**University of California**

**Berkeley School of Law**

**Mediation**

Instructor: Darshan Brach

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Class Date and Time: Tuesdays, 3:35 – 6:15

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| Class Date | Class Topic | Readings and Homework |
| January 10th | Introduction to Mediation | Chapter 3 (91 – 96), Chapter 1 (3 – 26) |
| January 17th | The Mediation Process | Chapter 6 (219-251) |
| January 24th | Negotiation Fundamentals | Chapter 2 (37 – 47, 53 - 61, 66 - 73)  Holbrook, *A Unified Field Theory of Mediation* |
| January 31st | Mediator Skills: Active Listening and Questioning | Buggy, *Are You Really Listening?*  Davis, *10 Tips on Asking Questions* |
| February 7th | Mediator Role/Approaches to Mediation | Chapter 3(Section B. 113 – 125)  Chapter 6 (251 – 253)  Chapter 7 (279 – 283)  Love, *The Top Ten Reasons Why Mediators Should Not Evaluate*  Little, *Do You Have an Opinion?* |
| February 14th | Mediator Skills: Emotional Intelligence | Johnson, *Emotionally Intelligent Mediation*  Lieberman, *The “A” List of Emotions in Mediation from Anxiety to Agreement*  Golann & Golann, *Why is it Hard for Lawyers to Deal with Emotional Issues: A Dialogue between a Lawyer-Mediator and a Therapist* |
| February 21st | Breaking Impasse/Risk Analysis | Chapter 2 (74 – 87)  Chapter 5 (194 – 196)  Settle, *Tips and Techniques for Helping Parties Move Ahead and Overcome Roadblocks* |
| February 28th | Mediator Ethics: Professional Responsibility, Fairness and Power Differentials | Chapter 9 (367 – 373)  Chapter 7 (290 – 300)  Davis and Salem, *Dealing with Power Imbalances in the Mediation of Interpersonal Disputes*, Mediation  California Rules of Court Pertaining to Mediation of Civil Cases, Rules 3.850-3.868 |
| March 6th | Mediation Ethics:  Neutrality and Bias | Chapter 9 (343 – 353)  Izumi, *Implicit Bias and the Illusion of Mediator Neutrality* (excerpts)  Garcia, Vise & Whitaker, *Disputing Neutrality: A Case Study of a Bias Complaint During Mediation*  Herman, *New Mexico Research Examines Impact of*  *Gender and Ethnicity in Mediation*, Chew, ed. The Conflict & Culture Reader, (NYU Press 2001) 91-92  Gunning, *Diversity Issues in Mediation: Controlling Negative Cultural Myths*, 1995 JDR 55 (1995) |
| March 13th | Mediation Ethics: Confidentiality | Chapter 8 (305 – 309, 312 – 342)  Simmons v. Ghadheri, 44 Cal. 4th 570 (2008)  Cassel v. Superior Court of Los Angeles (2011)  Excerpts from California Evidence Code: CA Evidence Code §§ 1115-1128 and CA Evidence Code §703.5 |
| March 20th | Representation in Mediation | Chapter 5 (157 – 160, 196 – 213)  Golann, *How to Borrow a Mediator’s Powers* |
| March 27th | SPRING BREAK |  |
| April 3rd | Multi-Party Mediation | Chapter 12 (443 – 452, 470 – 490) |
| April 10th | Legal and Policy Issues  Presentations | Chapter 7 - 271 – 279 (accountability), 286 – 289 (mandatory mediation), 301 – 305 (good faith)  Welsh, *The Place of Court-Connected Mediation in a*  *Democratic Justice System* |
| April 17th | Presentations  Closing |  |

Presentations:

* International mediation (cross cultural issues)
* Types of mediation
  + Youth
  + Elder
  + Divorce/family
  + Restorative justice
  + Online DR