

VERMONT LAW SCHOOL
NEGOTIATION
(2 Credits)

Professors Tad Powers and Adam Powers

Fall 2019

Office Phone (802) 388-2211

tad@markspowers.com

adam@markspowers.com

Course Description

THIS IS AN INTENSIVE COURSE TO BE OFFERED OVER THE COURSE OF 4 DAYS. We will explore what it means to be an effective negotiator and we will practice this important professional and life skill. Theories from law, economics, psychology, sociology and management will be discussed and put into practice in interactive simulations. We will emphasize the negotiation skills needed in deal making and dispute resolution. We will explore how dynamics change when moving from two-party to multi-party negotiations and look at how personal values and codes of ethics influence our behavior. Readings must be completed before classes.

Scheduling

We will begin promptly, **so plan on arriving at least 5 minutes early**. If you arrive after the start time, you **will be marked late**. We will meet in **Oakes 208**:

| | |
|----------------------|-------------------|
| Friday, October 4 | 2:10 pm - 6:30 pm |
| Saturday, October 5 | 8:00 am - 6:30 pm |
| Friday, October 18 | 2:10 pm - 6:30 pm |
| Saturday, October 19 | 8:00 am - 6:30 pm |

Attendance

This is a skills-building class. You will be playing roles as negotiators, both as attorneys and clients; the learning of the whole class depends on your participation. Attendance at all class sessions is mandatory.

Textbooks and Class Materials

D. Malhotra and M.H. Bazerman, Negotiation Genius (Bantam 2007) (paperback, ISBN 978-0-553-38411-6)

The Syllabus and Course Handouts will be available on TWEN

SCHEDULE OF COURSE ASSIGNMENTS

1. **Assignments for Class 1 (10/4/19):**
 - a. Read *Negotiation Genius, Parts I and II*:
Required Reading: Chapters 1 and 2 (Pages 15-82.);
Chapters 4 and 5 (Pages 105-138).
Chapters 3 and 6 recommended but not required.
 - b. (Find and) Read Vermont Model Rules of Professional Conduct 4.1, 1.6, 1.2, and 8.4.
2. **Assignment for Class 2 (10/5/19):**
None: get some rest.
3. **NOTE: The following two Assignments will be due by midnight on Sunday, October 13*, 2019:**
 - a. **BOOKS Email Negotiation 10/6/19- 10/13/2018:**
(Roles and details to be handed out in class during the first weekend)
This exercise is to be conducted by email over the course of (up to) seven days.
BEGIN no earlier* than 12:01 am on Sunday, October 6, 2019.
END and turn in email threads no later* than midnight on Sunday, October 13, 2019. EACH participant should email the negotiation threads to BOTH professors.

*IF the designated time is inconvenient for participants, you may negotiate a different one-week period within which to negotiate, but in any event the negotiation should be concluded and emailed to professors by Friday, October 18, 2019. If you amend the designated time, include that negotiation in the thread you turn in.
 - b. **Journal Assignment #1 due by midnight on Sunday, October 13, 2019.**
Describe at least one lesson learned from each simulation. You may include *Books* in this assignment, if you have completed it, or you may include it with the second Journal entry reflecting on the exercises from the second weekend. Tie in as many concepts as you can from lecture or text. Feel free to agree or disagree with the theory based on your experience, both in general and in your particular case. Include narratives of the negotiation *only* to the extent doing so helps explain the concepts you are illustrating. You may spend more time writing about the exercises that were more compelling to you, and less time writing about others. 1000 words total.
4. **Assignment for Class 3 (10/18/19):**
Read Part III of *Negotiation Genius*:
Required Reading: Chapters 7 and 8 (Pages 159-195);
Chapters 11 and 12 (Pages 236-279).
Recommended but not required: Chapters 9 and 10.
5. **Assignment for Class 4 (10/19/19):**
No additional assignments.
6. **Journal assignment #2 due by midnight on Sunday, October 27, 2019.**
Part A: Debrief Second Weekend Exercises (including *Books* if you didn't include it in your prior

Assignment) Same as parameters as Journal Assignment #1/First Weekend debrief.

Part B: Debrief an actual real-life negotiation in which you personally participated, any time since the first class meeting. Compare it to your classroom simulations. What concepts from the lecture/reading can you apply?

1500 words *total*.

Course Goals for Learning Outcomes and Competencies

By the conclusion of this course, a successful student will have demonstrated the following, BOTH in journal submissions and in class discussions:

- A grasp of theories and principles of negotiation, joint problem-solving and joint decision-making;
- Appreciation of contrasting characteristics of deal-making negotiation vs. dispute resolution negotiation and facility for negotiating in both contexts;
- Personal development of negotiation skills, including Interest-Based AND Value Claiming Negotiation Skills;
- Ability to detect and work with parties' hidden or unstated motivators, interests, or biases.
- Experimentation with a variety of negotiating techniques in different contexts, including legal, personal, business, bilateral, multi-lateral and multi-issue matters;
- Recognition and application of ethical issues in negotiation;
- Competency in negotiating as an agent on behalf of a principal.
- Facility with alternatives to negotiation; and
- Exploration of individual negotiation style, personal reactions to conflict, and attitudes toward conflict and dispute resolution.

Course Requirements

You will be expected to read, write, discuss and perform in this course. You will be required to apply what you learn through participation in negotiation exercises. Specifically, you will be expected to:

- attend all scheduled classes on time, prepared and ready to participate in the exercises and discussion;
- complete all the assigned reading;
- contribute to in-class discussions;
- actively engage in exercises and simulations;
- reflect on your negotiation skills, be open to feedback and be prepared to offer constructive comments to your classmates; and
- write and submit reflective journal entries described above.

Journal Exercises

All Journal entries submitted by email should be addressed to tad@markspowers.com AND adam@markspowers.com.

Please write your name on each Journal entry, and label the file names starting with your last name and the Journal entry number(s). For example: Powers.Journal2.docx Please submit journals in .doc, .docx, or

pdf format.

Note that word count requirements are a minimum. Substantially shorter entries will receive a reduced grade. Students may submit longer entries but will receive no additional credit for content beyond the requested word count.

Your journals are confidential and will be seen only by the instructors. We may share useful excerpts with the class without attributing names or working groups.

Grading

Two thirds of your grade will be based on **participation** in class and your development and application of skills in the **simulations**. Think *process*, not necessarily *results* of individual exercises.

One third of your grade will be based on your **Written Assignments**, graded on:

- (1) analysis;
- (2) application of theory, readings and practice principles;
- (3) self-reflection and self-critique;
- (4) creativity; and
- (5) writing style, grammar and organization.

THIS COURSE WILL BE GRADED DIFFERENTLY FROM MOST LAW SCHOOL COURSES!

Active participation in class discussion will be heavily weighted. **Excellent work in simulations and excellent Journal entries will not produce a stellar grade without excellent participation in class discussion.** In-class debriefs are vital in absorbing the skills to be learned from each exercise. Your comments and reactions will provide a crucial frame of reference for your classmates' learning. We will expect you to make contributions that connect exercises and reading or lecture concepts, or that provide constructive feedback to your peers, **without dominating the conversation.**

If speaking in class is difficult for you, or if you have questions about expected in-class participation, please let us know sooner than later. We don't typically provide unsolicited grading feedback during the course, but we are happy to offer guidance for students who ask. Speak to us after class, or email us any time. If you wait until the end of the course, it's too late to adapt.

Feedback

Constructive feedback is integral to your learning. During this Seminar, you will be receiving feedback from your peers, as well as giving feedback. The following "ground rules" for giving feedback are expected to be followed in this Course – **Please read them carefully:**

Be self-reflective. You are often the best judge of whether a particular style or technique is effective.

Be open to feedback. We can all improve. If you are open to feedback, it encourages others to do the same.

Giving constructive feedback to peers is an important skill in itself. Be attentive to offering helpful critiques in a way that is not hostile or condescending. Offering feedback is important in this class,

and attention to the way it is delivered matters.

Note specifics, not generalities. Mention specific instances, statements, body language, phrasing. Use "I" statements. For example: "I became angry and I decided to withhold information about the transaction when you said X."

In suggesting areas for development, give alternatives. Suggest ways that the negotiator could have handled the situation differently. For example, "Rather than just saying no when I suggested that our expert examine your books and records, you might have said that this is a very sensitive area for your management, and asked whether there was another possible source of the information."

Course Feedback. Questions are always welcome at any point during the course. Please let us know about any problems or confusion you have about the course, its conduct or content.