COMM 572.01: Advanced and Family Mediation

Art Lusse
The University Of Montana

Follow this and additional works at: https://scholarworks.umt.edu/syllabi

Let us know how access to this document benefits you.

Recommended Citation
https://scholarworks.umt.edu/syllabi/10901

This Syllabus is brought to you for free and open access by the Course Syllabi at ScholarWorks at University of Montana. It has been accepted for inclusion in Syllabi by an authorized administrator of ScholarWorks at University of Montana. For more information, please contact scholarworks@mso.umt.edu.
Advanced & Family Mediation
COMM 572/LAW 672

SYLLABUS

CREDITS: 3

OFFERED: Summer Session 2006

INSTRUCTOR: Art Lusse, adjunct professor, School of Law

RECOMMENDED PRE-REQUISITE*: Law 614 for Law Students; Communication 514—Alternative Dispute Resolution for all others.

*The Law School’s two 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 standards students are required to take both Law 614 & 672.

However, this course is also a singular mediation course for individuals who do not intend on practicing mediation. Especially for the Family practitioner, this course will provide knowledge of the mediation process and it’s use in the Family Law arena including, parenting plan mediation, dependency cases, and family group conferencing. The course also focuses, in depth, on interpersonal communication and diversity issues and theory and skills.

The Family Law course, while not a pre-requisite, is strongly recommended for anyone who intends to practice Family Law Mediation, this course is not a substitute for Family Law.

COURSE CONTENT/OBJECTIVES: By definition family law mediation is advanced mediation. The U. S. Postal Service, U. S. Forest Service already require prospective mediators to family law mediation training before doing contract work for their agencies. Family mediation is a concentration on interpersonal issues; the same interpersonal issues that are present in our lives.
Conflict happens on the job, between societal groups, government locally through globally. "Conflict is a stubborn fact of organizational life.

In this course, besides the traditional family law mediation referenced infra the student will gain "Advanced" skills training in: empathic listening, trust, power attributes and balancing, gender and other cultural diversity issues, managing the emotional environment, reality testing, dealing with emotions and feelings, neutrality, multi-party mediation, facilitation, and process diagnosis.

These skills are instrumental in dealing with conflicting parties and groups. Issues presented in divorce are no different than the disintegration of a law or medical practice or reorganization of a business entity. Individuals and groups engage in conflict for the purpose of gaining something that is perceived to be in short supply or over needs that appear incompatible. Causes of conflict include relationship issues, value conflict, conflicts about interests, and discrepancies over factual information and clashes over structural inequality. Perceived incompatible goals and the perception of scarce resources are central to many conflict struggles. Resources can be physical, economic or social commodities. Tangible resources, such as money, land, jobs, position, are easily identified. It is intangible resources, love, esteem, recognition, respect, which are much harder to identify. Power, status and resources are the leading causes of conflict.

Divorce mediation has evolved from the juncture of law, counseling, and social work. When a marriage dissolves, legal proceedings become entwined with emotional dynamics, making decisions about divorce a matter of the heart and the law, which sometimes makes it difficult to determine the "real" issues being litigated. Feelings become facts that must be accommodated in the divorce process in order to reach a workable result. Divorce mediation facilitates private ordering and recognizes both the emotional and legal dimensions of marital dissolution.

Divorce mediation is an alternative to traditional judicial intervention and third-party decision making. A divorce mediator serves as a neutral who assists divorcing couples to develop their own parental, financial, and property agreements and promotes decision making within the family.

Divorce mediation has come into its own. "Divorce mediators are providing an important alternative to the traditional legal system. The 'experimental concept' that many family law disputes could be best resolved by letting the disputants negotiate with the assistance of a neutral facilitator has developed a proven successful track record over the last several decades. Legal and judicial professionals are increasingly acknowledging that the unique dynamics of divorce make many cases especially well suited for referral to mediation. In divorce,
more than any other legal area, the general public has been made aware that mediation is a viable alternative to litigation because of the success of the mandatory court programs. The momentum of the mediation movement in the family area is creating the opportunity to establish successful divorce mediation practices.”

This interdisciplinary course will provide law and graduate students from psychology, guidance & counseling, communications with the basics of family mediation practice. While the mediation of family disputes can be the basis of a successful practice, it is also one of the most demanding applications of mediation principles. The responsible divorce mediator must be prepared to assist parties in making informed decisions resolving the web of complex issues at a time when or both disputants may be emotionally distraught. Legal considerations are myriad and complex and include parental rights and responsibilities, children’s rights, and property rights issues. This course concentrates on the parenting plan issues of a divorce. Issues such as jointly held property, family residence, business, retirement plans, spousal maintenance etc. are briefly discussed without addressing the substantive law. These matters are for the advanced family mediation practitioner in conjunction with counsel for the parties in such cases. Mediators, attorneys and otherwise, are well advised to insure that divorcing couples seek the assistance of counsel in every case involving any property rights issues.

**COURSE TEXTS:** The basic text is Montana Mediators Divorce and Parenting Plan text and an extensive FACPAC infra., and the Harvard Law School Program on Negotiation book “The Difficult Conversation”. This course which has been taught for the past ten years is approved as one of only 25 nationally accredited 40 hour comprehensive training by the Family Section of the Association for Conflict Resolution. The Association is an 8,000-member organization, which is currently the only national credentialing organization in the United States for both mediators and mediation training. The Association has developed, and continues to refine, criteria for mediator education, training and ethical practice in cooperation with other state, regional and national conflict resolution organizations.

Maybe the best endorsement for the approved text and content of the course comes from a recent publication, advertising their course, from the Straus Institute of Dispute Resolution at Pepperdine School of Law which states: “Those anticipating entering the field of divorce mediation are well served by completing a 40 hour training program approved by the Academy of Family Mediators. The mandated curriculum outline is the result of the collective experiences and research by leaders of the Academy of Family Mediators and is designed to provide a foundational understanding of three essential subjects:
mediation skills, substantive law affecting the family, and appropriate emotional and mental health considerations for divorce mediators."

Students who have completed ADR 614 and this course will have fulfilled the educational components needed to qualify for Practitioner Status with the Academy of Family Mediators. They would still need to fulfill the practical experience requirements of 100 hours of mediations and 10 family mediations and submitted evidence of their agreement writing skills to the Academy.

INTENSIVE COURSE FORMAT: The INTENSIVE course format is a traditional method of teaching mediation skills and mediation advanced training. The format allows for intensive role-play and other interactive and experiential work for the student as well as separate sessions to thoroughly review and discuss FAC PAC materials and other assigned readings.

Course Schedule for Law 672 Advance & Family Mediation
Comm. 572, Advanced & Family Mediation
Summer--2006

<table>
<thead>
<tr>
<th>Day</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Friday, June 16</td>
<td>5:30—9:00</td>
</tr>
<tr>
<td>Saturday, June 17</td>
<td>8:30—5:30</td>
</tr>
<tr>
<td>Sunday, June 18</td>
<td>8:30—5:30</td>
</tr>
<tr>
<td>Friday, June 23</td>
<td>5:30—8:30</td>
</tr>
<tr>
<td>Saturday, June 24</td>
<td>8:30—5:30</td>
</tr>
<tr>
<td>Sunday, June 25</td>
<td>8:30—5:30</td>
</tr>
</tbody>
</table>

COURSE ASSESSMENT: Students are monitored in all their activities and tested on the assigned readings in the text and Faculty Packet. The final assessment involves a full role-play exercise and written take home examination. Students with an interest can observe live family mediation sessions which are conducted at the Community Dispute Resolution Center and submit a diary based on their observations.