Summer 6-1-2006

COMM 514.01: Alternative Dispute Resolution

Art Lusse

The University Of Montana

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Alternative Dispute Resolution
COMM 514/LAW 614

CREDITS: 3

OFFERED: Summer

INSTRUCTOR: Adjunct Professor Art Lusse

COURSE DESCRIPTION/OBJECTIVES: “Mediation, as a distinct course of study, is a newcomer to the law school curriculum. Over the past decade, the number of law school courses in mediation has increased exponentially. Ten years ago, those law students who were introduced to mediation generally learned about it in a one hour discussion of alternative dispute resolution in their Civil Procedure course. Today, law faculty have recognized that the richness of its subject matter and the widespread use of this dispute resolution alternative in many legal practice settings warrants giving its own place in the law school curriculum.” Preface to Mediation Theory & Practice, Lexis, 2001.

Mediation is, to be sure, an interdisciplinary field. Mediators come from all walks of life. Yet uniform skills are necessary. Former Federal Mediation and Conciliation Service Director William E. Simkin lists sixteen characteristics which a potential mediator ought to possess including: the patience of Job, the wit of the Irish, the guile of Machiavelli, the hide of a rhinoceros, and the wisdom of Solomon. The goals of this course are not so comprehensive.

One goal is to bring litigation and other forms of dispute resolution into perspective—to permit one to see litigation as one system of dispute resolution, one with its own virtues and failings, but not an inevitable or the only process for resolving legal disputes. Students will gain an understanding that the many alternative processes of dispute resolution are not distinct from litigation, nor mutually exclusive, but usefully complementary processes.

Another goal of the course is to provide those basic skills necessary to further pursue mediation, either as a profession or as another arrow in the student’s quiver of practical and life skills. The focus of the course will be on practical skills and techniques necessary to an understanding of the fundamentals of mediation.

The School’s cross listed mediation courses (Law 614 & 672) are also approved by the Association of Conflict Resolution (ACR), the only National mediation
credentialing body. States and Federal Government agencies rely on ACR in meeting certain job categories.

ACR & the American Bar Association (ABA) Section of Dispute Resolution are exploring the feasibility of a proposed new joint national certification program for mediators. Certification is the voluntary process by which a nongovernmental organization grants recognition to an individual who has demonstrated certain knowledge, skills and abilities. In order to meet the current ACR comprehensive standards students are required to take both Law 614 & 672.

**ATTENDANCE:** Given the interactive nature of this class attendance at all classes is mandatory. Role-plays and exercises are dependent on a full class complement and participation in the role-plays and exercises are an integral part of the curriculum.

**EVALUATION:** Grades are determined based on class participation including participation in student role plays and a final take home examination.


**INTENSIVE COURSE FORMAT:** This course will be offered in an intensive course format meaning that it is offered on two three day weekend sessions.

**SUMMER 2006 COURSE SCHEDULE & READINGS ASSIGNMENTS**

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<tr>
<td>Friday, June 2</td>
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**Prior to the first class please read:**

Getting to Yes, Fisher, Ury & Patton. This paperback costs about $10 and can be purchased most anywhere, for those of you with the time and inclination they are almost always available at used book stores.

**FACPAC:** Tab 1: The Mediator and The Mediation Process, Tab 2: Conflict, Tab 3: Communication, & Tab 4: Negotiation.
Text:
Chapters: One, Two, Three, Six, & Seven

For the following weekend of classes please read:

Text: Nine, Ten, Eleven, & Fourteen

FACPAC: Tab 5: The Dynamics of Power in Mediation & Negotiation