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PSC 595.01: MBA Negotiation

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LAW 641 NEGOTIATION **MBA 645 1/82 NEGOTIATION**

Course: Negotiation

Instructor: Adjunct Professor Art Lusse, Summer. Professors William Corbett & Art Lusse for Spring Session

Credits: 3

Offered: Winter & Summer Session 2008

Department/School: School of Law

Cross listing: **MBA 645-01 Negotiation (Summer only for 2 credits)**
Political Science (3 credits Spring & Summer)

Evaluation of Student Course Work 3 credit: Graded role-play of negotiation exercise and a take home exam. Additionally, a graded role-play of a settlement conference including a written "settlement brochure".

Evaluation of Student Course Work 2 credit: Graded role-play of negotiation exercise and a take home exam. .

Texts: *Essentials of Negotiation* (3rd Ed) Roy Lewicki, the Dean's Distinguished Teaching Professor of Management and Human Resources at the Fisher College of Business, The Ohio State University. 2004.

Beyond Winning: Negotiating To Create Value In Deals and Disputes, Robert Mnookin, Scott Peppet and Andrew Tulumello, Harvard University Press, 2000

Getting to Yes", Roger Fisher & William Ury, Harvard Negotiation Project, Simon & Schuster, 1982.

Course Objectives: Legal practitioners use negotiating skills more frequently than other lawyer specific talents. They negotiate when they don't even realize they are negotiating. They negotiate with their own partners, associates, legal assistants, secretaries, prospective clients, and current clients—not to mention their regular interactions with attorneys representing other parties. Litigators resolve between 85% and 98% of conflicts through negotiated agreements and transactional experts use the negotiation process to structure their private and public sector business deals. **Negotiation constitutes the primary form of dispute resolution.** When direct negotiations do not produce acceptable results, private or public mediators or settlement masters or Federal Magistrates

may be used to assist the negotiating participants with their efforts to reach mutual accords. During these assisted dispute resolution procedures, the advocates continue to negotiate—with the assistance of the neutral facilitators who lack the authority to impose final terms. (Birkie & Fox, 1999)

While a conscientious attorney may spend hours each week reading advance sheets, reviewing case law and preparing legal briefs for their client cases. In preparation for a mediation or settlement conference they may spend additional hours on the legal, factual, economic, and political issues, but not much time on negotiating strategies. Typically, when attorneys begin a negotiation they have only three things in mind relating to their strategy: (1) their bottom line; (2) their ultimate objectives; and (3) their intended opening offer. After they articulate their opening positions most “wing it”—or worse react. (Burnet & Craver, 2001)

This course hopes to empower the student to become a comfortable negotiator—to appreciate the professional and personal enjoyment to be derived from negotiating. Each negotiation represents an opportunity, because it provides the negotiators with the chance to improve their respective circumstances. If the parties could not improve their present situations, they would not be communicating with each other. Negotiators appreciate the interaction as a beneficial and challenging endeavor.

Professor Lewicki was the plenary speaker at the 3rd American Bar Association and Association of Law School’s Legal Educator’s Colloquium held in conjunction with the American Bar Associations Alternative Dispute Resolution Conference. His address was titled “*New Directions in Cross-Disciplinary Approaches to the Teaching of Conflict Resolution.*” Professor Lewicki has been courted by the ABA Section of Dispute Resolution and Association of American Law Schools for several years.

My goal, states Professor Lewicki, “is to help the student effectively integrate the experiential and intellectual learning components. I do not consider this an easy task. The course is designed to be relevant to the broad spectrum of bargaining ‘problems’ that are traditionally faced by the manager. Thus, the content is not restricted to students interested in human resources or industrial relations. Students pursuing careers in sales, marketing, merger and acquisition, banking, purchasing, real estate, entrepreneurship and other areas that require skill in negotiation and persuasion should find the course useful and relevant.”

The philosophical approach of Professor Lewicki is also best stated in his own words:

“There are several key assumptions about the teaching and learning of negotiation that, though they may seem obvious, should be stated explicitly.

First, negotiation is a comprehensible social process. Negotiation is not a mystical process in a black box; it can be analyzed, understood, and modeled. Second negotiation is a

learnable and teachable skill. Negotiator's are made not born, and skills can be improved and relearned throughout life. Finally, change and improvement in negotiating behavior require a combination of intellectual training and behavioral skill development.

Professor Robert Mnookin is the Samuel Williston Professor of Law at Harvard Law School, and the Chair of the Program on Negotiation. Professor Mnookin has applied an interdisciplinary approach to a wide range of issues ranging from families and children to multi-national corporations. He currently teaches three courses related to mediation and negotiation at Harvard Law School.

The Program on Negotiation at Harvard Law School is an applied research center committed to improving the theory and practice of negotiation and dispute resolution. Founded in 1983 and based at Harvard Law School, PON is an interuniversity consortium involving faculty, graduate students, and administrative staff from a range of disciplines and professional schools at Harvard University, Massachusetts Institute of Technology, and Tufts University.

Professor Mnookin in the preface to this book states: **"This book makes the case that a problem-solving approach to negotiation offers the most promising means of creating value. Besides helping negotiators better understand the dilemmas they must face, the book's goal is to help lawyers and their clients work together and negotiate deals and disputes more effectively."**

COURSE SCHEDULE WINTER 2008

Tuesdays & Thursdays 3:10 to 4:40

COURSE SCHEDULE SUMMER 2008

2-Credit

June 2, 3, 4, 5	5:30 to 8:40 p.m.
June 9, 10, 11, 12	5:30 to 8:40 p.m.

3- Credit

June 2, 3, 4, 5	5:30 to 8:40 p.m.
June 9, 10, 11, 12	5:30 to 8:40 p.m.
June 16, 17, 18, 19	5:30 to 8:40 p.m.

READING ASSIGNMENTS

2 & 3 Credit Courses unless otherwise noted

First Reading:

Essentials of Negotiation, (Essentials) 4th Edition Chapter 1, The Nature of Negotiation. *Beyond Winning (Beyond)* Introduction.

Second Reading:

Essentials: Chapter 2, Strategy & Tactics of Distributive Bargaining
Beyond: Part I, The Dynamics of Negotiation

Third Reading:

Essentials: Chapter 3, Strategy & Tactics of Integrative Negotiation
Getting to Yes, Fisher & Ury

Fourth Reading:

Essentials: Chapter 4, Strategizing & Planning

Fifth Reading:

Essentials: Chapter 5, Perception, Cognition, and Communication
Chapter 6, Communication

Sixth Reading:

Essentials: Chapter 7, Finding & Using Negotiation Power
Beyond: Part II, Why Lawyers (3 credit only)

Seventh Reading:

Essentials: Chapter 9, Managing Difficult Negotiations: Individual Approaches

Eighth Reading: *Essentials*: Chapter 8, Ethics in Negotiation,

Ninth Reading: *Essentials*: Chapter 9, Relationships in Negotiation

Tenth Reading: *Essentials*: Chapter 11, International & Cross Cultural Negotiation

Eleventh Reading: *Essentials*: Chapter 10, Multiple Parties & Teams

Twelfth Reading: *Beyond*: Part III and Part IV (3 credit only)
Settlement Brochures Handouts (3 credit only)