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**ALTERNATIVE DISPUTE RESOLUTION PRACTICE
INTRODUCTION TO COURSE AND COURSE REQUIREMENTS, FALL 2013**

Required Text: Goldberg, Sander, Rogers and Cole, *Dispute Resolution: Negotiation, Mediation and other Processes*, Sixth Edition 2012.

Office Hours

One hour before class and by appointment.

Syllabus

A syllabus for the course will be posted.

1. **INTRODUCTION**

The purpose of this course is to provide you with an introduction to and examination of the fundamental techniques and theory necessary to engage in third party dispute resolution proceedings outside of the trial process, such as mediations, arbitrations, as well as other processes. This course will examine the legal framework of these processes, but will more deeply explore the ethics, tactics, and skills associated with them. The methodology will include lectures, readings, class discussions, demonstrations, and most importantly, in-class roleplay problems.

Each class period will be divided into components utilizing these methodologies. I will give short lectures, supplementing the readings in the text, for each aspect of the process that we study. Class discussions based on the readings will also be a significant part of the course. Finally, each student will participate in roleplays based upon problems contained in the text or that I assign in order to practice the skills discussed. Changes in the course schedule and roleplay problems may be required based upon my perception that more time is needed on a particular aspect of advocacy. However, you will be given adequate notice of such changes.

2. **ROLEPLAY SESSIONS**

The primary emphasis of the course will be learning practice and advocacy skills by assuming the role of counsel, mediator/arbitrator, or client in the assigned simulation problems. You will participate in a roleplay assignment almost every week. On a less frequent basis, you will each perform the roleplays as a demonstration for the other class members in order to obtain their input and feedback. Following each performance, there will be a critique by me and a discussion and comments by the class. To derive the

maximum benefit from experiential learning, adequate preparation for and attendance at all class sessions is essential.

A. **Attendance and Preparation**

Attendance at all classes is mandatory. It is impossible to make-up a missed roleplay session or to get much benefit from someone else's notes or description of what happened.

Adequate preparation for the roleplays requires the following: First, you should read the assigned material, think through the exercise and have complete command of the facts. This is necessary not only for preparation of your examination of the witness, but is necessary for you to be able to play the part assigned. You also will have confidential information for your role which you will be required to know.

In order to benefit from the role playing exercise, you must follow the instructions in the problems and realistically play your assigned role. In playing a client or a "neutral" you must choose an appropriate personality for your role. In choosing a personality, you will be most helpful to fellow students if you avoid bizarre or neurotic personalities. You may choose your own personality [unless you are bizarre or neurotic]. Inevitably, you may need to provide facts or information which cannot be answered from the prepared materials. When this happens, act consistently with the information in the material and with the personality of the character you have assumed. Additional information provided should be compatible with the role, including when appropriate, information from your own background. Please study the underlying facts of your role carefully enough so that you do not need to refer to the materials during the exercise.

Unexcused absences or the clear failure to prepare for class will reduce your final grade. Grading will conform to the announced policies of the University of California, Berkeley School of Law.

3. **FEEDBACK ON ROLEPLAY PERFORMANCES**

As noted, each roleplay performance will be followed by either an in-class critique or a debriefing, followed by discussion. While you can expect to learn a great deal simply by performing the roleplay exercises, post-performance analysis and critique is an essential part of the program. It not only helps prevent the development of bad habits, but also fosters analysis of alternative approaches to the particular problem.

It must be remembered that there are frequently no "correct" answers to many of the issues raised by these problems. Each person handles conflict and its resolution in a different way. At times you will disagree with the substance of a particular critique. However, in view of the limited time we have and the number of people who will be

performing, we cannot spend much time on listening to a non-educational defense of a particular performance or approach. If you disagree vehemently with my analysis of a performance, I will gladly discuss it with you after class.

Additionally, I want to caution you that the experiential learning method, like life, is emotion-laden and difficult. As much as litigators may try to deny it, your ego becomes deeply involved in the result, whether it is a verdict, settlement, or merely a critique. Experience has shown, however, that students generally profit most from frank and direct feedback. Remember that my purpose is not to inflict wounds, but to provide guidance in acquiring skills. I will do my best not to inadvertently bruise any feelings in this process.

4. **COURSE REQUIREMENTS AND EVALUATION METHODS**

The basic components of grading in the course are as follows:

- ◆ Class participation/attendance (30%)
- ◆ Role Plays: preparation and performance (50%)
- ◆ Written assignments (20%)

There will be three short writing assignments during the semester. One of these assignments will focus on your analysis, preparation, and execution of a particular negotiation roleplay, including a detailed account of the roleplay.

The second will focus on the goals and strategies for an assigned mediation problem.

The third papers will involve an comparative analysis of two in-class simulations, one involving mediation and the other involving an arbitration, discussing the processes utilized and the effectiveness of the mediator/arbitrator and the advocates.

5. **The Following Should be Done Immediately**

A. Purchase the course text book.

B. Read the appropriate portion of text assigned for the first week.

If you have any questions, feel free to contact me. I will gladly discuss any problems with you.