

WESTERN STATE UNIVERSITY COLLEGE OF LAW
At Westcliff University

MEDIATION, Section LAW461A
SYLLABUS AND COURSE POLICIES – SPRING 2025
THURSDAYS (3-4:50PM)

Professor: Steve Rosen
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Room:TBD

REQUIRED TEXTS AND PROGRAMS

1. Mediation: The Roles of Advocate and Neutral [Connected Ebook] (Aspen Casebook) **4th Edition**, 2021
 - a (NOTE: Currently on sale on Amazon: <https://a.co/d/hCjC1XW>)

COURSE LEVEL LEARNING OUTCOMES:

During the 14 weeks of this course, students will:

- A. **Master the Mediation Process:** Develop proficiency in using mediation both as a standalone method for dispute resolution and as a strategic tool within litigation contexts.
- B. **Identify Barriers to Resolution:** Understand common obstacles to negotiated settlements and how mediation can address them.
- C. **Navigate Legal, Ethical, and Psychological Dimensions:** Gain insight into the legal, ethical, and psychological complexities of mediation, along with the evolving roles of mediators and advocates.
- D. **Enhance Advocacy Skills:** Build confidence and skills to effectively represent clients and themselves throughout the mediation process.
- E. **Adapt Communication for Mediation Audiences:** Learn to tailor written and verbal communication to suit different participants in mediation, including mediators, clients, and adversaries.
- F. **Inform and Guide Clients:** Understand how to keep clients informed about mediation strategies, processes, and the potential consequences of decisions made during mediation.
- G. **Develop Strategic Participation:** Equip clients with effective strategies for active engagement in mediation, fostering collaborative approaches to dispute resolution
- H. **Refine Reflective Practices:** Engage in self-assessment and reflective exercises to continuously improve mediation advocacy techniques and adapt to diverse mediation scenarios.

- I. **Strengthen Practical Application:** Participate in realistic simulations to apply theoretical knowledge and refine practical skills in real-world mediation contexts.
- J. **Cultivate Professionalism in Mediation:** Embrace the professional responsibilities and ethical considerations required of effective mediation advocates, ensuring integrity and fairness throughout the process.
- K. **Understand Outcome Implications:** Analyze the broader implications of mediation outcomes, including legal and personal impacts, to guide clients toward informed and beneficial decisions.

Through these outcomes, students will become skilled, adaptable, and confident advocates, prepared to navigate the complexities of mediation and achieve successful resolutions for their clients.

WESTERN STATE COLLEGE OF LAW- PROGRAMMATIC LEARNING OUTCOMES

Western State College of Law's curriculum is designed so that every student achieves a level of competency prior to graduation in each of the eight Programmatic Learning Outcomes listed below:

(1) Doctrinal Knowledge

Students will demonstrate knowledge of substantive and procedural law in the core curriculum subjects, including Contracts, Criminal Law, Criminal Procedure, Torts, Real Property, Business Association, Evidence, Civil Procedures, Constitutional Law, Estates, Community Property, Remedies, and Professional Responsibility.

(2) Practice Skills

Students will demonstrate the development of other law practice skills. Each student's chosen outcomes within this category will be varied based on the student's particular interests, coursework and work experiences. They may include, but are not limited to, the following topics: oral presentation and advocacy; interviewing; counseling; client service and business development; negotiations, mediation, arbitration, or other alternate dispute resolution methods; advanced legal research and writing (excluding purely academic papers and the first four units earned in introductory first-year legal research and writing class); applied legal writing such as drafting contracts, pleadings, other legal instruments; law practice management or the use of technology in law practice; cultural competency; collaboration or project management; financial analysis, such as accounting, budgeting project management, and valuation; cost benefit analysis in administrative agencies; use of technology, data analyses, or predictive coding; business strategy and behavior; pre-trial preparation, fact investigation, such as discovery, e-discovery, motion practice, assessing evidence, or utilizing experts; trial practice; professional civility and applied ethics; a law clinic that includes a classroom component; or a legal externship that includes a classroom component.

(3) Legal Analysis

Students will demonstrate the ability to identify the factual and legal issues implicated by a fact pattern and to appropriately use cases (including identifying the salient features of an appropriate precedent case, identifying legally significant similarities or differences between the precedent case and a fact pattern and explaining why those are legally significant) and rules (including the ability to connect legally significant facts in a fact pattern to the rule) to predict how a court would decide the issue. Students will also demonstrate the ability to identify and evaluate the public policies of a precedent case or rule and be able to evaluate how public policy can impact the application of a rule to the legal issue.

(4) Legal Research

Students will demonstrate the ability to locate relevant legal authority using a variety of book and electronic resources, and to properly cite to such legal authority.

(5) Communication

Students will demonstrate the ability to communicate both orally and in writing in a manner appropriate to a particular task to effectively convey the author or speaker's ideas. This includes audience sensitivity in written and oral communication (the ability to adopt a tone, style and level of detail appropriate to the needs, knowledge and expertise of the audience); and written communication basic proficiency (the ability to use the conventions of grammar, spelling, punctuation, diction and usage appropriate to the task and sufficient to convey effectively the author's ideas).

(6) Advocacy of Legal Argument

Students will demonstrate the ability, in both oral and written formats, to evaluate the legal, economic and social strengths and weaknesses of a case and use case and statutory authority as well as public policy to persuade others. Making policy-based arguments includes the ability to identify and evaluate the public policies of a precedent case or rule and their implications, and be able to assert such appropriate arguments to support a particular application or distinction of a precedent case to a legal controversy or a particular resolution of the application of a rule to the legal controversy.

(7) Client Sensitivity and Cultural Competency

Students will demonstrate an awareness of clients' needs and goals, including a sensitivity to clients' background and circumstances (including, but not limited to, socio-economic, gender, race, ethnicity, educational, disability and/or religious background(s)), the ability to make decisions that reflect an appropriate focus on those needs and goals, and awareness that cultural issues may affect the relevance of facts and application of the law.

(8) Legal Ethics

Students will demonstrate the ability to identify ethical issues in law practice contexts and make appropriate decisions to resolve such issues.

B. **DISABILITY SERVICES STATEMENT**

Western State College of Law provides accommodations to qualified students with disabilities. The Disabilities Services Office assists qualified students with disabilities in acquiring reasonable and appropriate accommodations and in supporting equal access to services, programs, and activities at Western State College of Law.

To seek reasonable accommodations, a student must contact Senior Assistant Dean Donna Espinoza, Student Services Director and Disabilities Services Coordinator, whose office is in the Library Building, Room 275-B. Dean Espinoza's phone number and email address are: (714) 459-1117; despinoza@wsulaw.edu. When seeking accommodations, a student should notify Dean Espinoza of her or his specific limitations and, if known, her or his specific requested accommodations. Students who seek accommodations will be asked to supply medical documentation of the need for accommodation. Classroom accommodations are not retroactive, but are effective only upon the student sharing approved accommodations with the instructor or professor. Therefore, students are encouraged to request accommodations as early as feasible with Dean Espinoza to allow for time to gather necessary documentation. If you have a concern or complaint in this regard, please notify Dean Espinoza; or please notify Dean Marisa Cianciarulo at mcianciarulo@wsulaw.edu or (714) 459-1168. Complaints will be handled in accordance with the College of Law's "Policy against Discrimination and Harassment."

C. **BACKGROUND TO MEDIATION ADVOCACY**

Mediation Advocacy recognizes that mediation plays a central role in resolving many legal disputes. This course provides students with a comprehensive introduction to the mediation process, examines various philosophical approaches and styles of mediation, and builds a practical understanding of mediation stages. It focuses on cultivating students' skills to effectively advocate at every stage of the process.

Students will explore mediation as both an independent resolution method and a strategic tool for resolving litigation. The course also delves into the evolving roles of mediators and advocates, addressing the legal, ethical, and psychological dimensions inherent in the mediation process.

Through hands-on simulations and reflective discussions, students will gain confidence as client representatives and develop proficiency in mediation advocacy.

D. **EXPECTATIONS FOR OUTSIDE OF CLASS**

While the amount of time you need to set aside for class preparation will vary with the degree of difficulty of the materials we will be discussing, per the ABA rules, you should be devoting a **minimum of four hours of outside of class study time for each two-hour class session**, and often more than that. "Study time" may include reading the assigned materials, working through the problems in the book, creating an outline, completing any assignments, reviewing supplemental materials, completing and reviewing briefs, etc.

Prepare for class by following the below approach BEFORE each class:

1. First, read the assigned textbook problems/pages.
2. Since the course textbook is primarily based on problems and not cases, you **MUST** answer each problem and come to class prepared to provide the answer if called on in class. **You should have your problems outlined to prepare for class**
3. If you do not understand the concepts that are covered in the assigned reading, then use a supplemental resource to help you further understand the rule (a list of supplemental resources will be provided upon request) or email me, and I will help.

DURING CLASS:

1. Do NOT try to write down every word on the slides. Your completed reading and answers to the problems should allow you to make notes and add in class.
2. Highlight or make a note of key concepts and discussion rather than every word.
3. Pay attention to examples and hypos as those often form the basis of future discussions/assignments.
4. Always try to answer the questions being asked in class in your head even if a classmate is the one being called on.
5. Focus on class and don't allow yourself to get distracted by your phone or the internet or any other distractions in class.

AFTER CLASS EACH SESSION:

1. **CHECK THE LEXIS CLASSROOM FOR ASSIGNMENTS AND UPDATES**
 - a **MUST BE DONE AFTER EVERY CLASS**
2. Review your notes from class while they are fresh in your head. Make a note of any areas of confusion now so you can ask the professor in office hours or after class. **Do not be afraid to ask a question if you are confused. There will be no question shaming.**
3. Complete any post-class assignments if applicable and write out assignments.
4. Email the professor for office hours if you need help with anything.

E. **PRACTICE QUESTIONS, EXAMS, AND GRADING**

There will be graded weekly assignments, a small-group project, and class simulations.

The final course grade will consist of:

- 1) **20% for attendance and class participation.**
- 2) **30% for completion of weekly assignments (includes all post-class assignments and any other assignments assigned throughout the semester).**
- 3) **20% Mediation Brief Assignment**
- 4) **30% weighting of the Final Mediation Exercise**

F. **CLASS PARTICIPATION**

Class attendance and participation is paramount for a passing grade in this course.

Legal education is a cooperative venture and oral communication skills will be important throughout your professional life. Each of you must be prepared to participate in class on a regular basis. If you have not read the materials, you are unprepared.

I will regularly call on students in class at random to describe rules and to answer problems that were in the textbook. Even though some students find this method unattractive or intimidating, group participation is important to help develop the skills noted above. And the single most effective way to overcome the intimidation is to be prepared. Also, it is fairly inconsiderate of the time and efforts of your fellow students to come to class unprepared.

Please note, however, that there is a significant difference between being unprepared and being unable to correctly answer a question. No one knows the answer to every law-related question. An important part of the learning experience is testing your own opinions and conclusions.

You will not be penalized for venturing an incorrect answer as long as it is a thoughtful answer based on preparation. An important part of the learning process involves thinking out loud and making mistakes.

G. **ATTENDANCE, DECORUM, AND NOTETAKING IN CLASS**

I will take attendance at the beginning of each class by asking you to sign in for the class on a roll sheet. If you are not signed in, you are absent. You are responsible for tracking your own attendance to ensure you are not dismissed for missing too many classes.

You should be in your seat at the commencement of class to be counted as present for the class. Similarly, you should not leave until the end of class. If you have an emergency that causes you to have to leave during the class, please do so unobtrusively – **and send me an email explaining the same before the next class.** If you have a disability which prevents you from remaining in your seat during the class, please contact the Registrar or the Academic Dean.

Smart phones and the like should not be heard or used in the classroom.

You may use your laptop computer, but it should be open only to course related materials. I know that many students use their laptops to take notes in class. Do everything you can to make sure that your mind is fully engaged during class, and that even when you are not directly participating in class discussion that you are actively listening and thinking.

H. SEATING CHART

A seating chart will be distributed during one of the beginning classes. Please print your preferred name legibly in the seat you choose for your permanent seat. If you wish to change your seat later, please notify me so that I can make the appropriate change on the chart.

I. OFFICE HOURS

I am delighted to talk with students almost any time. Since the pandemic many students have found Zoom online office hours to be helpful and time efficient. Since many students are taking different classes and many students have internships, jobs, and other responsibilities, individual appointments provide more flexibility to meet everyone's schedules. Since your schedules all vary, please email me directly to set up an office hour appointment and I will be sure to meet with you at a time convenient for you.

J. WEB COURSE

Sometime before the first day of class I will set up a Lexis Web Course for this class. You will need to enroll in the web course for my class and will be able to access any posted course materials. During the semester I will use this web course to send you emails, make class announcements and post course documents such as this syllabus, charts, questions, outlines, and other documents that pertain to the topics we will study. I will also use the web course to post announcements and assignments. Please make sure you **have access to the site BEFORE the first day of class** and that you **sign up for course notifications.**

Class assignments will be posted on the Web Course. Students **MUST** turn in those assignments through the **WEB COURSE**. Acceptable formats are **WORD** or **PDF** only- unless otherwise noted in the assignment.

K. GUEST SPEAKERS

Throughout the semester, we will have a number of guest speakers join us. These guest speakers will mostly be joining us remotely. Guest speakers will be announced, along with their subtopic, during the prior week's class. Participation points will be provided to students that come up with questions for guest speakers, that are selected by your professor.

EVERY GUEST SPEAKER SHALL BE SHOWN THE UTMOST RESPECT. They shall be given each student's entire attention while speaking to our class and answering questions.

Any student that fails to provide a guest speaker with their full attention and respect will be asked to leave and marked absent.

L. READING ASSIGNMENTS (subject to modification)

You should **read the entire week's assignment before the first class in that week**. This gives us flexibility with moving through various topics within a given week.

Class/Date	Topic	Required Reading PRIOR to Class
Class 1	<ul style="list-style-type: none">• Introduction to Course• Origin of Disputes• Negotiator Styles	Chapters 1 & 2 <u>Provide short 1-2 sentence answers for each question at the end of each Chapter</u>
Class 2	<ul style="list-style-type: none">• Negotiation• Barriers to Settlement	Chapters 3 & 4 <u>Provide short 1-2 sentence answers for each question at the end of each Chapter</u>
Class 3	<ul style="list-style-type: none">• The Mediation Process	Chapter 5 <u>Provide short 1-2 sentence answers for each question at the end of each Chapter</u>
Class 4	<ul style="list-style-type: none">• Mediation Stages and Specific Processes	Chapter 6 <u>Provide short 1-2 sentence answers for each question at the end of each Chapter</u>
Class 5	<ul style="list-style-type: none">• Skills Used in Mediation	Chapter 7 <u>Provide short 1-2 sentence answers for each question at the end of each Chapter</u>

Class 6	<ul style="list-style-type: none"> Emotional Issues/Cognitive Forces 	<p>Chapter 8</p> <p><u>Provide short 1-2 sentence answers for each question at the end of each Chapter</u></p>
Class 7	<ul style="list-style-type: none"> Merits Based Barriers 	<p>Chapter 9</p> <p><u>Provide short 1-2 sentence answers for each question at the end of each Chapter</u></p>
Class 8	<ul style="list-style-type: none"> Representing Client: Preparation for Mediation 	<p>Chapter 10</p> <p><u>Provide short 1-2 sentence answers for each question at the end of each Chapter</u></p>
Class 9	<ul style="list-style-type: none"> SELECTING A MEDIATOR 	<p>TBD</p> <p>(Handout and Assigned Reading on Slides)</p>
Class 10	<ul style="list-style-type: none"> MEDIATION BRIEFING 	<p>TBD</p> <p>(Handout and Assigned Reading on Slides)</p>
Class 11	<ul style="list-style-type: none"> Representing Client: Advocacy During Mediation 	<p>Chapter 11</p> <p><u>Provide short 1-2 sentence answers for each question at the end of each Chapter</u></p>
Class 12	<ul style="list-style-type: none"> Ethical Issues 	<p>Chapter 15</p> <p><u>Provide short 1-2 sentence answers for each question at the end of each Chapter</u></p>
Class 13	MEDIATION SIMULATION	<p>TBD</p> <p>(Handout and Assigned Reading on Slides)</p>
Class 14	<ul style="list-style-type: none"> MEDIATION SIMULATION 	<p>TBD</p> <p>(Handout and Assigned Reading on Slides)</p>