

SYLLABUS

Mediation 461A -- Fall 2015

Wednesdays from 6:30 pm – 9:45 pm

Commencing September 16 through November 18, 2015

No Holidays

Prof. Thomas & Prof. Carey

Required textbook: Abramson, *Mediation Representation – Advocating as a Problem Solver*, Third Edition, Wolters Kluwer, Aspen Casebook Series

Required text: Straus Institute, Pepperdine University School of Law: *Mediation – the Art of Settlement*

Students will be expected to be familiar with the assigned reading. In this skills course, your professors will not lecture directly from the text, but will instead bring the text to life by using guest speakers, demonstrations, thought problems and specific exercises. Students are expected to draw on the reading materials to navigate through the obstacles presented and to contribute to class exercises.

Grades: This is a skills course with an emphasis on demonstrating knowledge and application of the principles of mediation. Class time will be devoted to learning both the theory and application of mediation through lectures, in-class exercises, role playing, and debriefing and analysis of challenging issues. Being present and actively engaged in discussions is required. One half [50%] of your grade will be based upon in-class participation, which includes the end-of-semester ‘mock mediations,’ with your role-playing both ‘mediators’ and ‘clients’. There will also be a take home final exam which will count for the remaining one half [50%] of your final grade.

Extra Credit: It is the professors’ practice in this class to offer learning opportunities by which students can earn extra credit. Such opportunities will be assigned as agreed in advance, between each student and the professors.

Absence Policy: This skills class puts a premium on *actually being present and participating in discussions. Therefore, overall participation is one half of your grade and attendance is a percentage of the participation grade. In a 30 hour course, up to 3 hours absence [one evening] may not affect your overall participation grade, and thus will not be counted against the percentage attributable to attendance. More than 3 hours absence, however, must be excused by your professors. Caveat: Even a 3 hour absence may significantly affect your participation grade in other ways, e.g., your participation in the mock mediation, which will be important to your overall participation grade. Please work with your Professors regarding any anticipated absences.*

Week #1 READING: Abramson, Introduction and Chapter 1
 Pepperdine Materials Sections 1 and 2
 Handouts from other texts/sources as provided in class

CLASS TOPICS: Importance of class participation
Different mediation approaches

- positional or evaluative approach
- integrative or facilitative approach
- application of approaches to Family Law vs. Business Law
- focus on role of “advocate” in mediation as well as the mediator’s role

Week #2 READING: Abramson, Chapter 1 (continued)
 Pepperdine Materials Section 3
 Handouts from other texts / sources as provided in class

CLASS TOPICS: Negotiation as the core skill in mediation
Stages of mediation:

- preparing (listening, gathering information)
- exchanging information, creating options, identifying “interests”
- overcoming impasse
- reaching closure, documenting deal

Week #3 READING: Abramson, Chapter 2
 Pepperdine Materials Sections 4 and 5
 Handouts from other texts/sources as provided in class

CLASS TOPICS: Techniques of mediators

- convening the parties
- using joint sessions vs. separate caucuses
- reframing sensitive issues
- dealing with parties’ emotions
- responding to inequities of power
- getting initial reasonable demand and offer
- closing the gap; mediator’s proposal

Week #4 READING: Abramson, Chapter 3
 Pepperdine Materials Section 6
 Handouts from other texts/sources as provided in class

CLASS TOPICS: Counseling client about mediation (exercise, role playing)

- interviewing techniques
- ripeness of case for mediation

- select the mediator
 - training in mediation process
 - subject matter expertise
 - neutrality
- use of narrative or storytelling techniques

Week # 5 READING: Abramson, Chapter 4
 Pepperdine Materials Section 7
 Handouts from other texts/sources as provided in class

- CLASS TOPICS: Preparing for Mediation
- decide on location
 - agree on terms of payment to mediator
 - assure confidentiality
 - build consensus; illustration from film
 - refine client's narrative
 - decide who is "audience"
 - enlist mediator's assistance

Week #6 READING: Abramson, Chapter 5
 Pepperdine Materials Section 8
 Handouts from other texts/sources as provided in class

- CLASS TOPICS: Formulate and implement strategy
- decide on client's role (to present opening?) vs. attorney/advocate
 - determine "interests" of both parties
 - divide responsibilities
 - who should be present?
 - what visual aids?

Week # 7 READING: Abramson, Chapter 6
 Pepperdine Materials Section 9
 Handouts from other texts/sources as provided in class

- CLASS TOPICS: Prepare client for mediation
- explain process
 - explain his/her role
 - use checklist to cover all points

Week #8 READING: Abramson, Chapter 7
 Pepperdine Materials Section 10
 Handouts from other texts/sources as provided in class

- CLASS TOPICS: Appear at mediation session
- deliver opening statements (role play) in joint session

- enlist mediator's support

Week #9 READING: Abramson, Chapter 8
 Pepperdine Materials Section 11
 Handouts from other texts/sources as provided in class

CLASS TOPICS: Breaking impasse
 - alternatives to mediation
 - ethical issues in mediation
 - application of mediation techniques to stories in the headlines
Semester Summary and Conclusion

Week #10 NO READING.

CLASS TOPICS: Mock Mediations.

DISABILITY SERVICES STATEMENT:

Western State College of Law provides accommodations to qualified students with disabilities. The **Disabilities Services Office** assists qualified students with disabilities in acquiring reasonable and appropriate accommodations and in supporting equal access to services, programs, and activities at Western State College of Law.

To seek reasonable accommodations, a student must contact Senior Assistant Dean Donna Espinoza, Student Services Director and Disabilities Services Coordinator, whose office is in the Second Floor Students Services Suite. Dean Espinoza's phone number and email address are: (714) 459-1117; despinoza@wsulaw.edu. When seeking accommodations, a student should notify Dean Espinoza of her or his specific limitations and, if known, her or his specific requested accommodations. Students who seek accommodations will be asked to supply medical documentation of the need for accommodation. Classroom accommodations are not retroactive, but are effective only upon the student sharing approved accommodations with the instructor or professor. Therefore, students are encouraged to request accommodations as early as feasible with Dean Espinoza to allow for time to gather necessary documentation. If you have a concern or complaint in this regard, please notify Dean Espinoza; or please notify Associate Dean of Students Charles Sheppard at csheppard@wsulaw.edu or (714) 459-1152. Complaints will be handled in accordance with the College of Law's "Policy against Discrimination and Harassment."