

Mediation Advocacy
Spring 2025
Joan Stearns Johnsen

Mondays: 3:00 – 5:00
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Class Syllabus and Policies

Required Course Materials:

Text: Golann and Folberg, *Mediation* (3d ed. Aspen Publishers 2016) and Fisher, Ury, Patton, *Getting to Yes* (3d Edition 2011). It is strongly suggested that you will have taken Negotiation before you take Mediation Advocacy. This class will build on the negotiation concepts covered in that class and assume knowledge of negotiation theory.

Description of the Course and Course Objective and Learning Outcomes: This course is two credit hours. Please note that ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every “classroom hour” of in class instruction. Accordingly, in addition to the assigned reading, you will also prepare for your role plays. You will be expected to put sufficient time in preparing for your role plays and to come to class with familiarity with the facts, some of which are quite complex. You will often be asked to work out of class preparing with a partner in an attorney/client relationship. You may also need to do some out of class research to prepare for your mediations and complete and submit a preparation worksheet.

Mediation is a facilitated negotiation. At the conclusion of this course, you should be able to understand how negotiation and mediation fit into the continuum of dispute resolution processes, understand how to manage the mediation process, how to effectively work with a mediator, have an appreciation of the ethical considerations for lawyers and mediators in mediation, and manage the emotional, psychological, and cultural aspects of mediation. You will learn how to manage the negotiation with your client, with the mediator, and with your adversary- lawyer and client-indirectly through the mediator.

Simulated Mediation Exercises: Much of our class time will be spent engaged in simulated role play exercises. You will receive facts and confidential instructions for your role electronically. Please come to class having carefully read the materials that have been handed out in advance of class and having prepared as directed.

Guidelines for participation in roleplays:

1. Take the roleplay seriously; what you (and other participants) get from the roleplay is directly related to the effort you put into it.

2. As a party, do not deviate from the facts that are in either the general or your confidential instructions. You may, however, “fill in the blanks” in playing your role.
3. Play the role as a party the way you think the person in the situation would play it – not necessarily as you personally would respond.
4. If you are representing a party, take time to confer with your client before the mediation to be sure you understand what they desire from the mediation and what they want as an outcome.
5. Feel free to experiment and try different approaches to being a mediator or an attorney in the mediation.
6. Do not share your confidential information with the other participants until after the roleplay is completed.
7. Enjoy the roleplay experience. No one says you can’t have fun playing roles.

Instructions for Observers: Instructions for Observers: From time to time, you may be asked to play the role of observer. This is an excellent opportunity to learn. As an observer you are not immersed in the exercise as a participant and can have perspective of both sides. Take full advantage of this opportunity. Additionally:

1. Please help get exercise started on time and stop them on time.
2. Don’t interrupt role play unless to remind participants to stay in roles.
3. Observe non-verbal, as well as verbal, communications. Take notes on what you see and hear so you can make specific reference to what transpired, i.e., active listening examples.
4. At conclusion of the exercise distribute comparative factual summaries, if available, or ask participants to exchange confidential facts.
5. Lead discussion following exercise. Ask questions of participants to clarify their goals and strategies. Ask if they considered the mediation successful and why or why not. Ask what additional information is needed to complete the mediation and how it can be obtained.
6. Share your observations with the participants but be sure to point out positive behaviors as well as negative.
7. Be prepared to report on what you observed and the outcome, if any, in class and succinctly state any outcome determinative or significant factors.

Again, regardless of the role you will play in the exercise, you must come to class having carefully read the materials that have been handed out in advance of class and having prepared as directed.

Course Grading: Your grade for the course will be based on the following:

Participation. (30% of grade.) You are expected to read the assigned material before class, prepare for and participate in class discussion and in class exercises and role plays. Because this is a participatory class with assigned roleplays, your classmates and I depend on your punctual attendance each class. If you must miss a class or are late, please communicate to me and to your teammates your likely absence or tardiness before class. **You must also email me the reason with as much notice as possible so arrangements can be made to accommodate your absence or tardiness.** If you have an unexcused absence, are late, or are unprepared, it will be noted and will impact your grade. Midway through the semester, you will also be expected to submit preparation worksheets – regardless of the role you are playing in the mediation. We will discuss this more fully in class. There will also be three guests that will be required. At this point, the first will be on Friday, January 24 from 12 to 1 on zoom. The second will be in person on Monday, February 11, 2025, from 12-1. Pizza will be served. The third will likely be on a Friday, TBD, from 12-1 on zoom. If you have a conflict, please let me know as soon as possible.

For questions about delays in submitting works, please refer to the law school’s policy, available at <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/currentstudents/formsapplications/exam-delays-accommodations-form..>

Attendance is required. Anything in excess of one absence (the equivalent of two one hour classes) may render a student ineligible to receive credit for the course regardless of the reason for the absence. Your attendance and preparation are critical in this class. If you are absent from class, you will disrupt the exercise for you and for your classmates.

Classes will begin promptly at the scheduled time. Students arriving late will receive partial credit for attendance for that day.

(<https://catalog.ufl.edu/ugrad/current/regulations/info/attendance.aspx>) and may require appropriate documentation.

2) **Final Examination.** (70% of grade.) There will be a three hour, fixed date, in-person, closed book exam.

The grading scale for the course is:

<u>Grade</u>	<u>Point</u>	<u>Grade</u>	<u>Point</u>	<u>Grade</u>	<u>Point</u>
A (Excellent)	4.0 0.67	C+	2.33	D-	
A-	3.67	C (Satisfactory)	2.00	E (Failure)	

	0.0		
B+	3.33	C-	1.67
B (Good)	3.00	D+	1.33
B-	2.67	D (Poor)	1.00

Information on current UF grading policies for assigning grade points may be found at <https://catalog.ufl.edu/ugrad/current/regulations/info/grades.aspx>.

UF Student Honor Code: Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php>.

Accommodations: Students with disabilities requesting accommodations should first register with the Disability Resource Center (352-392-8565, www.dso.ufl.edu/drc/) by providing appropriate documentation. Once registered, students will receive accommodation. Students with disabilities should follow this procedure as early as possible in the semester.

Preferred Name and Pronouns

It is important to the learning environment that you feel welcome and safe in this class; and that you are comfortable participating in class discussions and communicating with me on any issues related to the class. If your preferred name is not the name listed on the official UF roll, please let me know as soon as possible by e-mail or otherwise. I would like to acknowledge your preferred name, and pronouns that reflect your identity. Please let me know how you would like to be addressed in class if your name and pronouns are not reflected by your UF-rostered name. I welcome you to the class and look forward to a rewarding learning adventure together.

When class is on Zoom- you may also change your "Display Name" in Canvas. Canvas uses the "Display Name" as set in myUFL. The Display Name is what you want people to see in the UF Directory, such as "Ally" instead of "Allison." To update your display name, go to one.ufl.edu, click on the dropdown at the top right, and select "Directory Profile." Click "Edit" on the right of the name panel, uncheck "Use my legal name" under "Display Name," update how you wish your name to be displayed, and click "Submit" at the bottom. This change may take up to 24 hours to appear in Canvas. This does not change your legal name for official UF records

Discourse, Inclusion, and the Classroom Ethos

As a law student and future lawyer, it is important that you be able to engage in rigorous discourse and critical evaluation while also demonstrating civility and respect for others. This is even more important in the case of controversial issues and other topics that may elicit strong emotions.

As a group, we are likely diverse across racial, ethnic, sexual orientation, gender identity, economic, religious, and political lines. As we enter one of the great learning spaces in the world—the law school classroom—and develop our unique personality as a class section, I encourage each of us to:

- commit to self-examination of our values and assumptions
- speak honestly, thoughtfully, and respectfully
- listen carefully and respectfully
- reserve the right to change our mind and allow for others to do the same
- allow ourselves and each other to verbalize ideas and to push the boundaries of logic and reasoning both as a means of exploring our beliefs as well as a method of sharpening our skills as lawyers

As part of my commitment to teaching and serving the diverse UF Law community, I have signed the UF Law Anti-Racism Resolution.

Class Schedule: We will meet once each week. Monday’s class will be from 3:30 until 5:30. Class will be in-person- although there will be a few classes held on Zoom. You will be given notice in advance of classes that will be conducted on Zoom. When this is the case, you will find the link posted to Canvas.

Office Hours: My regular Office Hours are Mondays 1:00-2:00 pm for in-person Office Hours and Tuesdays from 8:30 to 9:30 am for Zoom meetings. Additionally, I am always available for meetings by appointment. The Zoom Office Hour Link will be a recurring link. (Use the same link each week.) It will be posted to an “Announcement” on Canvas prior to the first online office hour meeting.

Online Course Evaluations: Students are expected to provide feedback on the quality of the instruction in this course by completing online evaluations at <https://evaluations.ufl.edu>. Evaluations are typically open during the last two or three weeks of the semester, but students will be given specific times when they are open. Summary results of these assessments are available to students at <https://evaluations.ufl.edu/results/>.

Canvas: Please check Canvas regularly for new postings. Make certain that your Canvas Account is set to receive emails, **and that you have not disabled the email forwarding feature.** Canvas is my primary method of communication, and you put yourself at a serious disadvantage if you cannot access the emails and announcements I post on Canvas. You will also access the role play instructions and private facts as well as the Pairs and Teams on Canvas. I also regularly post supplemental materials to the Modules. If you have difficulty accessing or working with Canvas, please reach out to the Help Desk.

If you do not adequately prepare, you will lose credit! You are expected to spend 4 hours each week on this class. Much of that time should be spent preparing for the role plays. In addition to compromising your own learning, you disadvantage those you are working with if you do not prepare. Classes will begin promptly at the scheduled time. Students arriving late will receive

partial credit for attendance for that day. Anything in excess of 15% unexcused absences may render a student ineligible to receive credit for the course. Excused absences are consistent with University policies (<https://catalog.ufl.edu/ugrad/current/regulations/info/attendance.aspx>) and may require appropriate documentation. We are in a pandemic. If you are ill, your absence will be excused. Please notify me and your teammates in advance.

Reading Assignments and Exercises

Please note, this list of exercises and role plays will likely change as the semester progresses! A role play may extend over two classes for example. I greatly appreciate your flexibility and patience. Changes to this chart will be posted on Canvas in an Announcement or I will tell you in class. Role-Play instructions will be posted on Canvas or handed out in class.

<u>Date</u>	<u>Topic</u>	<u>Class Activity</u>	<u>Assigned to Read Prior to Class</u>
Class 1	Understanding Conflict and the Dispute Resolution Framework	Introductions The Black Lab and the Blue Ribbon Roses	Read all of <i>Getting to Yes</i> and Chapter 1 of our text for the first day of class.
Class 2	Negotiation Review: The Method	Computec and Golden State	Chapter 3
Class 3	Negotiation Review: Styles Mediator Styles	Termination Tempest	Chapters 2
Class 4	An overview of the mediation process	Negotiation/Mediation roleplay Continue Termination Tempest <i>Today, Ellen Waldman will present a required in person program from 12-1 on Negotiation Ethics. Pizza will be served. Room TBD.</i>	Chapter 5
Class 5	An overview of the mediation process continued	Begin When the Chips are Down	Chapters 6 and 11
Class 6	Preparation	Continue When the Chips are Down Broken Benches	Chapter 10
Class 7	Process Skills	Mediation roleplay and discussion Broken Benches case	Chapter 7
Class 8	Breaking Impasse	Mediation roleplay and discussion Culture Bubble	Chapters 4 and 8

Class 9	Breaking impasse: Understanding Evaluation in Mediation	Mediation roleplay and discussion Waltham Construction	Chapter 9
Class 10	Ethics	Mediation roleplay and discussion Ceiling Collapse	Chapter 15
Class 11	Professional Mediators On Zoom	Mediation roleplay and discussion TBD Prosando v. Med Pro or Mumbai Partners Preparation	
Class 12	Putting it Together	Debrief of mediation with professional mediators	
Class 13	Review		Review