disputants may **NOT** either read from or show these documents to anyone else. No one may ask questions about these documents before or during mediations.

You will be asked to return these documents at the end of each mediation, and to refrain from copying them while they are in your possession. Making and maintaining copies and distributing them to anyone else is prohibited.

Take care to get the correct set when you pick up confidential instructions. Please notify me immediately if you discover that you have the wrong document so that steps can be taken to preserve the integrity of the exercise. Reading more than one set of confidential information per mediation is prohibited. Gaining access to and using confidential information is also prohibited. **VIOLATING ANY OF THESE RULES TRANSGRESSES OUR LAW SCHOOL'S REGULATIONS REGARDING ACADEMIC DISHONESTY AND WILL BE DEALT WITH ACCORDINGLY.**

SOME FINAL THOUGHTS ON COURSE GRADING

I will grade two hours of this course on a letter basis with the remaining four credits awarded on an S/U system. Grades are important to you and to those unfortunately narrow-minded law firms who look only at GPAs when deciding whom to hire. Grading is also difficult to do well, particularly in clinical courses. Because grading causes me anxiety, and is likely to cause you some as well, I want to be as explicit as possible about how grades are computed in this course.

All written assignments will be evaluated on the point scales described earlier. I or volunteer mediators will observe all actual co-mediations and evaluate them using a 15-point scale. The points you earn for each performance and papers will be totaled at the end of the semester and that computation will be used to set your final grade. Up to 15 points for class participation will also be awarded at the end of the term.

No method of grading ever totally resolves the subjective aspects that irritate and anger those who do not earn the marks they feel that they should have received. The approach articulated here may be challenged on that basis. It also may be attacked because it simultaneously asks you to learn and be evaluated. Ordinarily, non-clinical courses follow a two step process: first, learning [hopefully], and then testing. This course provides much more feedback because it involves all of us in continually assessing our knowledge and skill levels. It may be that fewer assessments would generate less stress although that theory certainly doesn't describe the one test at the end approach used in many traditional courses. On the other hand, fewer assessments would be worth more proportionately and could thus produce more anxiety.

The present approach was chosen to spread the dreaded risk of failure [which we all experience] around as much as possible. It provides lots of opportunities for self-assessment, the most important route to professional competence. It also tracks practice where everything you do subjects you to subtle evaluations that ultimately add up to reputation, a factor that directly affects your level of professional satisfaction and success.

I will try to be as explicit about criteria as I can be, basing assessments on the theories articulated in *Peace*. I will provide detailed oral feedback about the video clips screened in class, and detailed written feedback on forms I complete while observing your co-mediating performances. I will also provide brief, written feedback on your papers.

Having said all this about grading, my belief is that the most valuable feedback you will get in this course will be that which you generate from: (1) reflecting on your performances; and (2) measuring them against the theoretical discussions in readings and generated in class and the critiques you receive from us and each other. How far or little you progress in knowledge and skill development by these measures will ultimately mean much more to you and your career than the letter appended later to the total of points earned [even if that letter helps you get in the door of Smash, Bash & Crash, P.A.].

I will return your papers and our evaluation forms promptly as the course progresses so you will be able to see the marks that each earns. I do not, however, total scores until the course ends. Do not ask me what your total is, or to compare your level to others, during the term. I will not be able to provide this data. If you do the reading, prepare, participate, and reflect on your experiences here, you will learn a lot in this course, even if it does result in just another frustrating final grade.

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CYBEROPTIONS

This is version 1 of ADR@www. The goal is to provide a sampling of sites relevant to mediation and negotiation classes. Sites are selected because of their content, uniqueness, or local flavor. The addresses are good as of 8/15/2001. Please notify (preferably in writing) Don Peters of any updated addresses or valuable websites which are not included. A supplemental list will be available toward the end of the semester with your updates and additional sites.

MEDIATION

www.mediate.com containing an extensive library of over 200 articles on a wide range of topics

The Global Arbitration Mediation Association, Inc.: www.gama.com - “dispute resolution over the internet at the speed of light” these people facilitate mediations and arbitrations with the internet and have several downloadable documents including mediation forms

Mediation@MIT: web.mit.edu/mediation/www - example of on campus mediation project

Neighborhood Justice Center: www.applicom.com/njc - up in Tallahassee

ADR

American Arbitration Association: www.adr.org - Commercial Rules and Procedures, Labor and Employment Rules and Procedures, International Rules and Procedures, Forms, and Ethics and Standards. Also a link to their ftp site where you can download their "complete ADR package" (adr.zip). Links to other ADR pages, links to articles from *Dispute Resolution Times* and *Dispute Resolution Journal*, their *Beginner's guide to Alternative Dispute Resolution*.

American Bar Association Section of Dispute Resolution: www.abanet.org/dispute - includes ftp version of Janet Reno's "The value of Smart Negotiation and Mediation"

Conflict Research Consortium: www.colorado.edu/conflict/ - University of Colorado site with many working papers, a case study database, abstracts, research services, etc.

CPR Institute for Dispute Resolution; www.cpradr.org/welcome.htm - Several Bibliographies, articles from *Alternatives*, various national and state provisions and proposals on conflict of interest and advice giving in Mediation

Dimostenis's Conflict Resolution Page: www.geocities.com/athens/8945/#conflict - good set of links to other pages and, at /search.html, there are alternative, topic oriented, search engines

Institute for Dispute Resolution: www.dispute.resolution.uvic.ca - University of Victoria's site with a bibliography, articles from *Working Together*

Lectric Law Library's ADR Topic Area: www.lectlaw.com/tadr.htm - A legal search engine's page on ADR

Society of Professionals in Dispute Resolution: www.spidr.org - Has a link to their *Ethical Standards of Professional Responsibility*

NEGOTIATION

ADR resources: www.adrr.com - very good site maintained by attorneys in Wichita Falls, Texas. Has a lot of essays, tutorials, checklists, and links

Harvard Program on Negotiation: www.pon.harvard.edu

Negotiation and Resolution of Conflicts: www.cba.neu.edu/~ewertheim/links.htm - Among other interesting and humorous documents is a web-published text on negotiation by Professor E. Wertheim of Northeastern University

PERC: www.conflictresolution.org - Foundation for the Prevention and Early Resolution of Conflicts. PERC 101 is an internet based distance learning program on the mechanics of conflict resolution which includes modules on conflict resolution, mediation and negotiation among other topics.

MEYERS-BRIGGS (& other type related theory)

Association for Psychological Type: www.aptcntral.org/apt.htm - international organization with information about upcoming events, conferences, general information on personality type

Center for the Application of Psychological Type: www.capt.org - Right here in G'ville - books, training, articles, research interests

Consulting Psychologists Press, Inc.: www.mbti.com - publishers of the MBTI

Insights: www.win.net/insightsys - information on the Insights game and a quickie MBTI-like quiz

The Personality Project: pnc.psych.nwu.edu - links to type research, type sites

Stress profiles by type: www.dougdean.com/profiles/index.htm - click on your MB type and see how you react under stress.

Temperament Research Institute: home.earthlink.net/~trinstitute/home.html - articles by Linda Berens, Ph.D. (eg. "How to tell iNtuiting from extraverted Sensing")

COMMUNICATION THEORY

American Communication Association: www.americancomm.org - good link page on conflict and communication and plenty of other link pages covering other aspects of communication studies

ACTIVE LISTENING

Active Listening with Children and Young People: www.bll.com - scroll down to chapter 3 of an engaging, web-published book called Lessons in Lifemanship

CLINICAL LEGAL TRAINING

Upperclass (sic) Curriculum Guide: www.law.georgetown.edu (Then search: **alternate dispute resolution**) - Georgetown University has a half dozen faculty members and offers over 20 courses! This page briefly describes their approach to teaching ADR.

CREATIVITY

Creativity Self Assessment: www.volusia.com/creative/mag5.htm - online test of your creative/innovative attitude.

HUMOROUS LEX

'Lectric Law Library's Rubber Room: www.lectlaw.com/rub.html

Legal Humor & Lawyer Jokes: people.delphi.com/geaatl/joke.htm

How to Win Arguments: www.funnybone.com -by Dave Barry

Dumbest Things Ever Said in Court: www.wvliia.org/dumb.htm