

**Negotiations**  
LAW 245 – Sec. 3

UC Berkeley School of Law - Fall 2022

August 22, 29  
September 12, 19, 26  
October 3, 10, 17, 24, 31  
November 1, 8  
@ 5:30 – 9:10  
Location – Law 10

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**Course Policies and Guidelines**

**Course Description:** This seminar is designed to teach students to become better negotiators and to represent clients effectively in both transactional and dispute resolution settings. The structure of the course emphasizes both theoretical and experiential learning. Since negotiation is something you learn by doing, we will engage in hands-on negotiation simulations throughout the course. These simulations are designed to enhance your skills, demonstrate concepts, and provide you with opportunities to experiment with various negotiation techniques.

In addition, we will discuss theories of negotiation and use them to analyze the simulated negotiations. As a result, we will move back and forth between theory and practice, applying lessons from theory to our negotiation practice, and drawing lessons from our experience to critique theory.

**Class Meetings and Schedule Flexibility:** Each class will begin with a discussion of the previous negotiation including skills applied, lessons learned, and goals moving forward. Then students will be left to their own devices to conduct the negotiation for that week. **STUDENTS WILL HAVE THE ABILITY TO CONDUCT THEIR NEGOTIATIONS OUTSIDE OF CLASS TIME IF APPROVED BY PROFESSOR GENSKÉ.** We recognize that our class meetings each week are long, and we will ensure sufficient breaks and scheduling flexibility to allow for optimal student participation and learning.

**Guest Speakers:** The class will consist of lecture discussions with several guest practitioners. Speakers TBA.

**Syllabus:** This Syllabus and proposed weekly coverage of Syllabus materials are subject to change, pending topical issues arising during the course. Class reading will help students learn negotiating basics, how to prepare for class mock negotiations and what tactics the most skilled practitioners employ.

**Weekly Reading Assignments and Class Outlines:** Each week's reading assignments will be uploaded to Bcourses. Our class bCourse site is <https://bcourses.berkeley.edu/courses/1495764>. I will make every effort to upload new reading assignments the Friday before our Tuesday meeting.

Students are expected to complete every assigned reading on time as class participation will be noted and each lecture will have covered key points from our reading assignments. If any student has any questions about the readings or future assignments, please feel free to ask me for clarification.

**Class Grading System:** Students will be graded on their class participation, successful completion and quality of pre and post negotiation journals, and one final take home exam.

1. Class participation – 40%
  - Forty percent of students' final grades will be determined by their degree of class preparation, participation and interaction. Negotiation is a skill learned by doing. So, a large portion of the grade will be based on students' engagement in our weekly mock negotiations. Points will be given on a discretionary basis.
2. Pre and post-negotiation journals – 40%
  - Each student will be responsible for completing journal entries before and after every negotiation exercise.
  - Pre-negotiation journals:
    - Title: Lastname\_Firstname\_Negotiation #\_Pre Journal
    - 1-page double space
    - Due before the start of that negotiation
    - Should contain a detailed analysis of a student's plan of attack for the upcoming negotiation exercise. Students may discuss their stylistic approach, predict obstacles, and show an understanding of their partners goals and objectives. As students gain more practical experience throughout the semester, the expected quality and level of detail of each brief should improve
  - Post-negotiation journals:
    - Title: Lastname\_Firstname\_Negotiation #\_Post Journal
    - 2 - 3 pages double spaced
    - Due 7 days after completion of the negotiation
    - Should be an evaluation of their pre-negotiation tactics, successes, failures, surprises, along with a plan of how to improve in the next negotiation.
  - Each journal should be completed in 12-pt Times New Roman font and be double spaced. Please include a title (mock negotiation exercise name) the date of the mock negotiation, your name, which party you represented, and who you negotiated against.
  - Please send Journals to [nataliekaliss@berkeley.edu](mailto:nataliekaliss@berkeley.edu), and please cc [greggenske@icloud.com](mailto:greggenske@icloud.com) and [katey@vaynersports.com](mailto:katey@vaynersports.com)
3. Take home final paper – 20%
  - a. The final paper will require students to complete a complex negotiation and then write an analysis about the exercise. This assessment will be discussed in detail in the following weeks.

**Student Numbering System:** Each student will be given a number that will determine who their negotiating partners or adversaries will be throughout the semester.

## Course Syllabus and Reading Assignments

Readings and Exercises to Complete Before First Class (PDFs will be provided on Bcourses):

- *Beyond Winning: Negotiating to Create Value in Deals and Disputes* by Robert H. Mnookin
  - I. The Dynamics of Negotiation [**please read pages 9-69**]
- *The Art of Contract Negotiation* by David B. Falk
  - Feel free to read as much of this article as interests you. Falk is a colorful character and has many entertaining negotiation war stories. For our purposes, however, **please read:** “Know Your Negotiating Opponent” (pages 10-14); “Prepare a Negotiation Strategy” (pages 14-18); “The Importance of Atmosphere” (pages 18-22); “First Offers” (pages 22-23)
- **Please review** the Prisoner’s Dilemma Exercise at <https://ncase.me/trust/> (We will complete this in class)

## Weekly Topics

**Week 1 (8/22): (*Attendance Mandatory*)** Introduction to Negotiations and Class Expectations; Planning and Preparation for Negotiation; The Prisoner’s Dilemma

**Week 2 (8/29):** Entertainment Talent Representation Negotiation (Negotiation #1)

**Week 3 (9/5): NO CLASS**

**Week 4 (9/12):** Multiparty Bankruptcy Negotiation (Negotiation #2)

**Week 5 (9/19):** Settling Multi-Party Civil Litigation Negotiation; Guest Speaker Practitioner: Chris Banks from Morgan Lewis (Negotiation #3)

**Week 6 (9/26):** Multi-Party IP Licensing/Litigation; Guest Speaker Practitioner: Chris Banks from Morgan Lewis (Negotiation #4)

**Week 7 (10/3):** Professional Athlete Contract Bonus Negotiation (Negotiation #5)

**Week 8 (10/10):** International Real Estate Negotiation; Guest Speaker Practitioner: Peter Ziblatt (Negotiation #6)

**Week 9 (10/17):** Multiparty Real Estate, Land Use, and Government Negotiation; Guest Speaker Practitioner: Peter Ziblatt; Class Wrap-Up (Negotiation #7)

**Week 10 (10/24):** Fox TV Deal Negotiation; Guest Speaker Bobby Hacker (Negotiation #8)

**Week 11 (10/31):** Final lecture and review of material; Discussion and recap of negotiations; Q&A for final paper