

Legal Educators Resource Share 2022
Sharon Press, Mitchell Hamline School of Law and
Noam Ebner, Creighton University
Note: *New Material*; *Updated Material*

A. FEATURED PRESENTATIONS

Mindfulness meditation in negotiation courses. In my Legal Negotiation course, starting a few weeks into the course, I have my students engage in a 3-minute mindfulness meditation at the beginning of each class, whether we're online or in person. We have discussions about research on mindfulness and its connection to bias, creativity, and wellbeing. For our class meditation, I've drawn from the free guided meditations available on the [UCLA Mindful Awareness Research Center site](#). I have also shared this essay, [How Mindfulness Can Defeat Racial Bias](#), by Professor [Rhonda Magee](#). Prof. Magee is the author of the book [The Inner Work of Racial Justice: Healing Ourselves and Transforming Our Communities Through Mindfulness](#), published in 2021. I wrote about mindfulness in law school curricula in my 2016 article, [A Call for Law Schools to Link the Curricular Trends of Legal Tech and Mindfulness](#) (including mention of my negotiation course). I frequently reference Professor Leonard Riskin's foundational work in this area, including his 2002 Harvard Negotiation Law Review article, [The Contemplative Lawyer: On the Potential Contributions of Mindfulness Meditation to Law Students, Lawyers, and Their Clients](#) Submitted by Katrina Lee lee.8755@osu.edu (**APPENDIX T**)

Resource for teaching negotiation communication (**APPENDIX Q**) Submitted by Ava Abramowitz avaesq@gmail.com

B. ADR LISTSERVS AND ...

Joining the ADR Professor Listserv:

1. Address a message to: listserv@po.missouri.edu
2. In the body of the text, write: subscribe DRLE

AALS

Joining the Junior ADR Professor Listserv:

(junior = seven years or fewer in the academy)

1. Go to <https://connect.aals.org/p/us/to/> (you may need to login)
2. Click Add Subscription button
3. For "Category," pick "Section"
4. For "Topic," pick Junior ADR
5. Click Add.

Adding/Updating ABA Directory Info for your ADR Program

To get username and password, email Jen Reynolds (jwr@uoregon.edu)

Indisputably Blog

The blog provides an online conversation with colleagues in DR and those in overlapping fields, linking dispute resolution scholarship, education, and practice. The bloggers provide announcements and running commentaries on the latest work in arbitration, mediation, negotiation, and other dispute resolution processes. You can subscribe and get an email every day when there is a new post.

<http://www.indisputably.org/>

C. Conferences/Virtual Gatherings of Interest to ADR Scholars

1. AALS Annual Meeting (each January)
2. ABA Dispute Resolution Section Annual Meeting (May 10 – 13, 2023 Las Vegas)
3. AALS Conference on Clinical Legal Education (each spring)
4. Law & Society Association (each summer)
5. International Association for Conflict Management (IACM) (summer – every other year in the US)
6. Association for Conflict Resolution (September 14 – 16, 2022 Orlando)
7. AALS Works-in-Progress (October 6 – 8, 2022, Oregon)
8. National Association of Community and Restorative Justice Conference www.nacri.org
9. Global Alliance of Civil Collaborative Lawyers, Tampa <https://collaborativelaw.org/about-us/calendar/>
10. Southeast Association of Law Schools SEALS www.sealslawschools.org [ADR sessions]
11. Association of Family and Conciliation Courts, Annual Conference <http://www.afccnet.org/Conferences-Training/AFCC-Conferences>
12. ABA Mediators' Institute
13. CADRE
14. International Association for Conflict Management
15. International Forum on Online Dispute Resolution

D. Teaching/Training Materials

1. International Council for Online Dispute Resolution <https://icodr.org/> Website contains the ICIDR's ODR Training Standards and Payment ODR Standards.
2. **ABA Dispute Resolution magazine** – Great source of articles on all topics typically taught in ADR courses.
3. RSI has a great database of state mediation rules and regulations <https://www.aboutrsi.org/acrossus> One what to use this in a mediation courses is to ask students to research the rules in the state they intend/hope to practice

after graduation and identify: 1) what, if any, rules are in place for mediator certification/approval, 2) scope of confidentiality, and then depending on the class... 3) what cases, if any, are mandated to use mediation before trial or 3) are their good faith requirements? - submitted by Alyson M Carrel a-carrel@law.northwestern.edu

4. Ebner, N. & Greenberg, E. (2020). [Designing binge-worthy courses: Pandemic pleasures and COVID-19 consequences](#). *Negotiation Journal* 36(4), 535-560.

Teachers of conflict, negotiation, and alternative dispute resolution who have transitioned their in-person courses to synchronous video conferencing are posed with significant pedagogical challenges. How will they stoke their students' curiosity and maintain their students' interest? How will students find the motivation and energy necessary to engage in nonstop videoconferences, day in and day out? How are they to maintain the high cognitive function required for our courses in the face of Zoom fatigue and reduced social interaction?

In light of these challenges, we explored another activity that students (and their teachers) not only engage in but can't pull themselves away from. Drawing on the literature examining psychological and neuroscientific aspects of binge-watching television shows, we propose an innovative approach to designing courses our students will want to binge-learn. Submitted by: Noam Ebner NoamEbner@creighton.edu and Elayne Greenberg greenbee@stjohns.edu

5. **Manual:** A manual for introducing communication, mediation and circle process in prisons using law students as co-teachers and facilitators. Should be available summer 2020. Contact Lela Love love@yu.edu or Rich Brewster richardbrewster41@gmail.com

6. [Legal Education, ADR, and Practical Problem Solving \(LEAPS\) Project](#)

The Legal Education, ADR, and Practical Problem-Solving (LEAPS) Project is the work of the ADR in Law Schools Committee of the ABA Section of Dispute Resolution from several years ago. It developed a website to help faculty incorporate practical problem-solving" (PPS) into their instruction of a wide range of courses, including doctrinal, litigation, transactional, and ADR courses. The website includes:

- Descriptions of various teaching methodologies
- Suggestions for encouraging colleagues to include more PPS in their courses
- Possible "talking points" for discussing the incorporation of PPS into doctrinal courses
- A survey of how schools integrate practical problem-solving skills in their J.D. curricula
- Lists of consultants who can help incorporate PPS in specific courses
- Examples of course exercises and approaches for introducing PPS in doctrinal courses
- Links to relevant resources on other websites

7. The Academic Council of the Institute for Transnational Arbitration website, [International Dispute Resolution Resources for Legal Educators](#).

The goal of this project is to gather, classify, and disseminate syllabi, notes, exercises, exams, and other original teaching materials prepared by international arbitration teachers from around the world. As a truly international endeavor, the collection will not be limited to materials written in English, but we also want to encourage the addition of materials written in Spanish, French, Portuguese, and perhaps other languages by teachers of international arbitration from other countries. We would like to encourage you to submit your own materials as well as reviewing the materials that are already available. In addition to collecting syllabi and other teaching materials, we are also interested in promoting an exchange of pedagogical approaches, innovative teaching techniques and other strategies, via a dedicated listserv ([ITA-LEL](#)). The website and the listserv are open and accessible to anyone who teaches in the area of international dispute resolution, either full or part-time. If you have any questions regarding logistics, please contact site Administrator [Krishonne Johnson](#).

8. “Stone Soup” Dispute Resolution Knowledge Project

The Stone Soup Project is a collaborative effort of faculty, students, practitioners, educational institutions, and professional associations to improve teaching and learning about actual dispute resolution practice. Faculty assign students to conduct interviews and/or observe actual cases. Interviews involve parties and/or lawyers or other dispute resolution professionals. (The project is NOT a standardized database, which we originally considered.)

Some faculty like the Stone Soup idea generally but wonder if it would work in their courses or feel hesitant for other reasons. [This post describes some colleagues’ concerns and responses to those concerns](#). In particular, the assignments need not add much, if any, workload; students generally can find interview subjects without faculty assistance; and Stone Soup can work well in almost any law school course.

Faculty have great flexibility in tailoring assignments to fit their instructional goals and circumstances. [This table illustrates variations in Stone Soup courses in the first year](#):

- Class size
- Description of the Stone Soup assignment
- Whether the assignment was required, one option of an assignment, or extra credit
- Assigned paper length, if any
- Due date
- Percentage of grade, if any
- Whether the results of the assignment were discussed in class

For more information, see this [post summarizing the first year’s achievements](#). *Submitted by John Lande, University of Missouri*

9. The resources on this page <https://go.osu.edu/DCPaba> were compiled for “Re-framing Hate: Practice-Based ideas for Dispute Resolution’s Role in Hate Incidents” and include resources from the Divided Community Project, Stop Hate Project, and UVA’s Transforming Community Spaces, as well as Not in Our Town, NICD, and Living Room Conversations. Some resources have been used in the classroom, while others are ideas which conflict resolution practitioners might use to support communities facing hate. *Submitted by Bill Froehlich, Ohio State*

E. VIDEOS

1. **Video for classroom use in teaching negotiation** that was recently produced at the University of North Carolina. The ten-minute video ("Dream Car") depicts several scenes of an automobile sale negotiation, focusing solely on price. It highlights several distributive moves and illustrates many of Robert Cialdini's influence principles. It also touches on issues of gender, ethics and culture. Rather than demonstrate what should be done, the video affords viewers an opportunity to identify what is going on, and to generate their own ideas of why the moves might be effective and how to respond or negotiate more effectively. Here's a link to the video: <https://player.vimeo.com/video/251747395> I have a pdf of teaching points available for instructors. Contact me if you'd like a copy or if you have any other feedback. **Sam Jackson** ssjackso@email.unc.edu

2. Video of Ugli Orange Negotiation and how to use it in a debrief *Email John Barkai* barkai@hawaii.edu to get a copy. Transcript of the video is in the Nebraska Law Review

3. **ABA/Suffolk University Law School Dispute Resolution Video Center** www.adrteacher.org (roleplay instructions and most of the videos are protected to preserve their usefulness in class; for a password, **contact Dwight Golann** dgolann@suffolk.edu or user name: teacher password: aba123. Mumbai Dispute now available with Singapore mediators – promotes discussion of evaluation and reality testing.
 A video has been created by Dwight and Marjorie Aaron in memory of the late Margaret Shaw and to make the video and roleplay on which it's based available for teachers to download at no charge. The Harvard Program on Negotiation offers a 90-minute DVD showing Margaret Shaw mediating the "Termination Tempest" age discrimination case. The dispute involves an employee and CEO who demand apologies from each other, an abrasive plaintiff's lawyer, a positional defense counsel and other issues. "... it's a terrific example of a mediator combining genuine empathy with firm management of the bargaining process, but ... the length and cost of the video limited its impact." After Margaret's passing, Bob Mnookin and Susan Hackley of PON gave permission to create a 30-minute chaptered version of the video to be offered without cost. PON supported the project and the JAMS Foundation covered the cost of editing.
 A few years ago, Marjorie Aaron created a video of a divorce mediation. It shows a middle-class couple working out multiple issues in a format that includes joint meetings and caucuses, with a mediator who is primarily facilitative but makes evaluative comments, dealing with problems such as a potential inheritance and last-minute demand for changes in a tentative deal. The video is 3 ½ hours long, however, making it hard to use in teaching. With Marjorie's blessing Dwight shortened the video to 56 minutes in 7 chapters, making it possible to assign it as homework or show an excerpt. View a two minute preview at <https://www.dropbox.com/s/w8e55jel4olkfa0/Divorce%20Mediation%20Preview.mp4?dl=0> and view/download the video from the Suffolk/ABA website, www.adrvideo.org. It's also going up on youtube. Submitted by Dwight Golann dgolann@suffolk.edu

4. **Class-in-a-Box** *Dwight Golann*

www.adrclassinabox.org was created to help negotiation teachers, many of whom are adjuncts, to create the best possible classes and, by easing the burden of preparation, encourage more practitioners to teach.

Each file folder on the site contains everything a teacher needs to conduct one class: lesson plan, teaching note, roleplay instructions, powerpoints, and handouts. Classes will be searchable by words (e.g., “prisoner’s dilemma” or “interests”) and other factors (e.g., length of roleplay). People can offer copyrighted roleplays, but the hope is that as much as possible materials will be freely downloadable. There is a complete 24 class negotiation course on the site and there also are individual classes contributed by 14 leading teachers.

5. **Negotiation Videos:** Noam Ebner’s collection of videos and video lectures on negotiation, mainly created for his MOOC *Negotiation: Navigating Professional and Personal Interactions*
<https://www.youtube.com/channel/UCgk5FU8Xr2JADtt8ZRNyKmg/videos> **Contact Noam Ebner for more information** noamebner@creighton.edu

Generally speaking, guest teachers have agreed that their material be used freely for educational purposes. Noam adds two requests:

- 1) While using videos involving guest teachers, please give these teachers full credit, telling students anything you know about the wonderful people who freely gave their time and energy to the course.
- 2) If you wish to use a video involving a guest teacher, for a purpose that goes beyond showing it in class or assigning it to students for home viewing, please be in touch with that teacher to ask permission; if you don’t know how to contact them, drop Noam a line (see email above).

Written material used in the course is available on [my SSRN page](#) (Google ‘Noam Ebner SSRN’).

Of course, Noam is always happy to hear of settings, courses, trainings, etc. in which the material is used! The same goes for comments on the material, or ideas for creating new material.

F. Classroom Techniques/Activities/Exercises

New 2022

- **Cross-School Mediation Simulation for Clinics:** The Legal Education in Dispute Resolution (LEDR) Committee now sponsors a cross-school virtual mediation simulation designed for students enrolled in mediation clinics. We select a case, pair students between classes/schools, and recruit clinic professors and other legal educators to observe and debrief in each zoom room. The 2.5 hour simulation is typically held on a Friday mid-semester. For more information, please contact Debra Berman (dberman@stcl.edu) or Toby Guerin (tguerin@law.umaryland.edu).
- **South Texas College of Law Houston Inter School Negotiation Practicum – court documents** for past semesters' cases can be found here: <https://www.stcl.edu/academics/center-for-conflict-resolution/inter-school-negotiation-practicum/#1589510976204-f43fcf2e-410f> Please contact Debra Berman (dberman@stcl.edu) directly if you would like to request the corresponding confidential settlement memos. Submitted by Debra Berman dberman@stcl.edu
- **A Trisolan Map: Getting to Yes Exercise** (designed by Noam Ebner and Mat Beecher). This exercise was designed to help students make the jump from understanding the integrative method you taught to actually applying it -before engaging in a negotiation simulation or real-life negotiation. This exercise is a solo activity where the student will play the role of a fictional character in a fictional world - having to make negotiation decisions that may seem very real. The point of the exercise is for the students not to apply their own/old negotiation habits, savvy, or experience. Instead, as the negotiator in the scenario, they are to analyze each situation they confront through the lens of the *Getting to Yes* model, and to choose the path that is most in line with the *Getting to Yes* approach. At the end of the exercise, they will be presented with feedback which relates the student actions to specific elements in *Getting to Yes*. You can access the exercise here: [A Trisolan Map](#) For student instructions, see **Appendix S** submitted by Noam Ebner NoamEbner@creighton.edu

Simulations

- Here's a [webpage with information about multi-stage simulations](#), which make it easier for students to get into their roles, enable them to deal with more complex situations, focus on specific stages in a process, see the connections between various stages, and generally have a more realistic experience. They also can help students to focus on working with clients – not just adversaries – which is especially important considering the recent study finding that [law graduates are “woefully unprepared” to work with clients](#). Submitted by John Lande landeJ@missouri.edu
- *Probate Mediation -- Amber's Two Families*: Roleplay designed for use in a Negotiation class (using *Lawyer Negotiation: Theory, Practice, and Law* by Folberg & Golann), with one class devoted to exploration of negotiation within a mediation. The fact pattern is written for a lawyer and two clients on each side but can easily be adapted to just one client. It does

require outside guest mediators participating in mediation and discussion for one hour. See *Appendix P* for role play parts and mediation instructions. Submitted by Carrie Kaas
Carolyn.kaas@quinnipiac.edu

- Noam Ebner's simulations, written specifically to be negotiated or mediated online:**
 Videoconference Mediation: Rough Day @ Work <https://ssrn.com/abstract=2393046>
 Any-Platform Online Mediation: BeatleMania <https://ssrn.com/abstract=2457467>
 Email Negotiation: Live8.org <https://ssrn.com/abstract=2385486>
 Email Negotiation: AuraCall (Origin) <https://ssrn.com/abstract=3560562>
 Videoconferencing Negotiation: AuraCall (Origin) <https://ssrn.com/abstract=3560558>
- The Pasta Wars**, a prisoner's dilemma game is now available in ten or so languages, for use in different locales or cultural settings (includes instruction for conducting via Zoom)
 Submitted by Noam Ebner https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2200350
- Simulations from the Ohio State Divided Communities Project**
 All available at <https://go.osu.edu/dcptoolkit>
 Includes a video of [Columbus Mayor Andrew Ginther who describes his experience with the simulation.](#)
 Submitted by DCP Deputy Director Bill Froehlich (froehlich.28@osu.edu):
- ABA Law Student Division posts arbitration and negotiation competition problems on the website <https://abaforlawstudents.com/events/law-student-competitions/practical-skills-competitions/arbitration-competition/recordings-and-problem/> (arbitration) and <https://abaforlawstudents.com/wp-content/uploads/2018/06/2017-18-ABA-Negotiation-National-Finals-Complete-Problem-Set.pdf> (negotiation)
- South Texas College of Law Houston Energy Law Negotiation Competition – past years' fact patterns can be found here: <https://www.stcl.edu/academics/center-for-conflict-resolution/energy-law-negotiation-competition/> Submitted by Debra Berman dberman@stcl.edu
- European Council Simulation: European Agenda on Migration**
 Alexandru Balas (SUNY Cortland), Noam Ebner (Creighton) & Andreas Kotelis (Malta)
NoamEbner@creighton.edu

Awarded **Best Teaching Simulation of 2018**
 11th Annual Teaching Case & Simulation Competition
 Maxwell School of Citizenship and Public Affairs, Syracuse University

Role material and teaching guide available at www.bit.ly/MigrationToEurope

European Agenda on Migration is a simulation-game for teaching the topics of negotiation, conflict analysis and resolution, collaborative problem solving, and decision-making – alongside the topics of the European Union's (EU) governing bodies and their decision-making processes.

- Free to use - and to disseminate to students, for use in their own training activities.
- File includes all the materials needed to conduct the simulation-game, as well as (very!) extensive notes for teachers on simulation -management and -debrief.

European Agenda on Migration was designed as part of a project initiated by the Delegation of the European Union to the United States, to develop a set of toolkits for conducting Model EU simulations on a variety of topics and involving different bodies of the EU. The toolkits (including this and other Model EU simulations by the authors) are available here

https://www.eeas.europa.eu/delegations/united-states-america/model-eu_en

- **Mitchell Hamline School of Law Dispute Resolution Institute Teaching Materials** on negotiation, client counseling, conflict resolution, drafting and ADR **Contact Jim Hilbert for more information:** jim.hilbert@mitchellhamline.edu
http://open.mitchellhamline.edu/dri_teachingmaterials/
- www.arbitrationinfo.com Arbitration basics plus recent case updates

ACTIVITIES (2021)

South Texas College of Law (STCL) Houston Inter-School Negotiation Practicum: This is a fully centralized month long cross-school negotiation exercise that STCL offers every semester in October/March. To date, more than 2,000 students from 40 law schools have participated. The way it works is simple. First, professors have their students register on our website and we then pair each student with someone from another law school. The one-on-one settlement negotiation involves an actual pending lawsuit along with the relevant court documents. Students have one month to reach an agreement and must use email, phone, and video conferencing at least once. All participating students across the country are negotiating the same case. We then gather data based on a post-negotiation questionnaire following the exercise. The only thing that professors have to do is ask their students to sign up and debrief the exercise in class upon completion. We do the rest! For more information including a list of past participating schools, comments from students, and previous cases, please see <https://www.stcl.edu/academics/center-for-conflict-resolution/inter-school-negotiation-practicum/>. Submitted by Debra Berman dberman@stcl.edu

Zoom Video Filters

Video filters are software-based enhancements to your appearance that you can add while communicating via videoconferencing. Others on the call see your image with these enhancements, even though they do not exist in reality. For example, your on-screen image might seem to be wearing a hat, wearing lipstick, or donning sunglasses. Other enhancements change the décor of your video square, or the appearance of your eyebrows.

When teaching on Zoom, you can use Zoom's built-in video filters in a variety of ways to create visual interaction. Begin by explaining where students can find the video filters. These are typically found by clicking on the little arrow on the video button (the square with the camera icon, in the bottom left portion of the screen) and selecting "choose video filter." Zoom might invite you to download a piece of software in order to use these, which is safe to do). Scroll down the menu of available filters. To return to "normal" select "none" at the top left of the filters screen. *Note, there also are options for "studio effects"* (click 'Studio Effects Beta') which include lipstick, eyebrows, and facial hair. If you play around with these options (for example to create a different persona for a role play), be sure that the box on the top "apply to all future meetings" is not checked or you may be that persona for your next meeting!

Having explained to students how filters work, here are some ideas for what you may use them for with a class:

- Ask students at the start of class to choose a filter that shows how they are feeling
- Use features to assume a role in a role play (could help to introduce discussion of implicit bias; or the unreliability of first impressions).
- Upper-level class, ask students who are graduating to put on a graduation cap
- Use to poll students – for example, ask students to choose between 2 options – if you think option a) is the answer, put on a hat and if you think option b) is the answer, put on glasses.
- Ask students to brainstorm possible uses, to practice brainstorming as well as to develop teaching ideas.

Submitted by Sharon Press and Noam Ebner with additions by attendees at the Resource Share

1.5-2 hour **Lesson on Negotiation** based on Richard Shell's *Bargaining for Advantage* and video clips from the Tom Hanks movie *Bridge of Spies*, where Tom Hanks plays Ray Donovan, a New York lawyer who is appointed to defend a Russian spy in the late 1950s and then later is tasked with negotiating his client's swap for U2 pilot Francis Gary Powers by negotiating with the East Germans and Russians. Contributed by Frank Laney: Frank_Laney@ca4.uscourts.gov See Appendix N

Exercise to help students learn and practice Zoom skills for online arbitration. It worked well in a class that had both in-person and online students. Contributed by Rachel Goedken RachelGoedken@creighton.edu See Appendix O

Zoom recording and reflection: Have students conduct a mediation on zoom and answer the question: what are you observing about your yourself when you mediate. Contributed by Dwight Golann dgolann@suffolk.edu

ACTIVITIES (2020)

Free teaching package, designed for use by law firms and law schools, that includes a transactional negotiation exercise. George Siedel prepared an article for the ABA Business Law Section that includes a link to the package. <https://businesslawtoday.org/author/george-siedel/> The negotiation exercise is embedded in a free MOOC that George Siedel developed for the University of Michigan and Coursera. The course is titled "Successful Negotiation: Essential Strategies and Skills." Over 700,000 learners have joined the MOOC to date. Students watch around 8 hours of videos on negotiation (which they can binge watch), they then partner with someone taking the course (often someone from another country) for the negotiation exercise, and then watch videos that debrief the exercise. Here is a link to the MOOC:

<https://www.coursera.org/learn/negotiation-skills>. If these resources are of interest, please feel free to modify them to meet your needs. For example, you could give students additional time to complete the negotiation exercise along the lines suggested in your posting. Or students who have not taken a course on negotiation strategies and skills could take the MOOC before negotiating an exercise that you have developed. Finally, here is a website that includes a negotiation planner and several other negotiation tools. <http://negotiationplanner.com/> **Submitted by George Siedel** gsiedel@umich.edu

Proposed Legislation to Reform Mandatory Arbitration. The class examined the Restoring Justice for Workers Act (<https://www.congress.gov/bill/115th-congress/house-bill/7109>), supported in the Senate by Bernie Sanders (among others) as well as the Anti-Corruption and Public Integrity Act (<https://www.congress.gov/bill/115th-congress/senate-bill/3357>), supported in the Senate by Elizabeth Warren. Discussing proposed legislation in the midst of the 2020 Election created really stimulating conversations around policy, politics, and civil procedure. Law students are rarely asked to read and analyze legislation, and even more rarely asked to read and analyze proposed legislation. In a seminar, we discuss the merits of these proposed laws, the potential drawbacks, and some possible loopholes. We also discuss the use of proposed legislation as political, rather than legal, documents. Brian is happy to share my in-class discussions and activities with anyone who is interested! **Contributed by Brian Farkas** bdfarkas@gmail.com

Assign students to 1) find an episode of the podcast *Deep Listening* that they liked (and coordinate w/ their classmates so that everyone focuses on a different episode); 2) do a short report summarizing the podcast and its lessons; 3) lead a discussion of how these lessons apply to mediation. Second round: *Hidden Brain* podcast. Can be used with other podcasts as well.

Submitted by Art Hinshaw Art.Hinshaw@asu.edu

Andrea Schneider's "Cooking Up a Deal: Negotiation Recipes for Success"

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2419712 activity

Cooking is a wonderful way to pass the time, manage stress, learn math and chemistry, and feed others. This month's Communication Tip is a recipe for Conflict Management Cake using staple "pantry" ingredients. Try our conflict management recipe and let us try yours. Create your own recipe and send it to us at mediation@umaryland.edu. We will post a sample of the recipes on our

website so UMB employees can experiment with the recipes at home and work. No prior baking experience required! **Contributed by Toby Guerin** tguerin@LAW.UMARYLAND.EDU

Another modification: Ellen Deason made the task a recipe for helping a client choose a dispute resolution process and included it as an exam question on a take-home. It yielded some perceptive and creative answers that integrated many aspects of the DR Processes course. **Contact Ellen Deason** deason.2@OSU.EDU

Use Andrea's "Cooking Up a Deal: Negotiation Recipes for Success" activity at the beginning of the semester and again at the end to see how the students' ideas have developed and changed. **Contact Susan Exon for more information** snexon@laverne.edu

Active Listening Activity

1. Assign students in groups of 3
2. Ask each student to think of a challenge that they have overcome (It's good for a natural story arc)
3. Have one student tell a story, while a second student listens for facts, and the third student listens for feelings
4. Have the two listeners report back
5. Repeat until each student has done all three roles

I schedule 20 minutes for this exercise.

For me, this exercise has generated a lot of good reflection about whether the students are "naturals" at listening for one or the other – as well as places for improvement. Additionally, the listener can discuss how it feels to have been heard regarding both factual and emotional content. Contact Kristen Blankley kristen.blankley@unl.edu

Activities (2019)

- Donald Trump and Stormy Daniels: An Arbitration Case Study Submitted by Brian Farkas, Cardozo Appendix A

In October 2016, just before the presidential election, Cohen approached Daniels about entering into a confidentiality and settlement agreement. The basic terms were that she would remain silent about an alleged affair with Trump in exchange for a payment of \$130,000. That payment technically came through Essential Consulting, LLC, an LLC established by Cohen for purposes of this transaction. Daniels agreed to the settlement and signed the agreement. So did Michael Cohen. Trump did not; the agreement has a blank line for his signature over his name.

The agreement included a broad arbitration clause. It also included strict confidentiality language. When Daniels threatened to breach the agreement and go public, Cohen obtained a TRO from an arbitrator. Daniels intentionally violated that TRO, filing a public lawsuit in California Superior Court to invalidate the agreement.

I use this to reveal several current issues in arbitration practice and policy: (i) the importance of clarity in forming agreements to arbitrate; (ii) strategic decisions of state vs. federal courts in filing arbitration-related motions; (iii) the question of arbitrability, and what determinations can be made by an arbitrator compared to a court; and (iv) the intersection

of arbitration and the #MeToo movement. These resources are publicly available (the lawsuit was filed in California Superior Court, and the exhibits went viral shortly thereafter). Appendix A includes: (i) Stormy Daniels' lawsuit seeking to invalidate the arbitration clause, with the settlement agreement attached as an exhibit; (ii) a TRO against Stormy Daniels from the arbitrator, which she violated; and (iii) an article I wrote for the ABA Dispute Resolution Magazine about some of the issues raised.

- **Andrea Schneider** shared a method for teaching that she used this fall to teach ADR—team-based learning or TBL. **SEE APPENDIX D** for a memo explaining what she did and how she did it. In short, Andrea broke the class of 70 into 12 teams and had 7 quizzes in which they took the quiz both individually and then as a team. “I loved it, they loved it, and we actually practiced what we preach in terms of collaborative learning.” CONTACT: andrea.schneider@yu.edu)
- **Hal Abramson**: graded hard bargaining exercise where students negotiate with an outside attorney and then participate in real time debrief about the experience. CONTACT: hala@tourolaw.edu
UPDATED 2020 with Teaching Notes See **Appendix K**
- **Teresa Frisbie**: tfrisbie@luc.edu Confidentiality in Mediation (based on Facebook Opinion) Class is divided into groups of 3 – one will act as judge and the other two are the parties. Objectives include: Explore the sources of confidentiality in mediation; gain familiarity with the UMA; and understand how to help a client keep mediation communications confidential. **See Appendix E**
- **Natalie Fleury** natalie.fleury@marquette.edu Create cards with the DYNAD styles [https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2243679] and students choose cards at random and then create and act out a scenario to depict that style.
- **Improv Exercises to teach the mediation skill of being present and listening carefully.** In groups of 5 – 6 students must create a story together by going around the circle but each person can only contribute a single word at a time **Bill Froelich** froelich.28@osu.edu and **Sharon Press** Sharon.press@mitchellhamline.edu **Natalie Fleury** suggests the book *Yes, And: How Improvisation Reverses “No, But” Thinking and Improves Creativity and Collaboration – Lessons from The Second City*; **Marjorie Aaron** suggested 1) the “Question Game” – in pairs, one poses a question and the other person can only ask a question in return; this teaches how to pick up on a theme and “think of a hook” and 2) *Lightening Reframe Game*: come up with things that people say and students need to reframe them
- **Lauren Newell** l-newell@onu.edu Class Negotiation for Preparation Grade **See Appendix G**
- **Cynthia Alkon** calkon@law.tamu.edu has developed plea bargaining exercises and criminal area dispute system design exercises that she is willing to share.
- **Legislative debate on Arbitration Policy:**
Mock Legislative Hearing on Pre-Dispute Arbitration Agreements
See Appendix B **Ellen Deason** deason.2@osu.edu

In my dispute resolution survey course this spring, I created a mock legislative hearing as a way to expose students to the policy issues involving consumer and employee pre-dispute arbitration agreements. Four students were designated as legislators; they ran the hearing. The rest of the students were assigned a role representing selected organizations with diverse viewpoints on arbitration, pre-dispute agreements, class action waivers, and non-disclosure agreements. The hearing was set up to consider 6 real bills that have been introduced in Congress and an imaginary bill based on the CFPB consumer finance rule that Congress rescinded. I provided the students with a fact sheet (see appendix B) that contained links to information about the bills and sources on the positions of the organizations. The students running the hearing allowed debate and exchanges in addition to prepared position statements and the result was lively and informative. We did run out of time in the 75-minute class, so I suggest selecting fewer bills.

- **In-depth Teaching Materials with Real Time Data Analytics Designed to Enhance Teaching Negotiation**

<https://www.pon.harvard.edu/daily/teaching-negotiation-daily/digitally-enhanced-simulation-packages/>

The Enhanced Simulation Package from the Teaching Negotiation Resource Center at the Program on Negotiation and iDecision Games brings a new, interactive learning experience to teaching negotiation. This digital package includes:

- An Instructor's Guide summarizing the negotiation concepts covered in the simulation, a quick review of simulation logistics, and a ready-to-use set of debriefing slides;
- Highlights from background readings that will help both students and instructors gain a better understanding of negotiation concepts and methods covered in the simulation;
- Pre- and post-simulation questionnaires instructors can use gauge each student's grasp of the core concepts before and after participating in the simulation;
- PowerPoint slides that introduce key concepts before the simulation and highlight lessons for debriefing;
- Real time, interactive, data analytics provided via the iDecision Games platform.

It is available for free to new users. Lara SanPietro lsanpietro@law.harvard.edu

- **Last Mediation Class Assignment: develop an exercise.** Students have done role plays on Harry Potter and Breaking Bad; developed a dispute resolution process for Game of Thrones; used episodes of Fairly Legal [Charlie Pillsbury Charles.Pillsbury@quinnipiac.edu]
- **Use Bill O'Reilly's Settlement to explore confidentiality provisions** [Liz Tippet, University of Oregon]
- **"You Can't Tell A Book By Its Cover"** In intro to mediation course: Show 5 photos and have students say who these people are – personality/qualities and then reveal who they really are [Ellen Waldman]

2018 Ideas

Mediation Teaching Manual written by Lela Love and Josh Stulberg, *based on the Michigan Manual*, provides a step by step program for training mediators. To receive a copy, email Lela Love (love@yu.edu) or Josh Stulberg (Stulberg.2@osu.edu)

Idea on how to teach the DYNAD (Schneider and Brown)

[https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2243679]: Divide class into 2 groups and put in 2 corners of the room. Give each group confidential (but identical) instructions: “Your goal is to move all of the chairs in the room to your corner.” After the students fight, negotiate, give up, yield, and compromise, introduce the DYNAD and have them analyze their behavior. Experimenting first and moving to the theoretical explanation later inspires the students to actually read the article. They feel it was written *for* them and *about* them. **Yael Efron** yaele.law@gmail.com

Prepare **arbitration procedure orders** based on facts in cases in contract accompanied by observation of actual arbitrations and review of orders issued in the Stormy Daniels case **Richard Chernick**

Work with Family Law Course to integrate negotiation into course by teaching a brief session on negotiation before students negotiate a family law situation. **Ava Abramowitz** abramowitz@law.gwu.edu

DeBola: Prisoners Dilemma Simulation-Game for NGOs: Noam Ebner noamebner@creighton.edu

Awarded **Best Teaching Simulation of 2017**
10th Annual Teaching Case & Simulation Competition
Maxwell School of Government, Syracuse University

Role material and teaching guide available at

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2989442

DeBola is a prisoners’ dilemma simulation-game for teaching topics of negotiation, conflict analysis and resolution, collaborative problem solving, and decision-making. Specifically, it does so in the context of NGOs and mission-driven organizations.

DeBola is a unique prisoners’ dilemma simulation-game not only in its NGO setting and the mixed-motives decision-making this generates, but also in its assigning participants with individual role material in addition to their instructions, allowing for intra-group differences in motivations and preferred strategy.

- Free to use - and to disseminate to students, for use in their own training activities.
- File includes all the materials needed to conduct the simulation-game, as well as extensive notes for teachers on simulation -management and -debrief.

Paperclip Negotiation

The goal of this exercise is the negotiation of a series of five or more trades starting with a paperclip and ending with something more valuable. The exercise is based upon Kyle MacDonald's One Red Paperclip Project, and his book called "One Red Paperclip." MacDonald bartered his way up from a red paperclip to a house in 14 trades within one year. (see **appendix F** for full information) Created by **Hal Abramson** habramson@tourolaw.edu

FlashPoint: Syria, 2014 An International Conflict Management Simulation

Noam Ebner, Yael Efron and Nellie Munin noamebner@creighton.edu

Awarded **Best Teaching Simulation of 2013-2014**
 7th Annual Teaching Case & Simulation Competition
 Maxwell School of Government, Syracuse University

Role material and teaching guide available at

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2476968

Incorporating ADR into Civil Procedure course, based on the idea of Revolving Doors (Peter Hoytt, 1998) a movie that portrays two parallel worlds of one woman. A dispute is presented to the class (consumer dispute) and the students explore the various ways in which it can be resolved (litigation, small claims, arbitration, mediation, negotiation, etc.) Then we debrief the pros and cons of each mechanism **Contact Yael Efron**

Gambits: lists of lines that students can use to repeat out loud in a Barkai Chorus to teach how to break impasse, make the final offer, solicit the first offer, etc. There are some for negotiation, mediation, mediation advocacy, breaking impasse, etc. **Contact John Barkai** barkai@hawaii.edu

Teacher provides a **negotiation scenario**. Students pair up and role play. After they complete the negotiation under timed conditions, they discuss. Each can reveal extra confidential information provided in his/her individual role instructions. **Siprachanh Chanthaphaychith**

In 1st Semester Lawyering class, conduct a mediation exercise where students are paired against each other to serve as advocates. The problem they worked on is based on the facts from their Legal Research and Writing Course. Students in the mediation course serve as mediators. Thus, this exercise integrates three course experiences. **Rafael Gely** gelyr@missouri.edu

Med Mal mock mediations; negotiation exercises **contact Chaton Turner** turnerc@upmc.edu

5 Minute First Aid Kit see *appendix H* **contact Kim Wright** jkimwright@gmail.com

2017 ideas

Empathy Skills Card Game – ask **John Ford**

“Don’s Negotiation” – use theatre students as parties; have law students send final agreement memo to the “clients” for reaction [**Lauren Newell**]

Last Assignment – have (LLM) students write Oath of Office they want to take when they return home and at last class have them take their oaths (invite judges and family; film and provide a copy) [**David Hoffman**]

Use Hooters case to help students understand arbitration clauses: have the students guess what disputes might come up (sexual harassment and FLSA) and then list components of arbitration clause; ask students to draft arbitration clause which will protect Hooters; and then push the students to consider what the clause would look like if they really had no shame -- what would discovery look like, motions, fees... [**Michael Moffitt**]

At end of semester ask students to identify 10 challenges for clients and then try to come up with possible tech solutions. Examples include BuzzFeed quizzes; identification of providers [**Alyson Carrell**]

Find 3 law firm websites; draft home page for “their” law firm [**John Lande**]

Call Verizon customer service (on speaker phone in class) and ask to negotiate the arbitration clause [**Ben Davis**]

First day of Arbitration course, have students try to arbitrate a 3 line clause in an international arbitration involving Chinese party and Canadian party (use different languages) – helps students understand complexities of international arbitration [**Ben Davis**]

System Design/Project Management (short intensive class): divide class into consulting teams and give 1.5 days to figure out assessment and presentation; rest of class sit as board of directors and instructor as CEO – vote if want to hire the consultant [**Kathy Constantino**]

Have students imagine a conflict they are personally having and answer a series of “classic mediator simquestions” found at www.ronkelly.com and identify which questions help them to see their conflict differently [**Ron Kelly**]

Use an actual arbitration clause a student at Suffolk Law School was asked to sign upon accepted employment in a law firm. While not an egregious clause, it has subtle and not-so-subtle advantages for the firm. Students can be split into groups and asked to analyze the clause from the perspective of the firm and the student. [see attachments] [**Dwight Golann**]

Backwards/Forwards From Andrea Schneider (andrea.schneider@yu.edu)

This is quick exercise to run with the entire class. It teaches the importance of clear communication and the challenges of coordinating what we are doing and what we are saying. Other communication lessons and team lessons can also be drawn out with more discussion time.

In the middle of a circle, the leader will give instructions: Backward, forward, left, right in a multitude of combinations. For the first round, the circle participants repeat the exact word

and do that action (the leader says backward, the participants say backward and move backward). In the second round, the circle participants say the opposite of the word and do the opposite (the leader says backwards, the participants say forward and move forward). In the third round, the circle participants say the same words as the leader but do the opposite (the leader says backwards, the participants say forward and move backward). To the extent that the group has managed to follow along up to now (and it usually takes a while at each round), the third round completely throws everyone off. We then discuss the challenge of cognitive dissonance, of matching our words and our actions, and other negotiation lessons.

From Alyson Carrel (a-carrel@law.northwestern.edu)

Use <http://www.gosoapbox.com/> during live mediation demonstrations or videos in class to capture students' thoughts. When I am planning to conduct a live mediation or show a video, I create an event on this site and ask students to log in and share their thoughts/comments/questions while the mediation is going on. Instead of writing notes on paper or in Microsoft Word on their laptop, this website allows all the students to see each other's comments and questions and start a dialogue in real time. I find that students stay far more engaged with the demonstration when I ask them to use this website. In addition, students (and faculty) are able to answer each other's questions in real time without having to wait for the demonstration to finish. Last, there is a system for students to indicate that they share the same concern or have the same question using something similar to the "like" button on Facebook. The professor can then focus the post-demonstration debrief on those comments that had the most student interest.

Wearable cameras- Each student wears a camera that captures their partner's negotiating behavior. The resulting video gives each student a true 2nd person perspective of their negotiating style instead of the observer 3rd person perspective we typically see from a video camera or laptop sitting across the table or on a tripod across the room taking the role of observer.

Additional Ideas from the Resource Share 2016

- Use skype to debrief negotiations which were done with other schools
- Negotiation 360^o
<https://itunes.apple.com/us/app/negotiation-360/id949271941?mt=8> [\$2.99]
 Harvard Business School Professor and award-winning author Michael Wheeler created Negotiation 360^o to enhance your ability to reach agreement and resolve disputes. Its interactive features are based on cutting edge theory and proven best practices. Suggestion for classroom use over the course of the semester.
- Visualize and identify "best negotiator" at beginning of semester and identify "why" and then revisit the activity at the end of the semester – choose a new one and compare
- During introductions to the class have the group develop a "constitution" for the learning environment they wish to have

- JAMSFoundation.org videos (including ones on sexual harassment cases) available on the website. A limited stock of dvds and a teachers' manual are available to educators upon request to David Brandon at JAMS Foundation DBrandon@jamsadr.com

Contact Jill Gross for more information jgross@law.pace.edu

Neutral selection activities for both mediation and arbitration classes. Allows discussion on qualities of a mediator and use of a model "rank and strike" list for arbitrators.

Contact Cynthia Alkon for more information calkon@tamu.edu

Invite a guest speaker to address the class via skype, e.g., Jeff Thompson on hostage negotiation

Contact Jay Folberg for more information JFolberg@jamsadr.com

Contact your local JAMS office to request opportunity for students to observe real mediations

Contact Jim Coben for more information james.coben@mitchellhamline.edu

A Quick Getting to Know Each Other Intro Exercise

Everyone makes up a "Negotiation Superhero" nickname for themselves and writes it on a strip of paper. All names into a hat; each student picks a name other than their own. Everyone then circulates trying to find the student who matches up with the nickname they pulled out of the hat. Quick interview to discover real name, type of student (JD, MSL, other), and rationale for the superhero nickname. Interviewer then introduces that person to the class.

A few fun ones from this semester:

Super Pie Expander; The Manipulative Marvel; "Split the Difference My Way" Man; The Equalizer; The Balancer; The Terminator; The MindBender; BATNAMan; ToolKit; The Allwininator
After introductions are concluded, I ask everyone to stand, think of their superhero nickname and then power pose for 10 seconds. I then very briefly lecture about mood and provide youtube link to Amy Cuddy's popular "Your Body Language Shapes Who You Are" TEDTalk (<https://www.youtube.com/watch?v=Ks-Mh1QhMcher>), as well as a link to one of her articles on the topic (Cuddy, Amy J.C., Caroline A. Wilmuth, and Dana R. Carney. "The Benefit of Power Posing Before a High-Stakes Social Evaluation." *Harvard Business School Working Paper*, No. 13-027, September 2012). Students then do first basic negotiation of the course.

During group debrief, students can only make comments using their superhero nickname.

Contact Michael Moffitt for more information mmoffitt@uoregon.edu Teaching on the Law of Settlement – read actual contracts to understand negotiation theory and value creation

Ted Talks/You Tube Videos/Pod Casts/Movies...

2022

John Lande's [collection of videos and podcasts](#).

2021

Monument Lab: <https://monumentlab.com/podcast>

Each episode, host Paul Farber explores stories and critical conversations around the past, present, and future of monuments. We speak to the artists, activists, and historians on the frontlines, building the next generation of public spaces through stories of social justice and contemporary art. Here are the monumental people, places, and ideas of our time. Helpful for thinking about multi-party convening and how to engage activists. Contributed by Bill Froehlich froehlich.28@osu.edu

Best of Enemies: 2019 American drama film directed and written by Robin Bissell in his feature debut. It is based on the book *The Best of Enemies: Race and Redemption in the New South* by Osha Gray Davidson, which focuses on the rivalry between civil rights activist Ann Atwater and Ku Klux Klan leader C. P. *Recommended by Danny McFadden*

Insult: 2017 Lebanese film that tells the story of two men: Tony George Hanna (Adel Karam), a Lebanese Christian mechanic, and Yasser Salameh, a Palestinian foreman, who are embroiled in a court case which causes political upheaval in an already unstable country. *Recommended by Lin Adrian*
lin.adrian@jur.ku.dk

2020

The Neutral: Against the Rules with Michael Lewis [What kind of person makes a neutral referee? It's not the kind of person you think. Learn more about your ad choices.] *Contributed by Heather Scheiwe Kulp* <https://podcasts.apple.com/us/podcast/against-the-rules-with-michael-lewis/id1455379351?i=1000436873356>

Oregon Law Lab: https://www.youtube.com/channel/UCNJNIISicpDfNbq_A9aib9g **Contact:** Liz Tippet tippet@uoregon.edu

2019

From **Hamilton**: See **Appendix C** for detailed notes from **Jill Gross** jgross@law.pace.edu
Ten Duel Commandments from Hamilton https://www.youtube.com/watch?v=m7iHmuco_zo
The Room Where it Happens <https://www.youtube.com/watch?v=WySzEXKUSZw>

Bill Ury telling the camel story <https://www.youtube.com/watch?v=6lzlqdf7-3Q> Jackie Nolan Haley jnolanhaley@fordham.edu suggests stopping the video at the point that Ury says they decided to consult a wise woman and raise the question as to whether this is a mediation?

Apple Podcast Negotiate Anything <https://podcasts.apple.com/us/podcast/negotiate-anything-negotiation-persuasion-influence/id1101679010> Bill Froelich froehlich.28@osu.edu

Thanks for Listening Podcast – Harvard Negotiation & Mediation Clinical Program: This podcast will spotlight efforts to bridge the political divide in the U.S. through dialogue and collaborative processes, profiling the important and often courageous work of individuals and organizations who are helping citizens engage with one another on challenging topics. <http://hnmcp.law.harvard.edu/podcast/> Sara Budish sbudish@law.harvard.edu

Ignite Seattle is a huge open submission public speaking event in Seattle. Ignite Talks are 5 minutes long with that progress automatically, and a super great presentation style that can be used in classrooms or conferences. At our February show, a Seattle business attorney gave an excellent ignite talk in Negotiations. <https://youtu.be/MxHNMmsqjCI> Emily Martin <emilyhmartin@yahoo.com>

Mindfulness, the Mind, and Addictive Behavior Dr. Judson Brewer
<https://www.youtube.com/watch?v=7a9sWI0vJzc>

This American Life “The Good Guy Discount” <https://www.thisamericanlife.org/515/good-guys> (submitted by Ben Cook, BYU for discussion on assertiveness)

This American Life that illustrates the source memory problem. I use this video to start the section on party statements in my Mediation course. I use it to emphasize the point that in mediation it is important to help identify a party's truth, but futile to identify the truth. <https://www.youtube.com/watch?v=PxQ9Gx2-ceM&t=8s> Michael Colatrella mcolatrella@PACIFIC.EDU

2018

Favorites from David Hoffman (*TEDx Talk on “Lawyers as Peacemakers”*)

Here's a partial list but if you want to see it all go to www.tinyurl.com/ABA-DR-Video-Links

“Fairly Legal” (which died after three seasons) – each episode was worse than the one before, BUT the pilot episode (perhaps the best) has an initial scene in which Sarah Shahi, playing the mediator, stops for coffee on her way to work on her first day as a mediator, and ‘mediates’ a robbery: https://www.amazon.com/Fairly-Legal-Season-1/dp/B004IJQ792/ref=tmm_aiv_title_1?_encoding=UTF8&qid=1467507783&sr=8-1 \$2.99 on Amazon video

My most favorite media riff for mediation is this 8-minute audio segment from This American Life in which conflict interrupter (i.e., mediator) **Tim White from Chicago's Project Ceasefire** talks

about mediating a gang conflict: <http://www.thisamericanlife.org/radio-archives/episode/358/social-engineering?act=0#play>

Third favorite: Michael ineptly mediates a conflict at work, in “The Office”:
<https://www.amazon.com/The-Office-Season-2/dp/B002EQSQEK> Season 2, episode 21
 (“Conflict Resolution”) -- \$2.99 from Amazon

Other favorites, in no particular order:

“Wedding Crashers” – first three minutes (truly vulgar, but my students love it):
https://www.youtube.com/watch?v=h_IlyeLhmF0

The Break-Up – ethical issues in mediation <https://www.youtube.com/watch?v=yiZpb7GPLYs>

Everybody Loves Raymond – active listening:
<https://www.youtube.com/watch?v=4VOubVB4CTU>

ABA 30-second promo, analogizing commercial mediation to kids’ squabbling:
<https://www.youtube.com/watch?v=TQX6lp8p-bc>

Duel at the Mall (illustrates conflict escalation):
<https://www.youtube.com/watch?v=NBvysuewIOs>

“The Affair” – showing two parties’ differing recollections of a mediation: Season 2, Episode 1:
<https://www.amazon.com/The-Affair-Season-2/dp/B0181P3DSQ> \$2.99 (a cringe-worthy depiction of how *not* to mediate); Husband’s recollection: 17:50 - 24:20; Wife’s recollection: 38:40 - 43:00

How people can have starkly differing recollections on an event:
<https://www.youtube.com/watch?v=PxQ9Gx2-ceM> This American Life – Robert Krulwich story about Jackie Kennedy

BATNA assessment: U.S.S. Montana (commercial for navigation system, showing how negotiating with too much testosterone can be problematic)
<https://www.youtube.com/watch?v=yeZ-RFYIMao>

“Disclosure” has a mediation scene that looks more like a deposition, but with a judge presiding (useful for showing what mediation *isn’t*): https://www.amazon.com/Disclosure-Michael-Douglas/dp/B002VTL3JU/ref=sr_1_2?ie=UTF8&qid=1467510801&sr=8-2&keywords=disclosure
 \$3.99 from Amazon Video

“The Good Wife” – I agree with Jim Alfini’s description of the mediator as carrying a gavel, but it’s useful as a caricature of heavy-handed mediation: <https://www.amazon.com/The-Good-Wife-Season-3/dp/B005PK57NU> Season 3, episode 3 (“Get a Room”) – Free for Amazon Prime members

A brilliant depiction of our internal voices -- and the struggle among our various parts. The trailer from the movie "Inside Out" <https://www.youtube.com/watch?v=MC3XuMvsDI>

Last but not least, is the best video I have ever seen on diversity: "Love Has No Labels": https://www.youtube.com/watch?time_continue=19&v=PnDgZuGhHs

P.S. For any of you who are curious about how the "dancing skeleton" images were made, here's a short video that explains the technology behind "Love Has No Labels": https://www.youtube.com/watch?v=pzkcNV_3JoQ

TedTalks by our colleagues:

- Kim Davis
- David Hoffman
- Andrea Schneider
- Sukhsimranjit Singh

PON HLS (YouTube Channel) – book talks, etc. [James Kerwin jkerwin@law.harvard.edu]

From Ellen Waldman ellenw@tjisl.edu

I begin my Advanced Mediation class (the students have already taken a 35 our Intro to Mediation training) by asking students to watch Brene Brown's TED talk on The Power of Vulnerability <https://www.youtube.com/watch?v=iCvmsMzIF7o>. And, then, I ask them- Why would a class on mediation begin with this lecture. What do the themes of the lecture have to do with mediation?

From Lela Love love@yu.edu

The link below to a Tedx talk by Brad Heckman (the CEO of the NY Peace Institute) is a funny and inspiring introduction to mediation. <https://www.youtube.com/watch?v=UUVmPVKaJzk>

Books/Articles/Bibliographies

[Litigation Interest and Risk Assessment: Help Your Clients Make Good Litigation Decisions](#), by Michaela Keet, Heather Heavin, and John Lande. [Materials about litigation interest and risk assessment](#), including blog posts, powerpoints, and videos. *Submitted by John Lande*

Short articles and posts From John Lande

[How You Can Solve Tough Problems in Mediation.](#)

[Canaries in the Litigation Coal Mine](#)

[The Role of Law in Legal Disputes](#)

[Charting a Middle Course for Court-Connected Mediation](#)

[Survey of Early Dispute Resolution Movements and Possible Next Steps](#)

[The Definition of Negotiation: A Play in Three Acts](#)

[Assessment of the Dispute Resolution Field](#)

Here's a [blog post](#) suggesting how faculty can teach students to use more realistic, thorough, and practical models of negotiation and mediation than we traditionally teach. It also describes how faculty can teach students how to learn to learn by participating in reflective practice groups. [This post extends these ideas by describing how mediators \(and mediation students\) can develop their own individual mediation models to optimize their mediations.](#)

[Provocative blog posts](#) that faculty might consider for reading assignments and/or suggestions for student paper topics. Appendix R

The Mind of a Peacemaker: The Psychology of Mediation – May Lou Frank, PhD
The Mind of a Peacemaker brings together a psychological understanding of mediation, current thought in the field of conflict resolution, and guidance for future peacemakers. Through reviewing current research, interdisciplinary practices, and personal exercises, individuals seeking to become mediators can develop a deeper understanding of their role in the peacemaking process. ISBN: 978-1524979560 Available on Amazon

Evolution of a Field: Personal Histories in Conflict Resolution – Edited by Howard Gadlin and Nancy Welsh; published by DRI Press. Available on https://open.mitchellhamline.edu/dri_press/ and on Amazon

ADR Empirical Research Studies (2013 – 2020) http://open.mitchellhamline.edu/dri_empirical/
 Submitted by Jim Coben James.coben@mitchellhamline.edu

Bibliography on ODR – Noam Ebner and NCTDR: <http://odr.info/publications/>

Theories of Change for the Dispute Resolution Movement: Actionable Ideas to Revitalize Our Movement. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3533324 Contributed by John Lande LandeJ@missouri.edu

[Strengthening Online Dispute Resolution Justice](#) contributed by Noam Ebner and Elayne Greenberg

Mitchell Hamline Law Journal of Public Policy 2020 Symposium Edition. *An Intentional Conversation about ADR Interventions: Eviction, Poverty and Other Collateral Consequences*
<https://open.mitchellhamline.edu/policypractice/> contributed by Sharon Press *See Appendix L for DRI Press Open Access Publications:* https://open.mitchellhamline.edu/dri_press/ Including

Reflections: Weaving Threads to Strengthen the Fabric of Our Communities – An Intentional Conversation About Community Engagement

Risk and Rigor: A Lawyer's Guide to Decision Trees for Assessing Cases and Advising Clients, published by DRI Press (2019), by Marjorie Corman Aaron

Mindfulness in the Heat of Conflict: Taking Stock by Leonard L. Riskin and Rachel Wohl Harvard Negotiation Law Review Vol 20:121 (Spring 2015) submitted by Charlie Pillsbury, Quinnipiac University – use in intro to mediation first class along with video from Frankel/Stark

The Other Side of the Door: The Art of Compassion in Policing by Rachel Parish and Jack Cambria with contributions from Chris Honeyman, Maria Volpe, Daniel Shapiro and others. (DRI Press 2019)

Negotiator's Desk Reference, published by DRI Press, edited by Chris Honeyman and Andrea Kupfer Schneider. "[T]his book [of two volumes containing over 100 chapters and authors from around the world] ... represents our considered effort to gather everything we can that we believe to be key to understanding how negotiation works, and how it can be used more effectively in many settings." <https://www.ndrweb.com/>

Decision Tree Analysis for Lawyers by Marjorie Aaron contains simple problem sets for teaching Marjorie.aaron@gmail.com

Essential Skills in Negotiation by George Seidel

Negotiating for Success: Essential Strategies and Skills by George Seidel *available on Amazon* Siprachanh Chanthaphaychith

Eight Common Mistakes that Mediators Makes When Trying to Generate Business

https://www.americanbar.org/content/dam/aba/administrative/dispute_resolution/newsletter/nov2017/rapaport_8_common_mistakes.authcheckdam.pdf note: this resource is only available to ABA Section members Anna Rappaport <anna@excellerationcoaching.com>

Discovering Agreements: Contracts that Turn Conflict to Creativity by Linda Alvarez (ABA 2016)

Demonization in International Politics: Barrier to Peace in the Israeli-Palestinian Conflict by Linn Normand (New York: Palgrave Macmillan, 2016)

Structured Negotiation Lainey Feingold (ABA 2016)

Lawyers as Change Makers: The Global Integrative Law Movement by Kim Wright (ABA 2017)

Digital Justice: Technology and the Internet of Disputes by Ethan Katsch and Orna Rabinovich-Einy (Oxford university Press, 2017)

Stories Mediators Tell: World Edition Leah Love and Glen Parker, editors (ABA 2017) (*contact Lela (love@yu.edu) for more information about how she used a story in a final exam*)

The New Handshake: Online Dispute Resolution and the Future of Consumer Protection by Amy Schmitz and Colin Rule (ABA 2017)

Arbitration and Mediation of Employment and Consumer Disputes Lexis/NY Center for Employment Law

China International Transaction and Law Handbook

Principles and Practice of Commercial Arbitration

Lawyering with Planned Early Negotiation: How You Can Get Good Results for Clients and Make Money, 2d Edition, includes a teacher's manual. The manual includes several syllabi using this book (including from Jill Womble and Leigh Ann Roberts as well as some of mine), simulations, teaching notes, assessment forms, and instructions for writing assessments (aka journals). The simulations include fishbowl (or "improv"), single-stage, and multi-stage simulations. You are welcome to use the manual regardless of whether you adopt the book. You can download the manual from the [webpage](#), using the password "penmanual."

ADR Competitions

St. John's/FINRA Dispute Resolution Triathlon problems can be accessed at <https://www.stjohns.edu/law/about/places/hugh-l-carey-center-dispute-resolution>. The problems can be found at the bottom of the page in the section Securities Dispute Problems 2009-2021. From Elayne Greenberg greenbee@stjohns.edu

ABA Section of Dispute Resolution Mediation Representation Competition -- NEW HOME
http://www.americanbar.org/groups/dispute_resolution/awards_competitions/law_student_national_representation_in_mediation_competition.html

ABA Negotiation Competition
<http://abaforlawstudents.com/events/law-student-competitions/practical-skills-competitions/negotiation-competition/>

ABA Arbitration Competition
<http://abaforlawstudents.com/events/law-student-competitions/practical-skills-competitions/arbitration-competition/>

Client Counseling Competition

<http://abaforlawstudents.com/events/law-student-competitions/practical-skills-competitions/client-counseling-competition/>

International Chamber of Commerce (ICC) Mediation Representation Competition

<http://www.iccwbo.org/training-and-events/competitions-and-awards/mediation-week/>

South Texas College of Law Houston Energy Law Negotiation Competition (held annually in March)

Eighteen teams from around the country virtually negotiate lawsuits involving timely energy related issues

<http://www.stcl.edu/academics/center-for-conflict-resolution/energy-law-negotiation-competition/>

The James B. Boskey Law Student Essay Contest on Dispute Resolution

https://www.americanbar.org/groups/dispute_resolution/awards_competitions/james_b_boskey_law_student_essay_contest_on_dispute_resolution.html

G. Resources on transitioning courses

For a **basic intro to ‘What do I need to consider while transitioning courses online?’** read 'Next Week, You Will Teach Your Courses Online': A Reassuring Introduction to Pandemic Pedagogy https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3552124

For a **basic intro to teaching online with Zoom**, see the Mitchell Hamline Best Practices for Online Teaching program:

<https://mhsl.hosted.panopto.com/Panopto/Pages/Viewer.aspx?id=7e45ee08-63b5-4684-b15e-ab7d01775cc3>

For guidance on conducting simulations in courses transitioning to Zoom and other videoconferencing platforms, read *Pandemic Pedagogy II: Conducting Simulations & Role Plays in Online, Video-Based, Synchronous Courses* https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3557303

Webinar on conducting simulations in courses transitioning to Zoom and other videoconferencing platforms (Sharon Press and Noam Ebner, Hosted by the ABA’s Section on Dispute Resolution, March 2020): <https://www.youtube.com/watch?v=8Hdz-NI6Xr4&>

Webinar on incrementally improving courses that have successfully transitioned online (Noam Ebner, with Beth Fisher-Yoshida, Hosted by Columbia University’s Program on Negotiation and Conflict Resolution, April 2020) <https://www.youtube.com/watch?v=zF9fCQZKDTw&t>

Resource List (AALS Section of Dispute Resolution Executive Board) *Engaging and Reinforcing Inline ADR Teaching* Contact Elayne Greenberg greenbee@stjohns.edu [attached APPENDIX I]

New Normal Think Tank: A reflective practice group exploring the new normal in the ADR classroom. While we started as a group of Clinicians transitioning to online mediations, there are several professors who are not clinicians who attend. The conversation veers into general tips for Zoom, online teaching

adaptations, as well as transitioning Clinics. Please join if you want to see check it out. The group meets every other Monday at 1 p.m. PST/4 p.m. EST. Updated links are sent out on DRLE. **Contact: Stephanie B Blondell** stephanie.blondell@pepperdine.edu [attached APPENDIX J]

A Guide to Resources for Teaching Online Curated by Susan Landrum, J.D., Ph.D. Assistant Dean for Academic Success and Professionalism, Nova Southeastern University Shepard Broad College of Law **attached APPENDIX M**