MEDIATION

LAW 703 – SEC 2
FALL 2020
TH: 4:20 PM TO 6:20

ONLINE: BLACKBOARD
COLLOBOARATE ULTRA

THELMA L. HARMON
ASSOCIATE PROFESSOR

“BEING UNPREPARED
IS
PREPARATION FOR FAILURE”
THE PROFESSOR

NAME: Thelma L. Harmon, Associate Professor

TELEPHONE: 713.313.1144

EMAIL: thelma.harmon@tmslaw.tsu.edu

LOCATION: Suite 100K

VIRTUAL OFFICE HOURS:
Sessions platform: BLACKBOARD
Monday: 10:00 AM – 1:00 PM
Wednesday: 10:00 AM – 1:00 PM
All Other Times by Appointment Only

COURSE BOOKS AND MATERIALS

REQUIRED:
- Texas Civ. Prac. & Remedies Code, Ch. 154 TWEN
- Ethical Guidelines for Texas Mediators TWEN
- In re Stephanie Lee, 411 S.W.3d 445 (Tex. 2013).
- Additional required articles may be placed on Blackboard

RECOMMENDATIONS (not required to purchase):
- Mediation resources at http://www.mediate.com/
Course Description, Requirements, and Expectations

Course Description
This course will be an overview of mediation as a form of dispute resolution. The steps in the mediation process will be discussed and practiced in mock mediation scenarios. The skills of empathic, reflective listening, conflict management, conflict resolution, feedback, breaking impasse, and facilitating will be emphasized. The barriers to resolution of resistance, power, revenge, and anger will be addressed. The roles of mediators will be discussed, demonstrated, and practiced. The use of mediation in interpersonal relations, divorce, workplace, and business settings will be presented to familiarize students with the issues and options in the practice of mediation.

Assignments
0. Assignment Due Dates: All assignments, including Discussion Board, are due on the Tuesday before the assignment due date as set forth in the class schedule, except for the assignments set forth in the Due Date Chart. Note: All assignments, except discussion board, must be submitted to Ms. Marilyn Epps via email. Do not submit an electronic copy to the professor. Absolutely no exception(s).

1. Assigned readings (see class schedule)

2. Discussion Board Forums - You are required to read the assigned reading and participate in all Discussion Boards. Discussion topics (see class schedule) will be established for class. You must participate two ways. One, you must comment on the topic/questions provided for discussion. The thread must be 300–400 words and demonstrate course-related knowledge. Each thread must include at least 1 reference to the textbook/course material. Two, in addition to the thread, the student is required to reply to 2 other classmates’ threads. Each reply must be at least 200–400 words and contain at least 1 reference from the textbook/course material. More information about Discussion Boards will be provided in Blackboard.

3. Assignments, Etc. -
   a. Video Assignment – I will provide a mediation video for you to watch. You are to analyze and evaluate the mediation session, mediator, and mediation participants. This assignment will be due as set forth in the “Assignment Due Dates Chart” below. I will ask questions to answer some specific questions to guide your analysis and evaluation.

   b. Mediated Settlement Agreement Assignment -- I will provide a set of facts regarding the terms reached at a mediation. Based on the information provided, you are to prepare a mediated settlement agreement.

   c. Generation Options Assignment – I will provide a fact pattern which will require you to generate options.

   d. Role Play -- Students will be paired into co-mediation teams. Each “team” will be assigned one role play in which they will be co-mediators and a second role play in which they will be role players. Each mediation role play will be followed by oral feedback from role players, observers and the instructor.

Student Learning Outcomes
After completion of the course, students will:

- learn and practice the skills and steps in the mediation process;
- become familiar with the roles of a mediator and practice using them in the mediation process;
- learn how to draft a mediated settlement agreement.
## Grading

<table>
<thead>
<tr>
<th>Task</th>
<th>Due Date</th>
<th>Weight</th>
<th>Assessment Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Generating Options and Solutions</td>
<td>09/24/2020</td>
<td>20%</td>
<td>Summative</td>
</tr>
<tr>
<td>A Mediated Settlement Agreement</td>
<td>10/01/2020</td>
<td>20%</td>
<td>Summative</td>
</tr>
<tr>
<td>Analysis and Evaluation of Mediated Dispute</td>
<td>08/27/2020</td>
<td>20%</td>
<td>Formative</td>
</tr>
<tr>
<td>Mediation Observation (1)</td>
<td>TBD</td>
<td>10%</td>
<td>N/A</td>
</tr>
<tr>
<td>Video Recorded Role Play</td>
<td>See Class Schedule</td>
<td>30%</td>
<td>Formative</td>
</tr>
</tbody>
</table>

**Final grades are subject to the completion of one (1) mediation observation. If the mediation observation is not completed and submitted by the time grades are required to be submitted, the student will receive an “I” grade. See students rules and regulations, Art. III Section 7 for removal of incomplete. Upon completion of all requirements herein, grades will be as follows:**

<table>
<thead>
<tr>
<th>Grade</th>
<th>Percentage</th>
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<tbody>
<tr>
<td>A</td>
<td>90-100</td>
</tr>
<tr>
<td>B</td>
<td>80-89</td>
</tr>
<tr>
<td>C</td>
<td>70-79</td>
</tr>
<tr>
<td>D</td>
<td>60-69</td>
</tr>
<tr>
<td>F</td>
<td>59 &amp; below</td>
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</table>

- **A**: Exceptional
- **B**: High
- **C**: Satisfactory
- **D**: Marginal
- **F**: Unsatisfactory
1. **Online Classroom Etiquette:** Students are expected to conduct themselves with professionalism at all times. Appropriate professional etiquette is expected in all communications with other classmates, instructors and external professionals and personnel who have a professional relationship with TMSL. Professionalism and classroom etiquette requires student attentiveness and engagement. It is unprofessional to utilize computers, tablets and smartphones in class for purposes that are not directly related to the current class topic and presentation. For online classes students should abide by the same principles as they self-regulate their own professional conduct during Zoom Meeting course discussions. Behavior and written or verbal exchanges that are disrespectful, harassing, or otherwise professionally inappropriate are not acceptable. Students need to treat classroom engagements in a similar manner as they would engage with colleagues in a professional environment. Students engaged in coursework via video teleconference must dress appropriately and should seek to have the most professional setting and background as possible with minimal visual and noise distraction. It is expected that while in class and on microphone/camera that professional behavior is maintained at all times.

2. **Assignments and Quizzes:** The supervising attorney will provide students with model answers to the assignments and quizzes.

3. **Preparation:** Students are to be prepared for each class. To be prepared, a student must: (1) read all assigned Family Law Code sections, cases, sections/chapters in the textbook, handouts, and articles, and (2) prepare and timely turn in assignments.

4. **Attendance for Synchronous Classes:** Even though students are learning from a distance and not present on campus, students are still required to log into the course through BLACKBOARD. Log-in at the start of each class mandatory. Any student who logs fails to log in within the first 10 minutes of class, will be marked absent (10-Minute Rule), unless caused by a technical difficulty beyond the student’s control and the student notifies the professor or the administrative assistant before the elapsed of the first 10 minutes of class. According to Article III.9 of the Student Rules and Regulations, if a student misses more than the allotted number of classes under the said article, the student’s grade may be reduced. Attendance is automatically taken by BLACKBOARD each class day. Except as provided above, the attendance sheet will be considered final.

TMSL is committed to providing a reliable online course system to all users. However, in the event of any unexpected server outage or any unusual technical difficulty which prevents students from completing a time sensitive assessment activity, the instructor will extend the time windows and provide an appropriate accommodation based on the situation. Students should immediately report any problems to the professor or Ms. Epps, Administrative Assistance at (713) 313-7275 or Marilyn.Epps@TMSLaw.TSU.EDU instructor and contact the IT Service Center at 713-313-4357 or itservicecenter@tsu.edu.

5. **ADA Policy:** The Law School will make reasonable accommodations to individuals with documented disabilities. Such accommodations will not be provided, however, if they fundamentally alter the nature of the program or if they would be unduly burdensome either financially or administratively. The term “disability” is defined by the Americans with Disabilities Act of 1990, the Americans with Disabilities Act Amendments Act of 2008, and Section 504 of the Rehabilitation Act of 1973. These federal acts mandate equal opportunities for qualified persons with disabilities in all public facilities, programs, activities, services, and benefits derived from them. In order to receive accommodations, a student must have a documented mental or physical disability that substantially limits a significant life activity. Some examples of major life activities that would impact learning are: seeing, hearing, concentrating, communicating, reading, and writing. Reasonable accommodations are recommended based on the application review process and supporting documentation. For more information about the accommodation process, please contact the Office of Assistant Dean for Student Development.

6. **Not a Contract:** This syllabus is NOT a contract and is subject to change. Changes will be announced in class with as much warning as possible.
Week 1 – August 13
Discussion Topics: Introductions Overview of course; Review Course Syllabus; Observation; Mediation Simulations; Class Exercises

Assignment Due Next Class:
Read: Mediation, Chapters 1-3; Texas CPRC Ch. 154
Discussion Board: “Some claim that anyone can be a good mediator if suitably trained.” Do you agree or disagree? Support your position.

Week 2 – August 20
Assignment Due: Mediation, Chapters 1-3; Texas CPRC Ch. 154
Discussion Board: “Some claim that anyone can be a good mediator if suitably trained.” Do you agree or disagree? Support your position. Discussion Board will be closed 11:59 PM Tuesdays.
Discussion Topics: Overview of ADR; Mediation Process; Agenda Development; Accumulating Information; Issue Development; Cultural Competence; Listening and Communication Skills; Note Taking

Assignment Due Next Class:
Read: Mediation, Chapters 4, 5 & 14, Texas CPRC Ch. 154
Discussion Board: Do you think the standard in court ordered mediation should be “minimal meaningful participation” or a “good faith standard.” Explain your answer.
Video Viewing: Analysis and evaluation of a mediated dispute

Week 3 – August 27
Assignment Due: Mediation, Chapters 4, 5 & 14, Texas CPRC Ch. 154
Discussion Board: Do you think the standard in court ordered mediation should be “minimal meaningful participation” or a “good faith standard.” Explain your answer.
Discussion Topics: Getting to the Mediation Table, Mediation Preparation, Mediator’s Ethics
Video Viewing: Analysis and evaluation of a mediated dispute

Assignment Due Next Class: Read: Mediation, Chapter 6, Texas CPRC Ch. 154
Written Assignment: Prepare an opening statement
Simulation: Opening Statement

Week 4 – September 3
Assignment Due: Mediation, Chapter 6, Texas CPRC Ch. 154
Written Assignment: Prepare an opening statement
Simulation: Opening Statement
Discussion Topics: Mediation Process; Opening Statement; BATNA/WATNA

Assignment Due Next Class: Access link below—read “Mediating with Zoom” article and watch video https://www.mediate.com/articles/online-mediating-zoom.cfm#
Written Assignment: Prepare questions for guest speaker next week
Simulation: Opening Statement cont’d

Week 5 – September 10
Assignment Due: Access link below—read “Mediating with Zoom” article and watch video https://www.mediate.com/articles/online-mediating-zoom.cfm#
Guest Speaker: Attorney Angelina Gooden, Mediator
Simulation: Opening Statement cont’d
Assignment Due Next Class: Mediation, Chapters 7, 8(B & C) & 9(A&C); Texas CPRC Ch. 154
Discussion Questions: Ch. 7, Q.7.1 & 7.3; Ch. 9, Q9.1 & 9.2

Week 6 -- September 17
Assignment Due: Mediation, Chapters 7, 8(B & C) & 9(A&C); Texas CPRC Ch. 154
Discussion Questions: Respond to Ch. 7, Q.7.1 & 7.3 and Ch. 9, Q9.1 & 9.2
Discussion Topics: Negotiation, Mediator’s Neutrality

Assignment Due Next Class: Read: Mediation, Chapters 10 & 11(A, F, G—read only NLRB v. Joseph Macaluso, Inc. and Hudson v. Hudson)
Written Assignment: Generating Options (TWEN)
Video Assignment: to be provided

Week 7 – September 24
Assignment Due: Mediation, Chapters 10 & 11(A, F, G—read only NLRB v. Joseph Macaluso, Inc. and Hudson v. Hudson)
Written Assignment: Generating Options (TWEN)

Assignment Due Next Class: Read Chapters 12 & 13
Written Assignment: Mediated Settlement Agreement (TWEN)
Simulation: Role Play (1 Team)

Week 8 – October 1
Assignment Due: Read Chapters 12 & 13
Written Assignment: Mediated Settlement Agreement
Simulation: Role Play (1 Team)

Assignment Due Next Class: Role play (2 Teams)

Week 9 – October 8
Assignment Due: Role play (2 Teams)
Assignment Due Next Class: Role play (2 Teams)

Week 10 – October 15
Assignment Due: Role play (2 Teams)
Assignment Due Next Class: Role play

Week 11 – October 22  LAST DAY OF CLASS
Assignment Due: Role play (2 Teams)
Assignment Due Next Class: Role play