

[Background: This document, which I prepared for the Workshop on Mindfulness in Legal Education, is a retrospective (and slightly cleaned-up version of the Syllabus for the *Tools of Awareness for Lawyering* course that I taught at the University of Florida College of Law in spring 2013. I have been teaching a very course, called *Conflict Management in the Legal Profession*, at Northwestern University School of Law in the fall semesters (since 2010). I taught the first versions of this course at the University of Missouri School of Law (1999-2006) in an LL.M. in Dispute Resolution Program. I called it *Understanding Conflict*. Since roughly 2002, I have been co-teaching three-day continuing education versions of this course. I am currently writing a book, tentatively entitled *Awareness in Conflict*, which derives from these courses and my previous writings.]

UNIVERSITY OF FLORIDA LEVIN COLLEGE OF LAW

SPRING SEMESTER 2013

*Tools of Awareness for Lawyering Course**

(A.k.a. *Conflict Management in the Legal Profession*)

(3 Credit Course)

Law 6930 Section 05EE Room 283

3:00-4:50 p.m. M & W¹

Instructor: Leonard Riskin

Professor's contact information

Office Location: Room 283

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Email: riskinL@law.ufl.edu

Office Hours: I am generally in the office. It is best to schedule an appointment by email, and it is O.K. if you stop by without an appointment, and I will talk with you if I can or schedule an appointment.

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¹**Note: Although this is a three-credit course, the schedule shows that it meets twice each week in two-hour blocks (3:00-4:50) I scheduled the course that way because sometimes we need extra time for class activities. In the past, I have adjusted the class time as needed. Times are specified on the tentative schedule below. We will usually meet on Mondays 3:00-4:50 and Wednesdays 3:00-3:50. Exceptions: Class will not meet on Wed., Mar. 13 because I have a long-standing travel commitment on that day. To make up for that lost time, one other Wednesday class will be extended to 4:50.**

Required and recommended textbooks and other course materials

Required readings: Required readings from a variety of sources will be posted on the course TWEN site, and are listed in the Schedule portion of this Syllabus.

Required books:

-Doug Stone, Bruce Patton & Sheila Heen, *Difficult Conversations: How to Discuss What Matters Most* (Viking hardcover 1999 or Penguin paperback 2000)

-Roger Fisher & Daniel Shapiro, *Beyond Reason: Using Emotions as You Negotiate* (Viking hardcover (2005) or Penguin paperback (2006)).

These books present advanced approaches to negotiation that connect readily with mindfulness.

Recommended books:

For basic introductions to mindfulness, I recommend: Jon Kabat-Zinn, *Wherever You Go, There You Are: Mindfulness Meditation in Everyday Life* (Paperback, 2005, Hyperion) and Henepola Gunaratana, *Mindfulness in Plain English* (Wisdom, 1991).

Also, a very recent book that would be quite helpful to some of you, especially those who have a background in engineering, computer science, IT, or business: Chade-Meng Tan, *Search Inside Yourself: The Unexpected Path to Achieving Success, Happiness (and World Peace)* (HarperOne 2012) (About Google's mindfulness and emotional intelligence program, written by the founder and director).

If you have neither taken a Negotiation or Mediation course nor read Roger Fisher et al., *Getting to Yes: Negotiating Agreement without Giving In* (Rev. ed., 1991), you should read that book toward the beginning of the semester.

I have not ordered these recommended books, but they are widely available for purchase, and copies are on reserve in the law library.

Books on Reserve

Here is a list of books that are (or will soon) be on reserve for both of the courses I am teaching this semester. Students in either class may use any of these, as many of the books would be useful to some students in both courses.

Advanced Dispute Resolution Seminar

- Roger Fisher & Daniel Shapiro, *Beyond Reason: Using Emotions as You Negotiate* (Viking hardcover (2005) or Penguin paperback (2006)).
- Gary Friedman & Jack Himmelstein, *Challenging Conflict: Mediation Through Understanding* (ABA and Harvard PON 2008).
- John T. Noonan, Jr., *Persons and Masks of the Law: Cardozo, Holmes, Jefferson and Whyte as Makers of the Masks* (U. California Press 2002) (1976).
- Andrew Olendzki, *Unlimiting Mind: The Radically Experiential Psychology of Buddhism* (Wisdom Publications 2010).
- Susan Podziba, *Civic Fusion: Mediating Polarized Public Disputes* (2013).
- Tamara Relis, *Perceptions in Litigation and Mediation* (Cambridge Press, 2009).
- Leonard L. Riskin, James E. Westbrook, Chris Guthrie, Richard Reuben, Jennifer Robbennolt, and Nancy Welsh al., *Dispute Resolution and Lawyers* (4th ed. Abr. Westgroup 2009).
- Leonard L. Riskin, James E. Westbrook, Chris Guthrie, Richard Reuben, Jennifer Robbennolt, and Nancy Welsh al., *Dispute Resolution and Lawyers* (4th ed. Hardcover. Westgroup 2009).
- Doug Stone, Bruce Patton & Sheila Heen, *Difficult Conversations: How to Discuss What Matters Most* (Viking hardcover 1999 or Penguin Paperback 2000).
- William Ury, Jeanne M. Brett & Stephen B. Goldberg, *Getting Disputes Resolved: Designing Systems to Cut the Costs of Conflict* (1993).
- Vamik Volkan, *Blood Lines: From Ethnic Pride to Ethnic Terrorism* (Westview Press 1998).
- Vamik Volkan, *Blind Trust: Large Groups and their Leaders in Times of Crisis and Terror* (Pitchstone Publishing 2004).
- Eugene Volokh, *Academic Legal Writing* (any edition).
- Charles B. Wiggins & L. Randolph Lowry, *Negotiation and Settlement Advocacy: A Book of Readings* 2d. ed. (Thomson West 2005).

Tools of Awareness Course

-Deborah Calloway, *Becoming a Joyful Lawyer* (2012) (About the course on mindfulness that she has taught for many years at the University of Connecticut Law School.)

-Richard J. Davidson with Sharon Begley, *The Emotional Life of Your Brain: How its Unique Patterns Affect the Way You Think, Feel, and Live—and How You Can Change Them* (Hudson Street Press, 2012).

-Henepola Gunaratana, *Mindfulness in Plain English* (Wisdom, 1991).

-Charles Halpern, *Making Waves and Riding the Currents: Activism and the Practice of Wisdom* (2008).

-David Hoffman & Daniel Bowling: *Bringing Peace into the Room: How the Personal Qualities of the Mediator Impact the Process of Conflict Resolution* (John Wiley & Sons 2003).

-Jon Kabat-Zinn, *Wherever You Go, There You Are: Mindfulness Meditation in Everyday Life* (Paperback, 2005, Hyperion).

-Joh Kabat-Zinn, *Coming to Our Senses* (Hyperion 2005).

-Daniel Kahneman, *Thinking, Fast and Slow* (Farrar Straus & Giroux, 2011)*

-Jack Kornfield, *The Wise Heart* (Bantam 2009).

-Phillip Moffitt, *Emotional Chaos to Clarity; How to Live More Skillfully, Make Better Decisions, and Find Purpose in Life* (Hudson Street Press, 2012).

-Phillip Moffitt, *Dancing with Life* (2008). (Introduction to the insights in Buddhist philosophy.)

-John Rowan, *Discovering Your Subpersonalities: Our Inner World and the People in It* (Routledge 1993).-Richard C. Schwartz, *Internal Family Systems Therapy* (1995).

-Scott L. Rogers & Jan L. Jacobowitz , *Mindfulness & Professional Responsibility: A Guide Book for Integrating Mindfulness into the Law School Curriculum* (About integration of mindfulness into the Professional Responsibility course and other courses at the University of Miami Law School, using a system developed by Scott Rogers.)

-Richard C. Schwartz, *Introduction to the Internal Family Systems Model* (2001).

-Shauna L. Shapiro & Linda E. Carlson, *The Art and Science of Mindfulness :Integrating Mindfulness into Psychology and the Helping Professions* (American Psychological Association, 2009).

-Zindel Segal, et al., *Mindfulness-Based Cognitive Therapy for Depression* (Guilford, 2002).

-Daniel J. Siegel, *The Mindful Brain: Reflection and Attunement in the Cultivation of Well-Being* (W.W. Norton, 2007).

-Daniel J. Siegel, *Mindsight: The New Science of Personal Transformation* (Bantam 2010)

-Chade-Meng Tan, *Search Inside Yourself: The Unexpected Path to Achieving Success, Happiness (and World Peace)* (HarperOne 2012) (About Google's mindfulness and Emotional Intelligence Program, written by the founder and director).

Course Objectives and Topics Covered

The goal of this course is to help students develop certain skills and perspectives for managing conflict and managing themselves that will enable them to provide better service to their clients and gain more satisfaction in their professional practice. The course will involve two principal tracks, which we will frequently weave together.

Track 1: Tools for Managing Conflict. This track focuses on developing theoretical and practical knowledge and skills for understanding and dealing with conflict and disputes and planning transactions. Along this track, we will study:

-Models of lawyer-client relationships;

-Basic and advanced theories about conflict and conflict resolution, including:

-Listening skills

-Basic negotiation theory

-The Difficult Conversations (three conversations) model.

-The Core Concerns Model for dealing with emotions in negotiation.

-Various models of mediation

Note that we will cover the negotiation and mediation material (including specific behavioral skills) with less intensity than you would find in courses that focus more fully on these topics, but our study in this area will range more broadly and deeply. Similarly, we will not work as hard as in those courses to practice the strategies and techniques

associated with this body of knowledge. This is so partly because we are using specific Tools for Managing Conflict to *represent* many of the tasks that lawyers undertake, partly in order to show how the Tools of Awareness (Track 2) can enhance a lawyer's performance of a wide variety of tasks.

Track 2: Tools of Awareness—and for Managing Ourselves

It is quite possible—perhaps inevitable—that you could learn everything on Track 1, as well as master your other law school classes, and yet sometimes fail to perform effectively in actual negotiations, mediations, or other lawyering situations. When this happens, it will often result from problems in the awareness that you bring to situations of conflict. For instance, even though you “know” how to understand conflict and to address it, you may fail to use that knowledge skillfully because of any of a number of obstacles, such as strong emotions, cognitive or psychological traps, a wandering mind, or physical or mental exhaustion.

Along the Awareness track, we will study a number of strategies and techniques that can help you function more effectively in a wide range of settings. We will develop these skills through in and out-of-class awareness practices and apply them in daily life as well as in class role-play exercises that deal principally with negotiation and mediation.

The principal Tools of Awareness—and for managing ourselves—that we will study include:

-Mindful awareness—an ancient method of paying attention, moment-to-moment, with equanimity. This practice is taught in a number of law firms, law schools, corporations and government agencies and is employed in athletics (e.g., Chicago Bulls and L.A. Lakers basketball teams under coach Phil Jackson), health care and psychotherapy.

-Qigong (a.k.a. Qi Gong, Chi Kung)—an ancient “internal martial art,” similar to the better-known Tai Chi, which develops energy and stabilizes concentration.

-Internal Family Systems—a model of the mind developed by psychologist Richard C. Schwartz, formerly of Northwestern, that is the one of the principal models of employed in the training of family therapists. It rests on the construct that our psyches are composed of “Parts” or “Sub-personalities” and a “Self.” I believe that it can be useful to consider internal processes that take place in connection with conflict “as if” they were—or could be or should—be negotiations or other dispute resolution processes.

This approach can enhance our understanding of everything else we study in this course as well as our negotiation and mediation practices.

-Improvisational Acting—a set of theories and practices that foster and require present-moment mindful awareness and will enhance performance in nearly any interactive lawyering activity. Improvisational acting, like some of the other tools mentioned above, is both a tool for managing conflict and a tool of awareness.²

Interweaving the Two Tracks

The two tracks will reinforce each other: The Tools of Awareness enhance our use of the Tools for Managing Conflict; and Tools for Managing Conflict foster our ability to develop and maintain present-moment, nonjudgmental awareness. During the semester, we will frequently undertake experiential exercises that combine dispute resolution and mindful awareness. In addition, we will study two ideas that bring together--and can greatly enhance--mindfulness and conflict resolution.

Throughout the course, we also will frequently consider the following themes, expressed as pairs of apparent opposites:

Separation and connection
Self and other
Winning and losing
Value-Claiming and value-creating approaches to conflict management or resolution.
Practice and theory

Writing Skills

Finally, this course should provide an opportunity to improve your writing skills. In my experience, *most* law students could benefit from additional writing instruction and feedback, and from a greater familiarity with widely adopted methods of citation in the legal profession. Accordingly, I will ask you to: a. Review brief readings about good writing; and b. Employ the lessons learned in your case studies (which are explained below). I can give you feedback on an optional draft, if you wish—also as explained below.

Mechanics

Please register for the course TWEN site as soon as possible.

I will periodically distribute readings in class and through the course TWEN site.

Class sessions

² . In this version of the course, I weave in ideas and techniques from improvisational acting where I can, mostly in connection with the work on Internal Family Systems. When I teach this course at Northwestern, I have the benefit of a real improvisational actor, Katie Marie Zouhary, an associate with the Proskauer law firm, and we devote at least four class hours to using ideas and techniques from improvisational acting to teach internal family systems and negotiation.

In the classroom, we will try to maintain an environment that minimizes distractions. So, **please do not turn on laptop computers or cell phones in the classroom, even during breaks.** (I also *suggest* that, during the breaks, you avoid using these devices even outside the classroom.) If you have an unusual or emergency situation that requires you to keep your cell phone on, please put it in the “vibrate” mode.

Confidentiality

In this class you may learn information about your classmates that they would like to keep confidential. It is fine to tell others about what we do and say in this class. However, I am asking all members of the class to keep confidential the identity of the source of any statements.

Evaluation

Grading will be based upon

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| 1. Journals and brief analytical and reflective writing assignments. | 25% |
| 2. A case study paper. | 60% |
| 3. Class participation | 15% |

Here are details:

1. Journals and brief analytical writing assignments.

Several times during the semester, I will ask you to write:

- a. Journal entries and other reports reflecting on your experiences in connection with a particular activity or set of activities during a certain period of time; or
- b. Brief analytical and reflective pieces addressing a particular issue that arises in connection with the course.

These assignments are not specified on the tentative schedule that appears below.

2. A Case Study

Each student will prepare a paper that focuses on a particular conflict. You may choose either: a.) A conflict in which you have been involved personally or professionally or that you have observed closely as, say, a friend, relative, or co-worker of one or more of the conflicting parties; or b.) A conflict about which you have learned less directly. The latter category could include disputes that are the focus of cases in law school casebooks or reported in the news media. I find that students generally learn the most by writing about a conflict in which they were personally involved. I recommend such a focus, but the choice is yours.

The assignment is to do the following:

1. Describe the manifestations of the conflict, including the behavior of the parties;
2. Analyze the conflict in terms of the parties' perceptions and behavior, using what you have learned in the course;
3. Speculate on how—in light of what you have learned in this course—participants might have handled it differently or better (if you were a participant, emphasize your own role); and
4. Indicate what writing this study has taught you about yourself, conflict, conflict resolution, and awareness.

In writing this paper, you need not employ all the material on managing conflict that we cover in this class. In fact, given the various deadlines, it will not be feasible to do so. In particular, for most of the case studies, our attention to mediation will come too late, and it will be far less relevant than the material on negotiation, including *Difficult Conversations* and *Beyond Reason*. For particular case studies, I may suggest that you read ahead, covering materials that will be assigned later in the course, such as those dealing with mediation or with Internal Family Systems. Similarly, not all the material dealing with awareness may be relevant.

The paper should be 17-24 pages (including footnotes), double-spaced and in a font that is equivalent in size to Times New Roman 12 point. (The 24-page limit is firm.) In the paper you should handle references as you would in a law review article (which means, *inter alia*, using **footnotes rather than endnotes**), and, in citing authorities, employing either the system set forth in the *Uniform System of Citation* (“Blue Book”) (any recent version) or the system in the *ALWD Citation Manual: A Professional System of Citation* (any recent edition)). This is not a research paper, so it is not necessary to go beyond the readings assigned for the class, though it is not against the rules to do so. You must properly cite all the materials you rely upon. In fact, the paper should *look like a law review article*, with footnotes that follow the format of the Blue Book (A Uniform System of Citation (any recent edition) or the system in the *ALWD Citation Manual: A Professional System of Citation* (any recent edition). (I realize that, in this day of online legal research, some students do not routinely see law review articles in their original format. If you are one such person, please look at law review articles in their original printed format—by looking at either the actual journals in the law library or HeinOnLine (through the NU law library), which has digital versions of law review articles in their original format.

I will distribute separate documents containing a few of my biases and suggestions about writing.

Important dates for the case study:

Topic proposal due: Class 8, Wed., Jan. 30

This should include a brief description of the dispute or conflict that you plan to address. I will approve your topic, or discuss it with you, as soon as I can. I'd be glad to discuss potential topics at any point.

Outline due: Class 15, Mon., Feb. 25.

This should be a sentence outline in which you indicate roughly what you plan to do in the paper. You need not stick to the outline you submit. I will give you comments on it, and you doubtless will make changes once you begin writing. You may submit your outline earlier, if you would like feedback earlier or are eager to start writing—but not before we have studied the Core Concerns System from the book *Beyond Reason*. I will endeavor to return your outline with comments in class on **Wed., Wed., Feb. 27.**

(Optional) preliminary draft for feedback due: Class 20, Mon. Mar. 25 in class.

This should not be a “rough” draft. Polish it as much as you can. I will give you feedback as quickly as I can. I will be unable to give feedback on a draft that comes in later than this date and time, but I encourage you to submit a draft earlier.

Final paper due: Class 27 (Last class), Wed., April 17 in class.

3. Class Participation

Participation includes:

- a. **Attending class.** I will reduce grades for missing more than three class sessions. Students who miss more than four class sessions will be dropped from the course.
- b. **Carrying out course activities, participating in class discussions, role-plays, and other activities.** I expect students to get full credit for these activities. I will give less than full credit if it is clear that you have not participated in a role play or other class activity.

I will not grade you on the development of actual skills in mindful awareness, listening, negotiation, or mediation. I will be looking, instead, for diligence and promptness.

N.B: Everyone starts out with FULL CREDIT for the “class participation” component. You can lose points but you cannot get more than full credit. I anticipate that the vast majority (possibly all) of the students will wind up getting full credit for this component—because I expect that you will take it seriously and show diligence.

Information on UF Law grading policies

<u>Grade</u>	<u>Points</u>	<u>Grade</u>	<u>Point</u>	<u>Grade</u>	<u>Point</u>
A (Excellent)	4.0	C+	2.33	D-	0.67
A-	3.67	C (Satisfactory)	2.00	E (Failure)	
	0.0				
B+	3.33	C-	1.67		
B (Good)	3.00	D+	1.33		
B-	2.67	D (Poor)	1.00		

The law school grading policy is available at: <http://www.law.ufl.edu/students/policies.shtml#9> .

Policy related to Make-up exams or other work:

I will not accept assignments submitted after their due dates.

Statement related to accommodations for students with disabilities

Students requesting classroom accommodation must first register with the Office of Disability Resources. The UF Office of Disability Resources will provide documentation to the student who must then provide this documentation to the Law School Office of Student Affairs when requesting accommodation.

(Tentative) Schedule for classes 1-8

Changes will be announced in class and through the course TWEN site—generally under Assignments.

Class 1. Mon., 1/7 (3:00-4:50 p.m.) Introduction to Course.

Assignment:

Register for the TWEN site.

Please review the Syllabus that is on the TWEN site.

Before the first class, you *may* wish to sample some of the readings posted on the TWEN site under Documents. The most comprehensive, and earliest, piece is my article, *The Contemplative Lawyer: On the Potential Contributions of Mindfulness Meditation to Lawyers, Law Students, and their Clients*, 7 *Harv. Negot. L. Rev.* 1 (2002). Also, you may wish to watch some of the video of a Symposium on Mindfulness in Law and Dispute Resolution held at Harvard Law School in 2002. It is available on the course TWEN site under Audio & Video. For a more up-to-date picture of mindfulness in the legal profession, see the website of The Mindful Lawyer Conference held in Oct. 2010 at the University of California-Berkeley School of law, www.mindfullawyerconference.org. For an excellent explanation of mindfulness by a neuro-psychiatrist, see Daniel J. Siegel, M.D., *Mindsight: The New Science of Personal Transformation*, <http://www.youtube.com/watch?v=Gr4Od7kqDT8>

Class 2. Wed., 1/9 (3:00-3:50 p.m.) Listening.

Assignment

a. Reading

Riskin, *Eleven Big Ideas about Conflict: A Superficial Guide for the Thoughtful Journalist*, 2007 *J. Disp. Resol.* 157. (On course TWEN site.) This article briefly covers the main ideas about dispute resolution that we will address in more detail later.

Riskin, *The Contemplative Lawyer: On the Potential Benefits of Mindfulness Meditation to Law Students, Lawyers, and their Clients*, 7 *Harv. Negot. L. Rev.* 1 (2002). (On course TWEN site.) This is the first article published on mindfulness and the legal profession. It mentions nearly every issue about mindfulness that we will address in this course.

Riskin, *Awareness and Lawyering: An Introduction to the Mindful Lawyer Symposium*, 61 *J. Legal Educ.* 614 (2012). (On TWEN site.)

Together, these three articles introduce nearly all the important issues that we will cover in the course.

b. Awareness

Each day between the preceding class and this one, do five minutes of meditation on the breath.

Each meal, eat one food item, or one mouthful, mindfully.

Class 3. Mon., 1/14 (3:00-4:50 p.m.).

Assignment:

a. Awareness Each day, between the preceding class and this one, *practice “basic meditation on the breath”* for 15 minutes. You probably would find it helpful to do this while listening to the first 15 minutes of “Sitting Meditation” instructions, which I have recorded and

are available at <http://www.law.ufl.edu/media/faculty/riskin>. Click on Meditation Instructions, then click on “Sitting Meditation.” At 15 minutes and 19 seconds (15:19), you will hear me say, “And now we extend the breath meditation. When you observe that the mind is elsewhere, notice where it is...” This is a good place to stop. However, if you feel like continuing, for another five minutes, doing “advanced meditation on the breath,” please feel free to do so.

I have posted written instructions on “Awareness of Breath Meditation--Basic and Extended” on the course TWEN site under Meditation & Other Instructions. You may find this useful for meditating when you cannot listen to the instructions.

Feel free to contact me if you have questions or concerns.

b. Reading:

Dispute Resolution & Conflict Management Overview (Leonard L. Riskin et al., *Dispute Resolution and Lawyers* 1-7, 11-19, 50-52 (4th ed. Abr. 2009), which is on the TWEN site under Course Materials.

“Listening,” which is posted on the TWEN site under Course Materials.

Class 4. Wed., 1/16 (3:00-3:50 p.m.) Listening, continued and Observing. Awareness of Body Sensations. Triangle of Awareness.

Assignment:

a. Reading: Riskin, *Knowing Yourself: Mindfulness*, in *The Negotiator's Fieldbook* 239-50 (Christopher Honeyman & Andrea K. Schneider, eds., American Bar Association 2006). On TWEN.

If you have not read Roger Fisher *et al.*, *Getting to Yes: Negotiating Agreement without Giving In* (2d ed. 1994), and plan to do so, this would be a good time to start reading it.

b. Awareness:

Each day between the preceding class and this one:

1. Do basic *and* extended awareness of breath meditation for 20 minutes each day. Use either 1) the printed instructions for this meditation that are posted on the TWEN site under Meditation and Other Instructions or 2) the first 20 minutes of the recorded “Sitting Meditation” instructions at www.law.ufl.edu/faculty/riskin/multimedia. If you are listening to the recorded instructions, stop (or stop listening to the tape) at about 20 minutes when you hear me say something like, “And now we shift our attention from the breath to an awareness of the body...” (If you’d like to continue meditating, that’s fine, but don’t use the recorded instructions.)

2. For the rest of the day, try to maintain an awareness of the breath during the day, or periodically bring your awareness to the breath.

3. Notice when you are *not* listening to someone. It could be a professor, a friend a relative, or someone on television. Also notice when you are not paying attention to something you are reading.

4. Record your comments about the meditation on the breath and about awareness of not listening on the “Awareness Homework for Class 4 Form, which is posted on TWEN under Assignments.

[Mon., 1/21. No class. Martin Luther King, Jr. Holiday.]

REVISED ASSIGNMENTS FOR CLASSES 5-7 (1/23-1/28), POSTED 1/16. *This supercedes assignments for these classes that appeared on the Preliminary Syllabus.*

Class 5. Wed., 1/23 (3:00-3:50 p.m.) **Listening continued**

Assignment:

a. Awareness (for classes 5 & 6)

-Each day between class 4 and class 6, Fri., Jan. 25, do the “body scan” meditation for about 30 minutes. You may follow either the recorded instructions (32 minutes) at www.law.ufl.edu/faculty/riskin/multimedia, the Awareness of Body Sensations instructions that I have posted on the TWEN site under Meditation and Other Instructions or the body scan instructions in the article Riskin, Knowing Yourself, which is on the TWEN site and is part of the reading for class.

-During the day, periodically do a “STOP” exercise. Try this any time you like but it may be especially useful when you are beginning a new task or activity or when you are feeling unfocused or unsure of what to do next.

-Make a record of these activities on the Awareness Homework for Classes 5 & 6. Form, which I have posted on the TWEN site under Assignments, and **submit this record in class 6, Fri., Jan. 25.**

b. Reading (for class 5):

Read “Active Listening and Looping” on TWEN site.

Class 6. Fri., 1/25 (3:00-4:50 p.m.) [Monday classes meet.]

Negotiation

Assignments:

a. Awareness (for classes 5 & 6)

-Each day between class 4 and class 6 (Fri., Jan. 25) do the “body scan” meditation for about 30 minutes. You may follow either the recorded instructions (32 minutes) at www.law.ufl.edu/faculty/riskin/multimedia, the Awareness of Body Sensations instructions that I have posted on the TWEN site under Meditation and Other Instructions or the body scan instructions

in the article Riskin, Knowing Yourself, which is on the TWEN site and is part of the reading for class 4.

-During the day, periodically do a “STOP” exercise. Try this any time you like but it may be especially useful when you are beginning a new task or activity or when you are feeling unfocused or unsure of what to do next.

-Make a record of these activities on the Awareness Homework for Classes 5 & 6 Form, which I have posted on TWEN under Documents, and **submit this record in class.**

b. Reading: Riskin et al., *Dispute Resolution and Lawyers* 4th ed., abr., pp. 117-67 which is the reading entitled “Negotiation Approaches, Strategies, and Tactics (on the course TWEN site under Materials). If you plan to read Roger Fisher et al., *Getting to Yes: Negotiating Agreement without Giving In* (2d ed. 1994), it would be good to have read it by this time.

c. Observation: Watch the video *A Transaction Negotiation: The Carton Contract*. (About 35 minutes). This video was prepared in about 1990 to introduce negotiation to first-year law students at the University of Missouri. It illustrates some of the principles in the reading assignment. You can watch this online by going to either:

-<http://www.law.ufl.edu/media/faculty/riskin/> (When you get to the directory page, click on "dispute resolution & lawyers." That will take you to a list of links for the videos in the Dispute Resolution and Lawyers Videotape Series. Click on Tape 2. When I did that I had to wait over a minute, but then it appeared and I was able to play it. I was using a MacBook. I did have VLC turned on, though I don't know if that mattered.

or

-the following page on the website of the Center for the Study of Dispute Resolution at the University of Missouri School of law—

<http://www.law.missouri.edu/csdr/csdr-videos.html>—and clicking on “Transaction Negotiation: The Carton Contract.” (Lately, I have had some trouble getting this to work.)

d **c. Case Study**

Think about your case study topic.

d. In class: “Win as Much as You Can” game.

Class 7. Mon., 1/28 (3:00-4:50 p.m.). Interviews and Introductions. Awareness & Negotiation Exercises. Qi Gong—

Assignment:

a. Reading:

In preparation for writing your case studies, read the following materials on the TWEN site:

(When to Use) “*That*” & “*Which*”

Active/Passive Voice

The I’s Have It

Tips on Writing

Outline Instructions

Volokh, Academic Legal Writing (Excerpt)

Optional, but highly recommended: Fred Rodell, *Good Bye to Law Reviews* (on TWEN). (The author, Fred Rodell, a leading figure in the American Legal Realism movement, was a long-time professor at Yale Law School. I took a course from him, and it had a huge impact on my ideas about writing. His witty and biting criticisms of legal writing are slightly less apt today, but contain more than a few kernels of truth. I predict that you will enjoy reading this.)

b. Awareness:

1. Each day, try the brief meditation on the breath on website of the University of Missouri’s Healthy for Life: TE Atkins UM Wellness Program. Go to <http://www.umsystem.edu/ums/curators/wellness/mindfulness/index.htm>.

Then click on “Multimedia (Audio, Video & Photo)” On the page that opens you will find, under “Eat for Life,” the “Awareness of Breath Meditation (9:41).” I am suggesting this because I want to give you a taste of a shorter meditation with a different teacher. (If it is very inconvenient to do this, just do a 15 minute awareness of breath meditation on your own, or listening to my recording.)

2. Do the *Taking STOCK (Beginning)* exercise deliberately at least once in your daily life (i.e., other than when you are formally meditating.)

3. Write a journal entry about your experience doing the *Taking STOCK Exercise-Beginning*. This should be *about* one page, typed if convenient—or written very clearly—and should describe the thoughts, emotions, and sensations that you recognized during the exercise, and any other insights you experienced. **Turn this in during this class**, and keep a copy for yourself.

4. You need not submit an Awareness Homework Form. See if you can exercise the discipline to meditate each day without that obligation.

AwarenessTools2013SprAssignmentsc8-26RevJan30

REVISED (BUT STILL INCOMPLETE AND SUBJECT TO REVISION) ASSIGNMENTS FOR CLASSES 8 (1/30) TO CLASS 26 (4/17). POSTED 1/30/2013.

Class 8. Wed., 1/30 (3:00-3:50 p.m.). Negotiation and Mindfulness Continued.

Topic proposals due in class

Reading Assignment: No new reading.

Awareness Assignment: Decide which awareness activities to do, that is, form an intention, and then carry it out. Do several Taking STOCK exercises each day to help you stay on track.

Class 9. Mon., 2/4 (3:00-4:50 p.m.). Difficult Conversations.

a. Reading Assignment: Finish reading Doug Stone et al., Difficult Conversations.

b. Awareness Assignment: Each day to at least twenty minutes of advanced meditation on the breath or awareness of body sensations meditation.

c. Other preparation:

In class, after we review and discuss Difficult Conversations, I will ask each student to fill out (but not submit) a Difficult Conversations Preparation Form. This form, based on a system set forth in the Difficult Conversations book, will lead you through an analysis of a particular conflict and help you prepare to conduct a difficult conversation regarding that matter (You needn't actually have that difficult conversation, of course.) By the time you come to class, you should **have in mind a specific situation or conflict on which you would like to focus.** It should meet the following criteria:

1. It should involve a conflict or dispute that is primarily between you and one other person. (For purposes of this exercise, you could take a dispute that involves more people and plan for a conversation with just one of them.)

2. It should involve a situation about which you actually could have a difficult conversation with a particular person—in the sense that the person is alive and you could make contact if you wished to do so. I don't mean to suggest that you actually should have that conversation. That is a separate question.

3. It should involve a situation that you would be willing to discuss with one or two of your classmates. (If you cannot come up with such a situation, it is not necessary to discuss with classmates the situation you do use.)

You may use the conflict on which you plan to write a case study, if it is one in which you are or were personally involved.

Class 10. Wed., 2/6 (3:00-3:50 p.m.). Difficult Conversations, continued.

a. Reading: No new reading.

b. Awareness:

1. Do awareness practices of your choice.

2. Each day try to observe and record at least one instance in which you notice one or more of the “three conversations”-- (What Happened?, Emotions, Identity)--manifesting in yourself and, if it is feasible to speculate, in another person). This could arise in a difficult conversation or a conflict with another person. For instance, a friend or co-worker or relative may say something, or do something or fail to say or do something to or for you, and this may precipitate anger, sadness, or joy in you. But the precipitating event need not be a conversation per se. It could be something that someone else says or does that is not deliberately directed at you, or it could be something that happens to another person. So, for example, your closest friend (or someone else you know) tells you that that he or she has received an offer to clerk on the U.S. Supreme Court (which you have always dreamed about). Or you hear that a classmate has dropped out of law school to join Teach for America. Notice the elements of the three conversations in yourself—the first clue might be a strong emotion (which need not be a negative emotion).

Class 11. Mon., 2/11 (3:00-4:50 p.m.). Using the Core Concerns to Deal with Emotions in Negotiation; Beyond Reason. The Five Core Concerns, and Beyond Reason. Loving-Kindness Meditation.

a. Reading: Read Roger Fisher & Daniel Shapiro, *Beyond Reason: Using Emotions as You Negotiate* (2006).

b. Awareness:

In addition to the awareness practice of your choice (e.g, awareness of breath or awareness of body sensations), observe any manifestations of your core concerns during your daily life, especially when you notice your emotions—either positive or negative.

c. Beyond Reason Role Reversal Exercise Preparation:

During this class or the next one, we will conduct an exercise—based on the core concerns system—that would help you prepare for a negotiation. For this purpose, please select a conflict or negotiation that has the following characteristics:

It is real, not fictitious, and you are personally involved in it

It is unresolved. This means that the conflict is still active or, if it is inactive, it still bothers you.

It should involve two parties. If more than two other parties are involved, you must be able to negotiate with just one.

Any context is O.K.—E.g., business, personal, educational.

You should be willing to discuss this with one or two classmates. Before the next class, try to find a classmate with whom you would like to work on this exercise.

Class 12. Wed., 2/13 (3:00-3:50 p.m.). Continuation of Material from Previous Class: Using the Core Concerns to Deal with Emotions in Negotiation; Beyond Reason. Loving-Kindness Meditation.

Awareness:

- Do Loving-Kindness Meditation on Tuesday, and, if possible on Wednesday.
- Notice manifestations of your core concerns in daily life.

Other:

a. Awareness

Each day, between the previous class and this one:

-Do Loving-Kindness Meditation for 15 minutes. You may want to refer to the Loving-Kindness Meditation Instructions that I wrote and have posted on the TWEN site under Meditation instructions. In addition, you will find a link to a shorter set of instructions—written and recorded by Sharon Salzberg, a renowned meditation teacher who has worked a lot with lawyers.

Notice manifestations of the core concerns in your daily life.

b. Reading: Leonard L. Riskin, Further Beyond Reason: Mindfulness, Emotions, and the Core Concerns in Negotiation, 10 Nevada L. J. 289 (2010), on the TWEN site.

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Class 13. Mon., 2/18 (3:00-4:50 p.m.). .) Part I: QiGong with Sifu Anthony Korahais. Part II. Inner & Outer Conflict (a.k.a. The “Negotiation” Within).

a. Awareness: Do Loving-Kindness Meditation each day. No written report is necessary.

For Part I, QiGong,: no assignment. Wear comfortable clothes. We will be doing an exercise called “Lifting the Sky.” It is very easy to do, requires no athleticism, and, to simplify, involves raising your hands over your head in a specific way in a specific state of mind..

For Part II. The “Negotiation” Within, read:

1. Leonard L. Riskin, Inner and Outer Conflict [Aka “The Negotiation Within], 18 Harv. Negot. L. Rev. ____ (forthcoming 2013) (Posted on TWEN site under Course Materials.)
2. (Optional) David A. Hoffman, Mediation, Multiple Minds, and Managing the Negotiation Within, 16 Harv. Negot. L. Rev. 297 (2011). (Posted on TWEN Site under Documents.)

If you are interested in further background on this topic, I suggest you look at the following items on the website of the Center for Self-Leadership, the organization that Richard Schwartz has founded and directs. www.selfleadership.org:

-Evolution of the model. <http://www.selfleadership.org/node/7285>. Also read the material on the links that appear on the upper left of this page. (You may also want to watch the video.)

-Outline of IFS Therapy--<http://www.selfleadership.org/node/7284>

You also may wish to consult a number of books that are on reserve for this course, such as:

Richard C. Schwartz, Internal Family Systems Therapy (Guilford 1996).

Richard C. Schwartz, Introduction to the Internal Family Systems Model (Trailheads, 2001).

Pierro Ferrucci, Psychosynthesis in the Light of Neuroscience, Psychosynthesis Q., Sept. 2012, p. 3. (On TWEN site.)

Class 14. Wed., 2/20 (3:00-4:50 p.m. NOTE: THIS WEDNESDAY CLASS MEETS AN EXTRA HOUR. Meditating Selflessly, The Brain & Practical Conflict Resolution. Guest: James H. Austin, M.D.

Assignment: Read James H. Austin, How the Brain Trains Attention, Insight Journal (Summer 2009). This is available on the TWEN site. However, I will also email a copy to you, as it will be of better quality.

Class 15. Mon., 2/25 (3:00-4:50 p.m.) . Internal Family Systems. Inner & Outer Conflict (a.k.a. The “Negotiation” Within) Continued.

Assignments: THE FOLLOWING WAS NOT ACTUALLY INCLUDED ON THE POSTED ASSIGNMENTS BUT SHOULD BE IMPLICIT.

[Same as for part II of Mon., Feb 18 class. For Part II. The “Negotiation” Within, read:

- 1. Leonard L. Riskin, Inner and Outer Conflict [Aka “The Negotiation Within], 18 Harv. Negot. L. Rev. ____ (forthcoming 2013) (Posted on TWEN site under Course Materials.)*
- 2. (Optional) David A. Hoffman, Mediation, Multiple Minds, and Managing the Negotiation Within, 16 Harv. Negot. L. Rev. 297 (2011). (Posted on TWEN Site under Documents.)*

If you are interested in further background on this topic, I suggest you look at the following items on the website of the Center for Self-Leadership, the organization that Richard Schwartz has founded and directs. www.selfleadership.org:

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Pierro Ferrucci, Psychosynthesis in the Light of Neuroscience, Psychosynthesis Q., Sept. 2012, p. 3. (On TWEN site.)

Awareness: Try meditations suggested by Dr. Austin in the previous class.

Case Study Outline due in class.

Class 16. Wed., 2/27 (3:00-3:50 p.m.). . Internal Family Systems. Inner & Outer Conflict (a.k.a. The “Negotiation” Within) Continued.

Assignment: TBA

[Feb. 25, 2013: New assignment for Class 16, Wed., Feb. 27:

Please read these two items, which I have posted on the TWEN site:

Zinsser, The Lead and the Ending

Writing [The Introduction] Suggestions and Examples (Oct. 2011). When you read the introductions in this document, rank order them and be prepared to vote in class and to explain your choices

[Mon., 3/4 & Wed., 3/6. No class. Spring Break.]

Class 17. Mon., 3/11 (3:00-4:50 p.m.). Advanced Negotiation Exercises.

[New, Feb. 27] Assignment:

Reading: No special preparation

Awareness: Every day, set your intentions; do Chi Gong for 10 minutes; one form of meditation (e.g., breath, body, choice-less awareness (i.e., triangle of awareness), loving-kindness); and do the STOP or Taking STOCK exercise (at least twice each day).

IN CLASS WE DID

-A "NEGOTIATION" EXERCISE. I told the students about a very difficult situation in which a former student of mine negotiated, brilliantly, with people from a different culture who had stolen his girlfriend's dog. I had the students contemplate, using a version of the Taking STOCK exercise, how they would have dealt with the situation at various stages.

-Walking meditation

[Wed., 3/13 Class Cancelled]

Class 18. Mon., 3/18 (3:00-4:50 p.m.) Mediation I.

Assignment:

a. Reading: Riskin et al, Dispute Resolution & Lawyers 203-18; 230-44; 308-17 (4th ed. Abr. 2009). This is in a document entitled "Mediation Approaches and Training Guide" and is posted on the TWEN site under Course Materials. (When we do a mediation role-play in class, students who have taken the Mediation course or mediation training will play the mediator roles, and they need not follow the format set forth in the Mediation Training Guide, which is on pp. 230-44.)

b. Observation: Watch the Red Devil Dog Mediation video. This is part of the the Dispute Resolution & Lawyers Video Series (West 1990), four videos that colleagues and I made at the University of Missouri to introduce alternative dispute resolution to first year students at the University of Missouri School of Law. They are available for viewing at <http://law.missouri.edu/csdr/csdr-videos.html>; <http://www.law.ufl.edu/imldr/resources/multimedia.shtml>; http://www.law.ufl.edu/faculty/riskin/multimedia/dispute_resolution_and_lawyers/

c. Awareness: Select awareness activities of your choice. Do at least one per day. Select the activities deliberately, in the morning, and, at the end of each day, do a Taking STOCK exercise and notice whether you have followed your intentions.

Class 19. Wed., 3/20. 3:00-4:50 QiGong II. Guest: Sifu Anthony Korahais. NOTE: THIS WEDNESDAY CLASS WILL MEET FOR TWO HOURS.

Assignment: None.

Class 20. Mon., 3/25(3:00-4:50 p.m.) Mediation II.

(Optional) preliminary draft for feedback due.

This should not be a “rough” draft. Polish it as much as you can. I will give you feedback as quickly as I can. I will be unable to give feedback on a draft that comes in later than this date and time, but I encourage you to submit a draft earlier.

Class 21. Wed., 3/27. Assignment: Mediation III. Mediation Role-Play Exercise.

a. Reading: Read either or both of the following articles, which are posted on the TWEN site:

Leonard L. Riskin & Nancy A. Welsh, Is That All There Is?: “The Problem” in Court-Oriented Mediation, 15 GEO. MASON L. REV. 863-932 (2008).

Leonard L. Riskin & Nancy A. Welsh, What’s It All About?: Problem-Definition in Mediation, 15 DISPUTE RESOLUTION MAGAZINE, summer 2009 at 19-22. (This is an abridged version of the Geo. Mason L. Rev. article listed above.)

b. Awareness: Continue with awareness assignment for previous class

Class 22. Mon., 4/1 (3:00-4:50 p.m.). Mediation IV.

Assignments: TBA

[Wed., 4/3 (3:00-3:50 p.m.) Class cancelled.]

[Someplace include Thomas Lewis video on neuroscience of empathy.
<http://www.youtube.com/watch?v=1-T2GsG011E>]

Class 24. Wed., 4/10 (3:00-3:50 p.m.) Advanced Dispute Resolution and Mindfulness Exercises.

Assignments: TBA.

Class 25. Mon., 4/15 (3:00-4:50 p.m.) Pulling it all together

Assignments: TBA

Class 26. Wed., 4/17. (3:00-3:50 p.m. Evaluations? **Final case study due in class.**

Assignments: TBA.