

SYLLABUS

Mediation 461A - Spring 2019

Wednesday 6:40 p.m. to 9:50 p.m.

Professor Lisa Risner

Required Textbooks:

Paul J. Zwier/Thomas F. Guernsey, *Advanced Negotiation and Mediation Theory and Practice – A Realistic Integrated Approach*, Second Edition, National Institute for Trial Advocacy, 2016.

Harold I. Abramson, *Mediation Representation, Advocating as a Problem-Solver*, Third Edition, Wolters Kluwer, 2013.

There will be additional reading and various handouts/materials provided by the professor throughout the semester.

Course Objectives:

1. Attain understanding of the mediation process, the role and ethical demands of the mediator, and the importance of mediation in the world of dispute resolution.
2. Become mindful and effective communicators, negotiators and facilitators with emphasis on audience sensitivity (developing a tone, style and level of detail appropriate to the needs, knowledge and expertise of the audience) and proficiency in both oral and written communication (use of appropriate grammar, spelling, punctuation, and diction to convey ideas).
3. Develop both the art and skill of mediation through observation, role play and reflection/analysis through both oral and written exercises.
4. Demonstrate the ability to locate relevant legal authority (including codes and case law) regarding the mediation process as it relates to confidentiality, ethics, and evidentiary privileges.

Grades:

This is an advanced professional skills course with an emphasis on demonstrating knowledge and application of mediation principles. You will be graded on participation (50% of grade) and a take-home final exam (50% of grade). Attendance comprises a percentage of the participation portion of your grade. Even one class absence may significantly affect your participation grade. **For every hour in class, it is anticipated and expected that you will spend a minimum of two hours outside of class.**

Class time will be devoted to learning both the theory and application of mediation principles through the following:

- Lectures
- Student discussion and analysis of reading material
- In-class exercises and role plays
- Mock mediations
- Panel discussion with professional mediators

WEEK # READING:

Week 1 Chapter 1 *Advanced Negotiation and Mediation Theory and Practice – A Realistic Integrated Approach*

Chapter 1 *Mediation Representation, Advocating as a Problem-Solver*

Week 2 Chapter 2-3 *Advanced Negotiation and Mediation Theory and Practice – A Realistic Integrated Approach*

Chapter 2 *Mediation Representation, Advocating as a Problem-Solver*

Week 3 Chapter 4 *Advanced Negotiation and Mediation Theory and Practice – A Realistic Integrated Approach*

Chapter 3 *Mediation Representation, Advocating as a Problem-Solver*

SPRING BREAK - NO CLASS ON MARCH 6th

Week 4 Chapter 5 *Advanced Negotiation and Mediation Theory and Practice – A Realistic Integrated Approach*

Chapter 4 *Mediation Representation, Advocating as a Problem-Solver*

Week 5 Chapter 6-7 *Advanced Negotiation and Mediation Theory and Practice – A Realistic Integrated Approach*

Chapter 5 *Mediation Representation, Advocating as a Problem-Solver*

Week 6 Chapter 8-9 *Advanced Negotiation and Mediation Theory and Practice – A Realistic Integrated Approach*

Chapter 6 *Mediation Representation, Advocating as a Problem-Solver*

<u>WEEK #</u>	<u>READING:</u>
Week 7	Chapter 10-11 <i>Advanced Negotiation and Mediation Theory and Practice – A Realistic Integrated Approach</i>
	Chapter 7 <i>Mediation Representation, Advocating as a Problem-Solver</i>
Week 8	Chapter 12 <i>Advanced Negotiation and Mediation Theory and Practice – A Realistic Integrated Approach</i>
	Chapter 8 <i>Mediation Representation, Advocating as a Problem-Solver</i>
Week 9	NO READING - MOCK MEDIATIONS IN CLASS
Week 10	NO READING - MOCK MEDIATIONS IN CLASS

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 Students Services Suite 119. 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 the 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 Dean Allen Easley at aeasley@wsulaw.edu or (714) 459-1168. Complaints will be handled in accordance with the College of Law's "Policy against Discrimination and Harassment."

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EXHIBIT A

Argosy University Institutional Learning Outcomes:

1. Analytical Reasoning

Analyze issues objectively, interpret and synthesize data and ideas, and develop feasible, flexible, and creative solutions to real world problems

2. Effective Communication

Identify audiences, assess information provided, interpret needs, and present relevant information using appropriate written, oral, and listening skills and media to meet the needs of the situation

3. Information Competency

Gather, evaluate, and ethically use information from a variety of relevant technological and library resources to make decisions and take action

4. Interpersonal Effectiveness

Develop individual and group interpersonal skills to improve and foster participation and interaction critical for achieving individual and group goals

5. Personal and Professional Integrity and Ethical Behavior

Demonstrate a multi dimensional awareness of individual and social responsibility to act ethically and with integrity in a diverse, global society.

6. Professional Competence

Apply skills appropriate to program objectives and employ critical reasoning to contribute to one's field and profession

EXHIBIT B
Western State College of Law – Programmatic Learning Outcomes

Western State College of Law’s curriculum is designed so that every student achieves a level of competency prior to graduation in each of the eight Programmatic Learning Outcomes listed below:

(1) Doctrinal Knowledge

Students will demonstrate knowledge of substantive and procedural law in the core curriculum subjects, including Contracts, Criminal Law, Criminal Procedure, Torts, Real Property, Business Association, Evidence, Civil Procedures, Constitutional Law, Estates, Community Property, Remedies, and Professional Responsibility.

(2) Practice Skills

Students will demonstrate the development of other law practice skills. Each student’s chosen outcomes within this category will be varied based on the student’s particular interests, coursework and work experiences. They may include, but are not limited to, the following topics: oral presentation and advocacy; interviewing; counseling; client service and business development; negotiations, mediation, arbitration, or other alternate dispute resolution methods; advanced legal research and writing (excluding purely academic papers and the first four units earned in introductory first-year legal research and writing class); applied legal writing such as drafting contracts, pleadings, other legal instruments; law practice management or the use of technology in law practice; cultural competency; collaboration or project management; financial analysis, such as accounting, budgeting project management, and valuation; cost benefit analysis in administrative agencies; use of technology, data analyses, or predictive coding; business strategy and behavior; pre-trial preparation, fact investigation, such as discovery, e-discovery, motion practice, assessing evidence, or utilizing experts; trial practice; professional civility and applied ethics; a law clinic that includes a classroom component; or a legal externship that includes a classroom component.

(3) Legal Analysis

Students will demonstrate the ability to identify the factual and legal issues implicated by a fact pattern and to appropriately use cases (including identifying the salient features of an appropriate precedent case, identifying legally significant similarities or differences between the precedent case and a fact pattern and explaining why those are legally significant) and rules (including the ability to connect legally significant facts in a fact pattern to the rule) to predict how a court would decide the issue. Students will also demonstrate the ability to identify and evaluate the public policies of a precedent case or rule, and be able to evaluate how public policy can impact the application of a rule to the legal issue.

(4) Legal Research

Students will demonstrate the ability to locate relevant legal authority using a variety of book and electronic resources, and to properly cite to such legal authority.

(5) Communication

Students will demonstrate the ability to communicate both orally and in writing in a manner appropriate to a particular task to effectively convey the author or speaker's ideas. This includes audience sensitivity in written and oral communication (the ability to adopt a tone, style and level of detail appropriate to the needs, knowledge and expertise of the audience); and written communication basic proficiency (the ability to use the conventions of grammar, spelling, punctuation, diction and usage appropriate to the task and sufficient to convey effectively the author's ideas).

(6) Advocacy of Legal Argument

Students will demonstrate the ability, in both oral and written formats, to evaluate the legal, economic and social strengths and weaknesses of a case and use case and statutory authority as well as public policy to persuade others. Making policy-based arguments includes the ability to identify and evaluate the public policies of a precedent case or rule and their implications, and be able to assert such appropriate arguments to support a particular application or distinction of a precedent case to a legal controversy or a particular resolution of the application of a rule to the legal controversy.

(7) Client Sensitivity and Cultural Competency

Students will demonstrate an awareness of clients' needs and goals, including a sensitivity to clients' background and circumstances (including, but not limited to, socio-economic, gender, race, ethnicity, educational, disability and/or religious background(s)), the ability to make decisions that reflect an appropriate focus on those needs and goals, and awareness that cultural issues may affect the relevance of facts and application of the law.

(8) Legal Ethics

Students will demonstrate the ability to identify ethical issues in law practice contexts and make appropriate decisions to resolve such issues.