



## **Lawyering Process**

**Law 200S**

**Professor Shestowsky**

**Spring 2020 Semester**

**Fridays 9:35 to 11:25AM**

### **GENERAL COURSE INFORMATION**

#### **Professor of Record:**

Professor Donna Shestowsky, J.D., Ph.D. Office: King Hall 2135

Email: [dshest@ucdavis.edu](mailto:dshest@ucdavis.edu)

Telephone: (530) 754-5693

Office hours: Tuesdays 12:45 to 2PM, and very flexible by appointment.

#### **Course Description:**

This course introduces students to different types of interactive skills needed for effective litigation and transactional work. Students will gain a better appreciation for the varied tasks in which different types of lawyers engage. In conjunction with the companion laboratory course (Law 200L), this course provides simulation-based opportunities to hone basic skills in negotiation, client interviewing, networking, and other important skills that shape professional success. The benefits of honing these skills as early as the 1L year are emphasized. Units for this course count towards the skills requirement for graduation.

#### **Course Structure:**

This course has a novel structure for law school courses. You will attend large group meetings with me (your Professor of Record) and participate in a smaller laboratory section headed by your Laboratory Instructor who currently works full-time in the legal field. The Course Schedule posted to Canvas lists the reading assignments and due dates for written assignments for both the large group meetings and laboratory components of the course.

Laboratory sections meet five times during the semester: Weeks of January 13th, January 27th, February 10th, February 24th and March 9th. Laboratory Instructors will provide feedback on the interactive lawyering skills we will practice this semester. They will also evaluate your written assignments and assign your participation grade. They also welcome the opportunity to share advice on careers, networking, and professionalism issues.

### **Textbooks and Other Course Materials:**

The required book for this course is *Essential Lawyering Skills*, 5th edition, by Krieger and Neumann. Supplemental required readings will be posted to Canvas.

### **Course Website:**

I expect you to check Canvas daily. Your Laboratory Instructor will also have his/ her own Canvas portal.

### **Teaching Assistant:**

The Teaching Assistant [TA] for the course is 2L Jenna Rogenski. Her email address is [jmrogenski@ucdavis.edu](mailto:jmrogenski@ucdavis.edu).

### **Learning Outcomes:**

By the end of this course, you should be able to:

- identify and understand key principles of effective client interviewing, client counseling, and negotiation
- conduct an initial client interview
- prepare for, and conduct, a basic negotiation
- network with greater effectiveness and confidence
- appreciate the key differences between litigation and transactional practice, and have a better understanding of what different lawyers do in their day-to-day work
- articulate some current trends in legal practice, including the growing importance of alternative dispute resolution (ADR)
- be more comfortable and proficient delivering verbal presentations of objective information

### **Student Evaluation:**

Your final grade will consist of:

|   |     |
|---|-----|
| 1. Negotiation Self-Analysis Paper                  | 25% |
| 2. Negotiation Planning Document                    | 15% |
| 3. Client Counseling Worksheet                      | 20% |
| 4. Networking Worksheet                             | 15% |
| 5. Verbal Non-Persuasive Communication Presentation | 10% |
| 6. Participation in Laboratory section              | 15% |

Note that there is **no final exam** for this course.

This is a pass/fail class. To receive a “pass” you must satisfy two requirements: (1) receive a “pass” for each Item 1 through 6 above; and (2) meet the attendance requirement for the course (see below).

Your final grade will be recorded on your transcript as “Satisfactory” or “Unsatisfactory.” The top 20 students across the two Lawyering Process classes will also get a special distinction of “Lawyering Process Award Recipient,” which will be noted on their transcript. The group of award recipients will consist of the top two performers in each laboratory section.

Please keep in mind that the Laboratory Instructors are likely to make valuable references for future employment. Your work product and professionalism are important for making a good impression, regardless of your grade.

**Format requirements for written assignments:** Typed, double-spaced, 12-point Times New Roman font, 1-inch margins. **Exceptions:** negotiation planning documents may be single-spaced. Type your name and assignment name at the top of the first page of the assignment. Please save and upload all assignments as word .doc or .docx format.

**\*\*Written assignments should be uploaded to your Lab Instructor's Canvas portal in the assignment folder with the corresponding assignment name. Deadlines are listed in the Course Schedule; late submissions will receive point deductions or may receive no credit\*\***

**Participation:** Your participation will be evaluated on the quality of your contributions and insights during the laboratory sessions. Quality comments are ones that:

1. Offer a unique, but relevant, perspective based upon analysis and theory (not intuition or casual observation)
2. Contribute to moving the discussion and analysis forward
3. Relate analytically to previous concepts introduced in the course
4. Build upon the comments of your classmates, or
5. Transcend the "I feel" syndrome: that is, include evidence or logic

**Negotiation Self-Analysis Paper:** Negotiation is a fundamental lawyering skill; every lawyer's practice includes some form of negotiation. This course will help you improve and refine your negotiation skills. For this assignment, you will prepare for a simulation along with "co-counsel" from your lab section, using a negotiation planning document (which, for this exercise, will not be turned in/evaluated), have the simulation recorded outside of class in a room managed by the IT department (schedule TBA),<sup>1</sup> view the recording together, reflect upon your performance, and then analyze it in writing through a short paper. Your Laboratory Instructor will view your out-of-class recording, provide constructive feedback on your performance, and evaluate your self-analysis paper. The self-analysis paper should not be a description of what transpired in the simulation. Rather, it should concentrate on analysis and insights, and answer a list of questions that will be distributed to the class. To practice teamwork, you will prepare for the simulation with "co-counsel" and write your paper together, reflecting 50/50 work effort. Each of you will get the same grade.

**Negotiation Planning Document:** Planning well for a negotiation is an important lawyering skill. Negotiation planning documents are designed to help you practice how to prepare for negotiations. You will use the two-page template posted to Canvas to complete this assignment for the simulation that will be conducted during lab 2. If you are assigned to negotiate with a partner, you are to prepare a joint planning document and each of you will

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<sup>1</sup> Note that the course schedule lists two separate recording times for the out-of-class negotiation. You will participate in just one of the two out-of-class recordings.

receive the same grade.

**Client Counseling Worksheet:** Many law students, as early as their first summer jobs, are asked to conduct in-take interviews of new prospective clients. In practice, lawyers verbally assess legal scenarios and provide advice during the course of conversation with clients. We will practice these skills by conducting simulations wherein students will take turns assuming the role of lawyer and client. The client counseling worksheet will help you prepare for the simulation in which you will take on the lawyer role.

**Networking Worksheet:** Starting as early as the first year of law school, networking plays a critical role in a lawyer's professional development and success. In our large group meetings and in your laboratory sessions, we will discuss various means for networking and identify suggestions for making it easier and more effective. For this assignment, you will put some of those skills to use by conducting an informational interview with a legal practitioner who you do not already know, or you first met after starting law school, and who also works in a career that you are currently contemplating or curious about. You will prepare and submit a written summary of your interview.

**Verbal Non-Persuasive Communication Presentation:** While persuasive communication and advocacy, as well as the ability to deliver a stand-up presentation with visual aids, are important lawyering skills, a lawyer's day-to-day work often involves the *objective* transmission of information, delivered in a manner lying somewhere between an extemporaneous presentation and a formal stand-up presentation. This course will enable you to practice and improve this public speaking skill via this assignment, which involves delivering a short objective sit-down presentation to your lab section. You will select your preferred topic from a list that will be distributed later this semester.

## **CLASSROOM POLICIES**

### **Attendance Policy:**

Skills courses come with different expectations than large lecture courses. Attendance in lecture and laboratories is required. The first absence (across the large group meeting and lab components combined) is excused without explanation. A second absence may be excused but you must discuss the circumstances with me (in advance, if at all possible) and I work with you to identify a suitable make-up assignment. If either the first or second absence involves a simulation, then you are expected to find a well-prepared substitute who will take your place in the simulation (someone who has not done/is not assigned to do the same simulation elsewhere) and email me their name before class, or seek my assistance in finding a substitute at least 24-hours in advance, so that your partner is not precluded from practicing their skills in class. Under extraordinary circumstances, students with additional absences may still be able to earn units for the course, but must seek permission from the Senior Assistant Dean for Student Affairs.

In addition, you must attend (and participate in) the recorded out-of-class negotiation session.

The TA will distribute an attendance form for you to sign during large group meetings. You may not sign the attendance form for any other student; doing so will constitute an Honor Code violation. Laboratory Instructors will also keep attendance records.

### **Laptop and Phone Policy:**

Given the nature of this class, laptops and phones are unnecessary and are not permitted (except for ,phones, for emergencies). To facilitate notetaking, copies of most slides (i.e., those that are not copyrighted and do not give away answers to questions I will pose in class) will be handed out at the start of class.

### **Simulations:**

In this class, you will engage in a series of simulations. To maximize learning for you and your simulation partners, you will be expected to be well-prepared and on time for each simulation. Know the facts! You should not need to review the role play materials during the simulation.

The simulation materials we will be using are copyrighted. You may *not* share your confidential role materials with anyone else. ***Do not discuss the simulations outside of class as these discussions can harm the educational experiences of students in other sections.***

In selecting any strategy that you use during a simulation, you should comply with the ethical rules and notions of professionalism expected of lawyers.

## **OTHER IMPORTANT INFORMATION**

### **Disability Accommodations:**

The Student Disability Center (SDC) on main campus offers advising, assistance and resources to students with Medical, Mobility, Visual Disabilities, Deaf or hard of hearing (DOHH), Cognitive & Learning Disabilities, ADD/ADHD and Psychological Disabilities as well as for temporary impairments. Academic assistance/accommodations include testing accommodations, access to print material through assistive technology, reader services, braille, e-text, and enlarged print as well as a wide range of note taking tools, equipment to enhance sound, lecture recordings and tools to convert hard copy text into an electronic format on demand. Students may wish to consult with their professors about how their accommodations may best be used to support the learning process. (No student is required to meet with their Professor as a condition of requesting or receiving reasonable accommodations.)

With respect to mobility impairments, support services include SDC's shuttle service for temporary impairments and accessible bus transportation to campus for wheelchair users. Disability information and referrals to community resources are also available through the SDC. Students with disabilities must establish eligibility for services through the SDC and are encouraged to contact the SDC as early as possible:

UC Davis Disability Center  
54 Cowell Building  
(530) 752-3184 (voice)  
(530) 752-6TDD (telephone device for persons who are deaf or low-hearing)  
<http://sdc.ucdavis.edu>

Please reach out to the Senior Assistant Dean for Student Affairs with any questions or concerns you may have in this area.

### **Statement on Credit Hours:**

ABA accreditation standards, which govern all of our law school courses, include a formula for calculating the amount of work that constitutes a credit hour. According to ABA Standard 310(b)(1), “a “credit hour” is an amount of work that reasonably approximates: (1) not less than one hour of classroom or direct faculty instruction and two hours of out-of-class student work per week for fifteen weeks, or the equivalent amount of work over a different amount of time.” As this is a two-credit hour class being held for nine weeks (spread out over ten weeks), applying the ABA standard to the number of credits offered for this class, you are expected to spend at least 6.7 hours per week on out-of-class work.

### **Honor Code and Academic Integrity:**

**Academic dishonesty includes using somebody else’s words as your own, paraphrasing someone else’s thoughts without acknowledgment, and receiving or providing unauthorized assistance on examinations. Misconduct in law school may be reported to the Bar and may affect Bar admission. Please ask me directly before turning something in if you are unclear about what is acceptable.**

Regulation 2.4 of the Law School’s Regulations states as follows: “2.4 The Honor System

- A. Unless the instructor announces otherwise, all written work at this school is governed by the honor system.
- B. Under the honor system students may neither give nor receive aid on written work.
- C. Any student who learns that another student has violated the honor system should report the violation to a member of the faculty or to the dean.
- D. Violations of the honor system will be treated in accordance with university disciplinary procedures.”

The University’s regulations on academic integrity can be found at:  
<http://sja.ucdavis.edu/files/cac.pdf>