**Who & What:**

Negotiation is a skill that anyone can learn and master. Professional negotiator and JAMS mediator Shirish Gupta will help you unlock the savvy negotiator in you. We’ll negotiate in every class, with different partners using real-world business-oriented scenarios. My hope is that you’ll end the course as a more confident negotiator. Every year, at least one of my students saves money in a negotiation based on the skills learned in the class.

**When & Where:**

Tuesdays, 10 am – 12:40 pm (remote learning via Zoom)

January 19, 2021- April 27, 2021

Special class: Saturday April 3 (9 am - Noon)

**What You’ll Learn:**

* Negotiation theory & terminology
* Exercising professional and ethical responsibilities to clients and the legal system
* Distributive & integrative bargaining
* Information gathering and giving
* Identifying weaknesses in partner’s strategy/tactics/positions
* How to negotiate via text & email
* Using time and scarcity to your advantage
* Effectively using a mediator
* 1v1, 2v2 negotiations
* Auction theory
* Demonstrate the ability to communicate orally
* Other professional skills needed for competent and ethical participation as a member of the legal profession

**Office Hours:** I welcome the chance to get to know you and help you in your law school school and legal career. I’m usually available right after class. If that doesn’t work, email me and we’ll set up a time to talk.

**Credit Hours:** 3 Units

**Zoom Meeting Room ID:** <https://berkeley.zoom.us/j/98056522932?pwd=MStLM2d3QlRjcjM1QnBqQXUzTkk2QT09>

**bCourses**: Our class bCourse is at <https://bcourses.berkeley.edu/courses/1500569>. I’ll post the readings and announcements via bCourses.

**Attendance:** Class meetings will be offered online via web conference with Zoom. I will record each meeting and post it on bCourses. Due to the nature of this class, it falls within an exception to the Law School’s Spring 2021 policy regarding real-time attendance. Real-time attendance is required except in cases of illness or emergency. This class combines lecture, exercises, and polls.

**Interaction with Other Classes/Schools**

March 3-14: Cross-School Email Negotiation

April 3 (Saturday): Water Shut Off negotiation exercise with Hastings/Berkeley sections

**Course Materials:**

Required:

* [Bargaining for Advantage](http://www.amazon.com/Bargaining-Advantage-Negotiation-Strategies-Reasonable/dp/0143036971) by Richard Shell
* [Getting to Yes](http://en.wikipedia.org/wiki/Getting_to_Yes) by William Ury & Roger Fisher (complete by Class 4)
* [Dealmaking](https://www.amazon.com/Dealmaking-New-Strategy-Negotiauctions-Second-dp-0393358399/dp/0393358399/ref=dp_ob_title_bk) by Guhan Subramanian (complete by text negotiation class)
* Other required reading will be posted on bCourse

Optional

* [Influence: The Psychology of Persuasion](http://www.amazon.com/Influence-Psychology-Persuasion-Business-Essentials/dp/006124189X) by Robert Cialdini

**Grading:**

The class will be graded on a curve.

50%: Class Participation

50%: 4 Weekly Bargaining Plans & Email Negotiation

In each class after the first, students can earn up to 4 points per class. Attending class is one point and the remainder depends on the student’s demonstrated preparation for class, productive contributions to the discussion, creativity and effort shown in the exercises and varying your approach from class to class (i.e. not always being competitive or compromising). Most students will get 3 points per class. Students showing exceptional effort (based on my experience teaching this class) may earn 4 points. 2 points may be awarded if the student displays lack of effort, preparation or participation in the discussion. Students with an excused absence will receive 3 points.

Bargaining plans generally count towards participation. Lack of effort or preparation include poor grammar, punctuation, typos and not following page limits/spacing in the bargaining plans can lead to a deduction in participation points.

The class follows Academic Rule 12.4, with no more than 40-45% of the class receiving honors grades.

All interested students, whether enrolled or on the wait list, must attend the first session. Failure to attend the first class will be reported to the Registrar’s office.

Please save your written assignments as [your full name] – [Bargaining Plan #\_] and email them to [sgupta@shirishgupta.com](mailto:sgupta@shirishgupta.com) by the start of class.

**Technology**

Absent bandwidth issues, students must have their cameras on during class. If your exercise partner does not have their camera on, you may turn yours off for that exercise.

Each student must have a WhatsApp account for the text-based negotiation by the start of the second class.

The class follows the School’s video policy. Students may not make their own video recordings of the course.

**Role Plays**

Reading your role and the assigned reading are crucial. **DO NOT READ FACTS OR ROLES OTHER THAN YOUR OWN.** You may make **reasonable** assumptions to fill in gaps in the roles.The role plays are available through bCourses.

After every negotiation, exchange bargaining plans and give your partner(s) written feedback on what they did that worked well and ways they can improve. You’re welcome to discuss the exercise with them verbally as well.

**School-wide Policies**

1) A “credit hour” at Berkeley Law is an amount of work that reasonably approximates three to four hours of work per week for 15 weeks, including a) classroom time, b) time spent preparing for class, c) time spent studying for, and taking, final exams, d) time spent researching, writing, and revising papers and other written work, and e) time spent preparing for and completing any other final project, presentation, or performance. For the purposes of these calculations, 50 minutes of classroom instruction counts as one hour, and the 15 weeks includes the exam period. You can expect to spend this amount of time per unit per week on in-class and out-of-class, course-related work as described above.

2) Students who need classroom accommodations or want to discuss implementation of their accommodations in this class are advised to contact Director of Student Services as soon as possible.

3) The [Academic Honor Code](https://www.law.berkeley.edu/academics/registrar/academic-rules/academic-honor-code/) governs the conduct of all students during examinations and in all other academic and pre-professional activities at Berkeley Law.

**Student Technology Help:** If technical difficulties prevent you from completing course work, please alert me immediately. However, understand that I cannot assist you with technical problems. Please use the technical support resources described below. Be sure to document (save emails and transaction numbers) for all interactions with tech support.

Berkeley Law students are entitled to general software support for their computers from the law school, and certain free software downloads from UC Berkeley, while enrolled.  If you have issues with internet access or computer equipment required to participate in classes remotely, you should contact [studentcomputing@law.berkeley.edu](mailto:studentcomputing@law.berkeley.edu). Information, links, and instructions for many common computer/technical questions can be found in the [law library's online computing guide](http://libguides.law.berkeley.edu/computing/home). For bCourses, Zoom, and technical support questions, please email [studentcomputing@law.berkeley.edu](mailto:studentcomputing@law.berkeley.edu) or you can use the [Student Computing chat.](https://www.law.berkeley.edu/library/internal/techChat.php) In both cases, someone will respond to you during our regular business hours.

If you have research-related questions, please contact the reference librarians by filling out the [reference request form](https://www.law.berkeley.edu/library/dynamic/students/researchRequest.php). You can also reach reference librarians during business hours by using the [law library’s chat service](https://www.law.berkeley.edu/library/dynamic/internal/chat.php).

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| **#** | **Date** | **Topic** | **Pre-class reading & assignments** |
| 1 | 1/19 | Course Introduction  ● Course Overview and Expectations  ● Terminology  ● Experience with Negotiation  ● Haggling  ● Good Guy Discount  ● Information-Based Bargaining Plan  Negotiation exercises | Reading for the first class:  · Bargaining for Advantage Ch.1-3  · Getting to Yes (to be completed by Class 4)  Activity: Complete icebreaker at <https://forms.gle/YtQQAWHLqA7Jvvc56>  Listening: [The Good Guy Discount](http://tal.fm/515/0) |
| 2 | 1/26 | Ethical Issues in Negotiation  Negotiation Repossession with Professor as mediator | Reading:  · Bargaining for Advantage Ch. 12  · [CRPC 1.0.1 Terminology](http://www.calbar.ca.gov/Portals/0/documents/rules/Rule_1.0.1-Exec_Summary-Redline.pdf) (Tribunal)  · [CRPC 3.1 Meritorious Claims and Contentions](http://www.calbar.ca.gov/Portals/0/documents/rules/Rule_3.1-Exec_Summary-Redline.pdf)  · [CRPC 3.3 Candor Toward the Tribunal](http://www.calbar.ca.gov/Portals/0/documents/rules/Rule_3.3-Exec_Summary-Redline.pdf)  · [CRPC 3.10 Threatening Criminal, Administrative, or Disciplinary Charges](http://www.calbar.ca.gov/Portals/0/documents/rules/Rule_3.10-Exec_Summary-Redline.pdf)  · [CRPC 4.1 Truthfulness in Statements to Others](http://www.calbar.ca.gov/Portals/0/documents/rules/Rule_4.1-Exec_Summary-Redline.pdf)  · [CRPC 8.4 Misconduct](http://www.calbar.ca.gov/Portals/0/documents/rules/Rule_8.4-Exec_Summary-Redline.pdf)  [California B&P § 6068](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=BPC&sectionNum=6068.)  · 2020.7 Ethics letter re rogue attorney  Listening: [This American Life Ep 552 Act One](https://www.thisamericanlife.org/552/need-to-know-basis) |
| 3 | 2/2 | Negotiate Jack & Diane  Negotiating Without Information  ● The Prisoner’s Dilemma | Reading:  · Bargaining for Advantage Ch. 8  · Elena Rocco, Trust Breaks Down in Electronic Contexts  · Getting to Yes (to be completed by Class 4)  Writing: None  Activity: Listen to [Radiolab](https://www.wnycstudios.org/story/104010-one-good-deed-deserves-another)  Activity: Jack & Diane attorneys and clients meet |
| 4 | 2/9 | Negotiate Smartphone Wars - duopoly game  Basic Concepts of Negotiations  ● Positions vs. Interests  ● Information Gathering  ● Basic Negotiation Planning | Reading:  · Getting to Yes (to be completed by Class 4)  · Bargaining for Advantage Ch. 7  Listen to [Radiolab](https://www.wnycstudios.org/story/whats-left-when-youre-right/) interview on Golden Balls: (mins 3-20) |
| 5 | 2/16 | Negotiate Batmobile, Governor  Distributive Bargaining  ● Leverage | Reading:  · Bargaining for Advantage Ch. 3, 6  · Dealmaking (complete by Class 6)  · Article: Want to Build Trust?, Order the Same Food  · Article: Exploiting Brexit Talks  · Article: Having a Plan B  Writing: Batmobile Bargaining Plan |
| 6 | 2/23 | Negotiate Airplane Fender Bender  Integrative Bargaining  ● Phases of Negotiation  ● Expanding the Pie: Exploring the Possibilities for Joint Gain  ● Cialdini’s Negotiation Principles (Psychology)  Sale of website/urls | Reading:  · Bargaining for Advantage Ch. 4,5  · Dealmaking (complete by Class 6)  · Article, In Negotiations, Givers are Smarter than Takers  Writing: Airplane Fender Bender Bargaining Plan |
|  | 3/5-3/14 | Email Negotiation  ● Gender & Race in Salary/Job Offers | Writing: Submit goals: <https://forms.gle/EH5RxEpn9KA9qsoG7>  Reading:  Article, [Berkeley Offers and Negotiation](https://career.berkeley.edu/sites/default/files/pdf/Guide/OffersNegotiat.pdf)  · Article, [Why Women Don’t Negotiate Their Job Offers](https://hbr.org/2014/06/why-women-dont-negotiate-their-job-offers)  · Article, [A Hard Bargain: Race and Salary Negotiations](https://ideas.darden.virginia.edu/a-hard-bargain-race-and-salary-negotiations)  · Article, [Want to Close the Pay Gap\_ Pay Transparency Will Help](https://www.nytimes.com/2019/01/20/smarter-living/pay-wage-gap-salary-secrecy-transparency.html)  · Article, [Why Do I Make Less Than My Male Co-Stars](https://www.lennyletter.com/story/jennifer-lawrence-why-do-i-make-less-than-my-male-costars)  · [Cal Labor Code 432.3](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=432.3.&lawCode=LAB)  Optional: Article, [Bargaining While Black](https://www.apa.org/pubs/journals/releases/apl-apl0000363.pdf) |
| 7 | 3/2 | Negotiate surf.net  Negotiauctions  Multi-party negotiation  Text Negotiation | Reading: How Crisis Negotiators Use Text Messaging  2020 Text Negotiation with Costco  Optional: Emoji’s and the Law  Writing: surf.net Bargaining Plan (graded) |
| 8 | 3/9 | Negotiate Miguel’s  Critical Negotiator Tools  ● Framing Issues  ● Concession Strategies  ● Closing Moves  ● Securing Commitment  ● Press Releases | Reading: Bargaining for Advantage Ch. 9 -10  Writing: Miguel’s Bargaining Plan  Watching: Press Releases parts 1 & 2 |
| 9 | 3/16 | Negotiate The Great River  Documenting the Deal  ● Negotiating strategies when documenting an oral agreement | Read: JAMS Settlement Agreement  Writing: The Great River Bargaining Plan – address what you plan to include in your PR (graded) |
|  | 3/23 | Spring Break |  |
| 10 | 3/30 | Negotiate Where’s the Beef  Common Negotiation Tactics/  Active Listening/Keeping in Control of Your Emotions | Reading:  · Getting to Yes, Ch. 8  · Article, Phone taps, power plays and sarcasm  Activities:  · Aunt Martha’s Kitchens attorneys and clients meet  Writing: Where’s the Beef Bargaining Plan - address what you plan to include in your settlement agreement |
| 11 | Sat 4/3  9am-noon | Cross-class exercise  Negotiate Water Shut Off | Reading:  ·Clark, The Poisoned City, pp. 2-19, 31-61  ·<https://theconversation.com/flints-water-crisis-is-a-blatant-example-of-environmental-injustice-53553>  ·[https://www.ejnet.org/ej/principles.html "](https://www.ejnet.org/ej/principles.html)  Writing: Water Shut Off Bargaining Plan |
| 12 | 4/6 | Negotiate Aunt Martha’s Kitchens  Facilitated Settlement (Mediation)  ● Overview of a mediation  ● Role of the mediator | Reading:  [CRPC 2.4 Lawyer as Third-Party Neutral](http://www.calbar.ca.gov/Portals/0/documents/rules/Rule_2.4-Exec_Summary-Redline.pdf)  [Wayne Brazil, Specific Ways That Participation by a Neutral in a Settlement Dynamic Can Increase the Likelihood of Success](https://www.dropbox.com/s/w2t2um1e1ucf4v2/Wayne%20Brazil.pdf?dl=0)  Writing: Aunt Martha’s Bargaining Plan (graded) |
| 13 | 4/13 | Facilitated Settlement (Mediation) Part II  ● Using a mediator effectively  ● ADA Mediations  Negotiate New Hire-New Fire with mediators  ● Collateral Insurance | Reading: [Shirish Gupta, Mediations Need a Plan of Action](https://www.dropbox.com/s/vbrhq836irm6mwp/2015.10.16%20Mediations%20Need%20a%20Plan%20of%20Action%20Article.pdf?dl=0)  Writing: New Hire-New Fire Bargaining Plan |
| 14 | 4/20 Last Class | Facilitated Settlement (Mediation) Part II  Negotiate Sharma-Gymboree with mediators | Writing: Sharma-Gymboree Bargaining Plan |