

**MEDIATION ADVOCACY**

**FALL SEMESTER 2018**

**LAW 6930/Section 1099**

**3 credits**

**PROFESSOR:** Carl B. Schwait

Office: TBA

Email: [schwait@law.ufl.edu](mailto:schwait@law.ufl.edu)

Phone: 352-538-3221

**CLASSROOM:** HOL 284

**CLASS TIMES:** Monday, 2:00-4:30 PM

**OFFICE HOURS:** Monday, 1:00-1:50 PM; Monday, 4:30-5:00 PM; Thursday, 4:30-5:00 PM

**COURSE COMMUNICATIONS:** All students are required to participate on Canvas which will be the communication process for the class.

**REQUIRED TEXT:** Mediation Representation: Advocating as a Problem Solver (3<sup>rd</sup> edition) by Harold L. Abramson

**OTHER RECOMMENDED RESOURCES:** Can We Talk: Readings in Mediation Advocacy (Fall 2011) by Don Peters; Mediation Advocacy (2<sup>nd</sup> edition) by John W. Cooley

**COURSE DESCRIPTION:** The focus of this course is the role of the attorney advocate in a mediation. This course presents a forum for the analysis and implementation of how to fully participate in the mediation process as an advocate. The course will include class lectures, class discussion, workshop sessions on particular topics, all resulting in the participation in several simulated mediations.

**PURPOSE OF COURSE:** It is the purpose of this class to share knowledge about theories of negotiation and advocacy which will allow students to prepare, conduct, and evaluate mediations tasks effectively. Additionally, the course hopefully will create opportunities to practice fundamental actions to allow students to improve existing competencies and develop new skills by performing mediation advocacy tasks.

**COURSE GOALS AND/OR OBJECTIVES:** By the end of this course, students will:

1. utilize the different theories of negotiation and advocacy in the mediation process.
2. prepare for and attend pre-mediation conferences with clients.
3. prepare for and present opening statements in a mediation.
4. prepare for and participate in the mediation caucus process.
5. evaluate each step of the mediation process based on the facts of the case; their own personality traits; the client's personality traits, goals and needs; and the personality traits of and methodology used by the mediator.

**INSTRUCTIONAL METHOD:** This is an interactive course. The discussions are structured to allow class contributions by students. Pursuant to ABA Standard 310, it is anticipated that each student will spend approximately two hours of preparation for every hour of class. This includes preparation for class discussions, class workshops, and simulated mediations. Each student will participate in one client counseling workshop as a lawyer and as a client. Each student will participate in an opening statement workshop as a lawyer. The class culminates with each student's participation in two full simulated mediations as a negotiating attorney and another two full mediations as a client. The student will receive ongoing critiques by this professor, fellow classmates, visiting lawyers, and mediators.

**ATTENDANCE POLICY:** Attendance is required for **ALL** classes. Attendance will be taken at each class. All absences from class must be pre-approved by the professor. The student must submit an email to request an absence no later than 12:00PM the day **PRIOR** to the class. If the excuse for an absence is based on illness, this absence may be approved after the fact upon sufficient showing of severe illness. Upon approval of any absence, the professor will designate the makeup assignment, if any, to be completed. An unexcused absence, especially from a workshop or mediation, can result in the student's receiving no credit for the course.

**GRADING:** This class is graded on a Pass/Fail grading system. However, in certain instances, a grade of S+ will be awarded to those students whose performance in the simulated mediations shows an exemplary mastery of the subject matter based on the opinions of the mediators, as well as the student's work ethic and professionalism throughout the semester in terms of class participation, preparation for and participation in class workshops, and completion of class assignments. In the event a student does not fulfill the attendance requirements, a grade of "Incomplete" will be entered.

**COURSE TECHNOLOGY:** Due to the interactive nature of this course, there will be **NO** use of student computers, tablets, iPads and cell phones during class time. The professor will advise when a student may use such devices and for what purpose. Cell phones are to be turned off when class begins.

**UF POLICIES:**

**UNIVERSITY POLICY ON ACCOMMODATING STUDENTS WITH DISABILITIES:** Students requesting accommodation for disabilities must first register with the Dean of Students Office (<http://www.dso.ufl.edu/drc/>). The Dean of Students Office will provide documentation to the student who must then provide this documentation to the instructor when requesting accommodation. You must submit this documentation prior to submitting assignments or taking the quizzes or exams. Accommodations are not retroactive, therefore, students should contact the office as soon as possible in the term for which they are seeking accommodations.

**UNIVERSITY POLICY ON ACADEMIC MISCONDUCT:** 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>.

**CLASS DEMEANOR:** Students are expected to arrive to class on time and behave in a manner that is respectful to the professor and to fellow students. Please restrict eating to outside the classroom. Opinions held by the professor and fellow students should be respected in discussion, and conversations that do not contribute to the discussion should be held to a minimum, if at all. All members of the class are expected to follow rules of common courtesy in all email messages, threaded discussions and chats.

**COURSE EVALUATION:** Students are expected to provide feedback on the quality of 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/>.

**COURSE SCHEDULE**

Date	Class	Reading Assignments
Monday August 13	Introduction to Mediation Advocacy and to the Course  Participate in the case of "Whose Television?"	Pages: 104-114
Monday August 20	Core Negotiation Action Theories  Core Action Skills: Asserting, Listening, Empathizing	Pages: 19-100  Pages: 126-128; 493-502
Monday August 27	Information Gathering by Advocates and Mediators  Client Counseling: Pre-mediation; Preparation for Mediation; During Mediation	Pages: 143-174; 372-379
Monday September 3	<b>No Class</b>  <b>Labor Day holiday</b>	
Monday September 10	Workshop on Client Counseling  Pre-mediation Considerations; Opening Statements	Pages: 217-229; 265-269; 277-294
Monday September 17	Workshop: Opening Statements  Caucus Advocacy	Pages: 117-125; 194-202; 230- 242; 392-395
Monday September 24	Panel Discussion: The Mediation Process from the Mediator's Perspective  Panel Discussion: The Mediation Process from the Lawyer's Perspective	

Monday October 1	Personalities in Mediation	
Monday October 8	Review of Upcoming Mediations and of Mediation Process	
Monday October 15	A Family Divided Mediation: Opening Statements; Caucuses; Review	
Monday October 22	The Y Factor Mediation: Opening Statements; Caucuses; Review	
Monday October 29	John and Mary Mediation: Opening Statements; Caucuses; Review	
Monday November 5	Ride to Remember Mediation: Opening Statements; Caucuses; Review	
Monday November 12	<b>No Class</b> <b>Veteran's Day Holiday</b>	
Monday November 19 or 26	Final Class: Review of Semester	

**DISCLAIMER:** This syllabus represents this professor's current plans and objectives. As we go through the semester, those plans may need to change to enhance the class learning opportunity. Such changes, communicated clearly, are not unusual and should be expected.



