

# VERMONT LAW SCHOOL

## MEDIATION

Spring 2023 Oakes 208	Adjunct Professors: Donald (Tad) Powers      tad@markspowers.com Adam L. Powers          adam@markspowers.com
Friday, 3/17/2023 (2:10 pm - 6:00 pm) Saturday, 3/18/2023 (8:30 am - 6:00 pm) Friday, 3/24/2023 (2:10 pm - 6:00 pm) Saturday, 3/25/2023 (8:30 am - 6:00 pm)	Office Phone (802) 388-2211 Tad's Cell Phone (802) 349-2075 Adam's Cell Phone (802) 734-1225

### **I. Textbooks and Class Materials:**

The Art of Mediation (Second Edition) by Mark D. Bennett and Scott Hughes; NITA /Wolters Kluwer; 2nd edition (December 8, 2005) ISBN-10: 1556818653; ISBN-13: 978-1556818653.

### **II. Course Description:**

THIS IS AN INTENSIVE COURSE TO BE OFFERED OVER THE COURSE OF 4 DAYS. See dates and times above. This course will explore the characteristics that distinguish mediation from other forms of dispute resolution, the roles of neutrals and advocates in mediation, and the negotiation, communication and problem-solving skills commonly applied in successful mediations. We will draw on insights and research from a range of disciplines including law, economics, psychology, and behavioral science. We will conduct mediation simulations and debrief each simulation with interactive reflections on the experience. We will explore how the mediation process is shaped to meet the requirements of each dispute and how obstacles to agreement can be overcome.

### **III. Assignments:**

**PLEASE NOTE: most of the reading for this class is intended to be completed prior to the first weekend. This will help you, and your working group partners, get the most out of the exercises.**

#### **1. Assignment for First Weekend:**

Read this **syllabus** carefully (also available on TWEN).

Read the following selections in ***The Art of Mediation:***

- a. Sections 1-3 (pages 1 – 127);
- b. Uniform Mediation Act, as included in Appendix One, pages 167 -176;
- c. Review **carefully** Appendix Two, Worksheet 7 The Language of Conflict Resolution (pages 201 – 206);
- d. Review the sample Agreements to Mediate, Appendix Three, pages 220- 230; and
- e. Have a **glance** at the Settlement Agreements in Appendix Three, pages 231 – 253. (You **won't** be responsible for the content of these sample Settlement Agreements, but it's helpful to see examples of various forms.)

2. **Remote Mediation exercise.**

**To be conducted and completed between Sunday, March 18, 2023 and Thursday, March 23, 2023.**

Roles and details to be handed out in class during the first weekend.

When scheduling, plan at least two hours for this mediation simulation, in addition to pre-mediation preparation.

At the completion of the exercise, EACH STUDENT should submit by email, to both Professors, the following:

1. Your fully-executed Agreement to Mediate;
2. The Mediator's Mediation Report; and
3. Your fully-executed Settlement Agreement if a resolution was reached, **or**, if no resolution, a summary of the parties' positions at the end of the mediation and the reasons that a resolution was not possible.

3. **Mediation Course Journal.**

Due by email on or before Sunday, April 9, 2023. Describe at least one lesson learned from each simulation, including the remote mediation exercise. 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. 1500 words total.

Submissions must be double-spaced and in MSWord format (.doc or .docx, NOT WordPerfect). They should be submitted **by email to tad@markspowers.com and to adam@markspowers.com, and the document should be named as follows: (your last name).(your first name).(name of document).** For example: Jones.Alice. Journal.

IV. **Course Goals:**

This Mediation Seminar is an intensive, interactive, skills course designed to:

- teach you the theory, principles and practice of mediation as a neutral-facilitated negotiation;
- explore the range of contexts in which mediation is commonly used to resolve disputes;
- introduce skills and techniques essential to mediating disputes;
- provide experience in the mediation setting through role plays and exercises;
- build skills in the areas of facilitation advocacy, problem-solving and decision-making;
- allow you to improve your advocacy skills by better understanding the roles, strategies and techniques of mediators;
- help you recognize and handle ethical issues in mediation;
- introduce you to alternatives to mediation; and
- allow you the opportunity to explore your individual style, reaction and attitude toward conflict and dispute resolution.

## **V. 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 simulated 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;
- take part and contribute to in-class discussions;
- be self-reflective on your own negotiation and communication skills, be open to feedback and be prepared to offer constructive comment and critique to your classmates;
- participate in assigned virtual mediation simulation outside of scheduled class time; and
- complete written assignments.

## **VI. Grading:**

There is no final examination in this class.

Two thirds (2/3) of your grade will be based on class participation and your development and application of skills in simulations and debriefs (not on the objective results of exercises). In contributing to classroom discussions (without monopolizing class time), students will be expected to draw on the text and their experiences in classroom simulations, as well as relevant life experiences. Your remote mediation simulation will be included in this class-participation portion of your grade.

One third (1/3) of your grade is based on your Journal, graded on:

- (1) application of theory as explored in readings and lecture;
- (2) analysis;
- (3) self-reflection and self-critique;
- (4) originality of observations; and
- (5) professionalism and organization.

NOTE: we are looking to see that you were able to tie concepts from the Course to your experiences in the exercises. A narrative of the simulation is not necessary except to describe and examine how particular concepts applied, or didn't.

## **VII. Attendance:**

We will begin promptly, **so plan on arriving a few minutes early**. If you arrive after the start time, you will be marked late. This Seminar is a skills-building class. Your learning depends on the efforts and commitment of all of us: your professors, you and your fellow students. Because you will be playing roles as advocates, neutrals and clients, the learning of the whole class depends on your participation. To learn to mediate, advocate, negotiate and facilitate in a mediation setting, you must do it; you cannot develop skills without attending class and doing exercises. Attendance at all class sessions is mandatory.