MEDIATION

LAW 703 – SEC 2
FALL 2020
TH: 5:30 PM TO 7:10

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:
• Mediation: Principles and Practice, 3rd Ed., Kimberlee K. Kovach (“Mediation”)
• The Mediation Dictionary, Nancy Peterson (2007) – Blackboard
• Texas Civ. Prac. & Remedies Code, Ch. 154 Blackboard
• Ethical Guidelines for Texas Mediators Blackboard
• 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 in hard copy format to Room 100, Legal Clinic via email. Do not submit an electronic copy via email. 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.
**Texas Southern University**

**Thurgood Marshall School of Law**

**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>09/21/21</td>
<td>20%</td>
<td>Summative</td>
</tr>
<tr>
<td>A Mediated Settlement Agreement</td>
<td>10/12/2021</td>
<td>20%</td>
<td>Summative</td>
</tr>
<tr>
<td>Analysis and Evaluation of Mediated Dispute</td>
<td>09/14/2021</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>TBD</td>
<td>30%</td>
<td>Formative</td>
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</tbody>
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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>
<th>Description</th>
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<tbody>
<tr>
<td>A</td>
<td>90-100</td>
<td>Exceptional</td>
</tr>
<tr>
<td>B</td>
<td>80-89</td>
<td>High</td>
</tr>
<tr>
<td>C</td>
<td>70-79</td>
<td>Satisfactory</td>
</tr>
<tr>
<td>D</td>
<td>60-69</td>
<td>Marginal</td>
</tr>
<tr>
<td>F</td>
<td>59 &amp; below</td>
<td>Unsatisfactory</td>
</tr>
</tbody>
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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.

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.

ATTENDANCE: Students are required to attend each class. Any student who fails to be in within 5 minutes before the scheduled start time of class, will be marked absent (5-minute rule). 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 will be taken each class day. The attendance sheet will be considered final.

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.

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.

CLASS SCHEDULE

Week 1
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
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
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
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
Assignment Due: Access link below—read “Mediating with Zoom” article and watch video https://www.mediate.com/articles/online-mediating-zoom.cfm#
Guest Speaker: Judge Angelina Gooden
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
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
Video Assignment: to be provided

Week 7
Assignment Due: Mediation, Chapters 10 & 11(A, F, G)—read only NLRB v. Joseph Macaluso, Inc. and Hudson v. Hudson
Written Assignment: Generating Options
Week 8
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
Assignment Due: Role play (2 Teams)
Assignment Due Next Class: Role play (2 Teams)

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

Week 11
Assignment Due: Role play (2 Teams)
Assignment Due Next Class: Role play

Week 12
Assignment Due: Role play (2 Teams)
Assignment Due Next Class: Role play

Week 13
Assignment Due: Role play (2 Teams)
Assignment Due Next Class: Role play