

University of Missouri-Columbia
School of Law
LL.M. in Dispute Resolution Program
Fall 1999

Syllabus for

UNDERSTANDING CONFLICT

[Rev. 9/2/99]

Wednesdays 2:00-4:50 p.m.

Room 107, usually. (Exceptions: On Wed., Sept. 8, we will meet in the Memorial Union, room 206 South; on Wed., Sept. 15, we will meet in the Memorial Union, rooms 222/223 North (the Joplin and Boone rooms).

Instructor:

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In this course, which is a requirement in the new LL.M. in dispute resolution curriculum, our principal goal is to understand the foundations of conflict in order to deal with it in the most appropriate manner. All members of this class are taking a series of *other dispute resolution courses* that will cover many fundamental issues in dispute resolution, including the methods of preventing, managing and resolving disputes; the variations in the ways that particular dispute resolution processes (e.g., negotiation, mediation, arbitration) actually get carried out; and the legal, ethical, moral, and social policy issues associated with each of these variations. In these other dispute resolution courses, you also learn about how to participate in a variety of processes as a neutral and as a lawyer. In addition, in each of your other dispute resolution courses, you will learn something about how conflict arises.

But in this course, we will seek to look more deeply into the nature of conflict than is typical in dispute resolution courses. The course will follow several tracks almost simultaneously, by inquiring into such questions as:

1. **How do “experts” and other people understand conflict?** From various intellectual and cultural perspectives, what is the nature of conflict? How does it arise? What purposes can or does it serve? And how is it typically addressed, resolved, managed and used?

2. **How does each of us (members of the class), in our professional and private**

capacities, understand and deal with conflict? What features of our own personalities, backgrounds, training and perspectives limit and enhance our conflict-generating, conflict-handling, and conflict-avoiding behaviors? How can we do better?

3. What can be done to enhance the capacities of law students, lawyers, judges, and dispute resolution neutrals—such as mediators—to deal with conflict productively? What can education and training programs contribute? To what extent are the personalities of many lawyers and other professionals resistant to change?

We will approach much of the learning in this course through attention to a number of themes, including the following:

Inside and outside: What are the relationships between conflicts inside individuals and groups and conflicts between them and other individuals and groups?

Separation and connection. How do perceptions of self and other affect the development of conflict?

Winning and non-winning. What does it mean to win? When and why is winning important?

Class work

The course work will involve.

1. **Reading three books** (which are listed below) and a series of articles and writing roughly three (3) brief papers dealing with issues raised in particular readings. These papers will account for roughly 75% of the final grade.

2. **Participating in class activities**, including will include experiential exercises and discussions of the readings, and presentations. I will frequently ask individual class members to make special presentations on readings or to be especially prepared to discuss certain readings. Class participation will account for roughly 25% of your grade. Attendance is mandatory, so missing classes may affect your grade.

3. **Maintaining a journal** of your subjective reactions to certain of the course-related activities. I will not grade your journals, but will look for diligence.

4. **Mindfulness training.** *This unique, but central, aspect of this course is voluntary. If you have significant reservations about taking part, talk to me. I can give you alternative work. Non-participation will not affect your grade.*

The September 8 and 15 classes will be devoted to instruction in mindfulness meditation. Also known as insight or vipassana meditation, this method derives from a 2,500 year-old-

Buddhist practice that has achieved great popularity in the Western world in recent times. In the past few years, for example, repeated training sessions have been held for top executives at Monsanto; leading journalists; lawyers at Hale & Dorr, a large Boston law firm; and students at Yale Law School. It was also used by the Chicago Bulls basketball team while Phil Jackson was head coach. Although it derives from a Buddhist tradition, the method has been used extensively by practitioners of many other religions, especially Christianity (the Catholic Monk, Thomas Merton has written extensively about his use of this method) and Judaism. The practice can readily lead to stress reduction and improvements in concentration. I believe it also can help people, especially lawyers and mediators, understand themselves and others better and to deal more effectively with conflict. In some cases, it can have more profound impacts.

In its simplest terms, the practice consists, first, of learning to concentrate and then applying that concentration to observing-- calmly and without judging--your thoughts, feelings, and bodily sensations. I will explain this in greater detail in class. After the training sessions, I will encourage (but not require) you to try this practice at home and in your daily life. I will lend each of you an instructional audiotape by Jon Kabat-Zinn.

Participation in the portion of the course is voluntary because I don't think it's appropriate, or even feasible, to force anyone to do this sort of thing.

Note: This is the first time I have offered this course, and no one has offered a similar course elsewhere. Accordingly, and because of the nature of the course, we may make adjustments along the way.

Readings

Required books (available at the University Bookstore)

Daniel Goleman, *Working With Emotional Intelligence* (Bantam 1998).

Doug Stone, Bruce Patton & Sheila Heen, *Difficult Conversations: How to Discuss What Matters Most* (Viking 1999, hardcover)

Vamik Vulkan, *Blood Lines: From Ethnic Pride to Ethnic Terrorism* (Westview 1997, paperback).

Books on Reserve

The books listed below, some of which are still on order, will be on reserve shortly after the semester begins. I may add other materials as the course develops.

Sylvia Boorstein, *Don't Just Do Something, Sit There* (HarperSanFrancisco 1996).

John Burton, Conflict Resolution and Prevention (St. Martin's 1990).

Mihaly Csikszentmihalyi, Flow: The Psychology of Optimal Experience (HarperPerennial 1990).

Morton Deutsch, The Resolution of Conflict: Constructive and Destructive Processes (Yale 1973).

Mark Epstein, Going to Pieces without Falling Apart (Broadway 1999).

Mark Epstein, Thoughts without a Thinker (Basic Books, 1995).

Joseph Goldstein, Insight Meditation: The Practice of Freedom (Shambala, 1994).

Daniel Goleman, Emotional Intelligence: Why it Can Matter More than IQ (Bantam 1995).

Venerable Henpola Gunaratanara, Mindfulness in Plain English (Wisdom, 1991).

Jon Kabat-Zinn, Full Catastrophe Living (1990 Delta paperback)

Jon Kabat-Zinn, Wherever You Go, There You Are (Hyperion 1994).

Robert Keegan, The Evolving Self (Harvard 1982).

Robert Keegan, In Over Our Head: The Mental Demands of Modern Life (Harvard 1994).

Steven Keeva, Transforming Practices: Finding Joy and Satisfaction in the Legal Life (Contemporary Books, 1999).

Ellen Langer, Mindfulness (Addison-Wesley paperback 1990).

Ellen Langer, The Power of Mindful Learning (Addison-Wesley 1997).

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