

## Alternative Dispute Resolution

Time: Thursday; 5:00 p.m.—7:30 p.m.

Room: 206

Instructor: Anna M. Vick

Email: [vick@burtonvicklaw.com](mailto:vick@burtonvicklaw.com)

Office Hours: upon request

**Description:** This course explores negotiation, mediation, and arbitration as ways of resolving legal conflicts outside of the litigation process. It focuses on the role of the attorney who counsels clients about ADR and who represents clients in some ADR process. Students will study the theory behind each process, and the law and ethical standards governing each. It includes simulated exercises in negotiation, mediation and arbitration.

**Course Materials:** *Dispute Resolution: Beyond the Adversarial Model*, 3d. Carrie J. Menkel-Meadow, Lela Porter Love, Andrea Kupfer Schneider, Michael Moffit (Wolters Kluwer)

**Learning Objectives:** After completing this course, students will:

- be able to identify the various concepts and models of negotiation, mediation, and arbitration.
- have learned the beginning basic skills of negotiation, mediation, and arbitration.
- be able to recognize potential ethical concerns within the areas of negotiation, mediation, and arbitration.
- know the laws relating to negotiation, mediation, and arbitration.
- be familiar with hybrid ADR processes.
- be able to identify the proper form of ADR for your future clients and their disputes.
- become better problem solvers.
- be more prepared for the practice of law.

**Structure of Course:** The course is designed to expand your knowledge of the theories and models of alternative dispute resolution and to begin your development of the basic skills required for alternative dispute resolution. To that end, each class will require you to be fully prepared and ready for group discussion and skills practice. Many times, we will discuss the problems found in the text. Other times, I will bring in problems or hypotheticals that we will discuss together. After each of the three

main areas of alternative dispute resolution (negotiation, mediation, and arbitration) there will be a graded assignment that will test your ability to incorporate the skills learned in the text into a “real life” scenario and then apply the theories learned to analyze your experience in that scenario. The purpose of these assignments is to integrate theories of alternative dispute resolution into the practice of law, which is coincidentally the purpose of this course. The course will culminate in a final exam that covers everything you have learned throughout the semester.

**Classroom Participation:** All students are expected to vigorously participate in class. You should come prepared, having read the weekly reading assignment and reviewed the chapter problems and/or handout questions. Your participation in the class discussion and simulations will count toward your final grade.

**Practice and Writing Assignments:** There will be three (3) writing assignments for this course. The first assignment covers negotiation. Students will enter into simulated negotiations with opposing counsel. They will exchange written offers, and perhaps, engage in a settlement conference. Students will submit copies of all written communications during the negotiation process as well as a written synopsis detailing their observations and experiences during the negotiations. The second assignment covers mediation. Students will work in groups during the “practice” portion of this assignment. Each person in the group will be assigned a role (Petitioner, Petitioner’s Attorney, Respondent, Respondent’s Attorney, and Mediator) to play during a simulated mediation. The mediations will occur during class time and be observed by the instructor. At the close of mediations, each group will submit a summary of any agreements reached. The written portion of this assignment will be done individually. Students will submit a written synopsis of their observations and experiences during the mediation experience. The final assignment will cover arbitration. Each student will draft their own arbitration clause.

The recommended time for each of the writing assignments will be about one (1) hour. The time spent on these writing assignments will replace the October 31, 2019 class.

**Grading:** Your final grade for this course will be based upon your participation in class, practice and writing assignments, and the final exam. The breakdown of these components is as follows:

Class participation: 5%  
Negotiation Practice and Writing Assignment: 10%  
Mediation Practice and Writing Assignment: 10%  
Arbitration Practice and Writing Assignment: 10%

Final Exam: 65%

The grades of students who have elected to take this course with S/U grading will be converted by the registrar according to the following scale: 2.1 or greater = Satisfactory; below 2.1 = Unsatisfactory. Only students that earned a satisfactory grade will earn credit for the course.

**Attendance Policy:** This course relies heavily on active participation in in-class exercises and simulations. As such, attendance is vital. The School of Law [Rules](#) primarily govern students' attendance requirements. Pursuant to those Rules, the maximum number of absences for this course is set at three (3). The sanction set out in Rule III.5(g)(iii)—a reduction in a student's final grade of three-tenths (0.3) of a point per absence—is in effect for any student who exceeds the three permitted absences.

**Workload Expectations:** The American Bar Association ("ABA") law-school-accreditation standards contain a formula for calculating the amount of work that constitutes one credit hour. According to ABA Standard 310, "a 'credit hour' is an amount of work that reasonably approximates 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." This is a 3-credit hour class, meaning that we will spend one 150-minute block of time together each week. The amount of assigned reading and out-of-class preparation should take you a minimum of 5 hours for each class session.

**Electronic Devices:** Please use responsibly. Don't be a distraction to your fellow classmates.

**Plagiarism and Collaboration:** You should feel free to collaborate with your classmates when discussing the problems in the text or any handout questions. You will also collaborate when submitting the in-class portion of your mediation practice and writing assignment. All other assignments and the final exam shall be completed individually without collaboration.

## Class Schedule and Reading Assignments

### **PART I. INTRODUCTION (Week 1)**

#### Week One (8/22)

Chapter 1. Introducing the Fields of Conflict and Dispute Resolution  
(pgs. 3-42)

and

Chapter 2. The Lawyer as Problem Solver pgs. 43-74

### **PART II. THE BASIC PROCESSES: NEGOTIATION, MEDIATION, AND ARBITRATION (Weeks 2—11)**

#### **Negotiation (Weeks 3—5)**

##### Week Two (8/29)

Chapter 3. Negotiation: Concepts and Models (pgs. 75-106)

##### Week Three (9/5)

Chapter 4. Negotiation: Skills and Practices (pgs. 107-146)

##### Week Four (9/12)

Chapter 5. Negotiation: Law and Ethics (pgs. 147-184)

#### **Mediation (Weeks 5—8)**

##### Week Five (9/19) *Negotiation Assignment Due*

Chapter 6. Mediation: Concepts and Models (pgs. 185-222)

##### Week Six (9/26)

Chapter 7. Mediation: Skills and Practices (pgs. 223-262)

Week Seven (10/3)

Chapter 8. Mediation: Law, Policy, and Ethics (pgs. 263-304)

Week Eight (10/10)

In-Class Mediation Group Assignment

**Arbitration (Weeks 9—11)**

Week Nine (10/17) ***Written Portion of Mediation Assignment Due***

Chapter 9. Arbitration: Concepts and Models (pgs. 305-344)

Week Ten (10/24)

Chapter 10. Arbitration: Law and Policy (pgs. 345-384)  
and

Chapter 11. Arbitration: Practice and Ethics (pgs. 385-424)

Week Eleven (10/31)

***There will be no class on 10/31/19, but the arbitration assignment is due.***

**PART III. PROCESS PLURALISM: ADAPTATIONS AND VARIATIONS  
OF PROCESSES (Weeks 12—14)**

Week Twelve (11/7)

Chapter 12. Private and Public Hybrid Processes. (pgs. 425-474)

Week Thirteen (11/14)

Chapter 13. Multiparty Dispute Resolution (pgs. 475-516)

Week Fourteen (11/21)

Chapter 14. Choosing an Appropriate Process: For Your Clients and the  
Future of ADR as Systems of Dispute Resolution (pgs. 517-550)

***FINAL EXAM TUESDAY, DECEMBER 10, 2019 AT 1:15 P.M.***

**SYLLABUS ATTACHMENT**  
**SIU SCHOOL OF LAW –FALL 2019**

**EMERGENCY PROCEDURES:** *Southern Illinois University Carbondale is committed to providing a safe and healthy environment for study and work. Because some health and safety circumstances are beyond our control, we ask that you become familiar with the SIUC Emergency Response Plan and Building Emergency Response Team (BERT) program. Emergency response information is available on posters in buildings on campus, available on BERT's website at [www.bert.siu.edu](http://www.bert.siu.edu), Department of Safety's website [www.dps.siu.edu](http://www.dps.siu.edu) (disaster drop down) and in Emergency Response Guideline pamphlet. Know how to respond to each type of emergency.*

*Instructors will provide guidance and direction to students in the classroom in the event of an emergency affecting your location. It is important that you follow these instructions and stay with your instructor during an evacuation or sheltering emergency. The Building Emergency Response Team will provide assistance to your instructor in evacuating the building or sheltering within the facility.*

**DISABILITY POLICY.** *Disability Support Services provides the required academic and programmatic support services to students with permanent and temporary disabilities. DSS provides centralized coordination and referral services. To utilize DSS services, students must come to the DSS to open cases. The process involves interviews, reviews of student-supplied documentation, and completion of Disability Accommodation Agreements. <http://disabilityservices.siu.edu/>. Upon completion of a Disability Accommodation Agreement with DSS, students should bring the agreement to the School of Law Registrar's Office to ensure the School of Law provides the proper classroom and examination accommodations.*

**SALUKI CARES.** *The purpose of Saluki Cares is to develop, facilitate and coordinate a university-wide program of care and support for students in any type of distress—physical, emotional, financial, or personal. By working closely with faculty, staff, students and their families, SIU will continue to display a culture of care and demonstrate to our students and their families that they are an important part of the community. For Information on Saluki Cares: (618) 453-5714, or [siucares@siu.edu](mailto:siucares@siu.edu), <http://salukicare.siu.edu/index.html>. At the School of Law, Assistant Dean Judi Ray is also available to help students access university resources. Her email is [judiray@siu.edu](mailto:judiray@siu.edu), and her phone number is 618-453-3135.*



## Syllabus Attachment Fall 2019

### MISSION STATEMENT FOR SOUTHERN ILLINOIS UNIVERSITY CARBONDALE

*SIU embraces a unique tradition of access and opportunity, inclusive excellence, innovation in research and creativity, and outstanding teaching focused on nurturing student success. As a nationally ranked public research university and regional economic catalyst, we create and exchange knowledge to shape future leaders, improve our communities, and transform lives.*

### IMPORTANT DATES \*

Semester Classes Begin:.....**08/19/2019** Last day to add full-term course (without Dean's signature):  
.....**08/25/2019** Last day to withdraw from the University with a full refund:.....**08/30/2019** Last day to drop a full-term course  
for a credit/refund:.....**09/01/2019** Last day to drop a full-term course (W grade, no refund):.....**10/27/2019** Final  
examinations: .....**12/9—12/13/2019** *Note: Please verify the above dates with the Registrar calendar and find  
more de-tailed information on deadlines at <https://registrar.siu.edu/calendars>. For add/drop dates that apply to shorter-than-full-term courses,  
please look at the Schedule of Classes search results at <https://registrar.siu.edu/schedclass/index.php>*

### FALL SEMESTER HOLIDAYS

Labor Day Holiday 09/02/2019 Veterans Day Holiday 11/11/2019 Thanksgiving Break 11/23—12/1/2019

### DIVERSITY

Southern Illinois University Carbondale's goal is to provide a welcoming campus where all of our students, faculty and staff can study and work in a respectful, positive environment free from racism and intimidation. *For more information visit: <https://diversity.siu.edu/#>*

### DISABILITY SUPPORT SERVICES

SIU Carbondale is committed to providing an inclusive and accessible experience for all students with disabilities. Disability Support Services coordinates the implementation of accommodations. If you think you may be eligible for accommodations but have not yet obtained approval please contact DSS immediately at 618-453-5738 or <https://disabilityservices.siu.edu>. You may request accommodations at any time, but timely requests help to insure accommodations are in place when needed. Accommodations and services are determined through an interactive process with students and may involve consideration of specific course design and learning objectives in consultation with faculty.

### MILITARY COMMUNITY

There are complexities of being a member of the military community and also a student, and military and veteran related developments can complicate academic life. If you are a member of the military community and in need of accommodations please visit Veterans Services at <https://veterans.siu.edu/>

### STUDENT MULTICULTURAL RESOURCE CENTER

The Student Multicultural Resource Center serves as a catalyst for inclusion, diversity and innovation. As the Center continues its work, we are here to ensure that you think, grow and succeed. We encourage you to stop by the Center, located in the Student Services Building Room 140, to see the resources available and discover ways you can get involved on the campus. *Visit us at <https://smrc.siu.edu/>*

### SALUKI CARES

The purpose of Saluki Cares is to develop, facilitate and coordinate a university-wide program of care and support for students in any type of distress—physical, emotional, financial, or personal. By working closely with faculty, staff, students and their families, SIU will continue to

display a culture of care and demonstrate to our students and their families that they are an important part of the community. For information on Saluki Cares: call(618) 453-2461, email [siucares@siu.edu](mailto:siucares@siu.edu), or <https://salukicare.siu.edu/>

#### **SAFETY AWARENESS FACTS AND EDUCATION**

Title IX makes it clear that violence and harassment based on sex and gender is a Civil Rights offense subject to the same kinds of accountability and the same kinds of support applied to offenses against other protected categories such as race, national origin, etc. If you or someone you know has been harassed or assaulted, you can find the appropriate resources here:

<https://safe.siu.edu>

**MORRIS LIBRARY HOURS:** <https://libguides.lib.siu.edu/hours> **ADVISEMENT:** <https://advisement.siu.edu/>

**SIU ONLINE:** <https://online.siu.edu/>

Created by R.Hale

#### **WITHDRAWAL POLICY ~ Undergraduate only**

Students who officially register for a session must officially withdraw from that registration in a timely manner to avoid being charged as well as receiving a failing grade for those classes. An official withdrawal must be initiated by the student, or on behalf of the student through the academic unit, and be processed by the Registrar's office. For the proper procedures to follow when dropping courses and when withdrawing from SIU visit: <https://registrar.siu.edu/students/withdrawal.php>

#### **INCOMPLETE POLICY~ Undergraduate only**

An INC grade may be assigned when, for reasons beyond their control, students engaged in passing work are unable to complete all class assignments for the course. An INC must be changed to a completed grade within one full semester (undergraduates), and one full year (graduate students), from the close of the term in which the course was taken or graduation, whichever occurs first. Should the student fail to complete the remaining course requirements within the time period designated, the incomplete will be converted to a grade of F and such grade will be computed in the student's grade point average. *For more information visit:* <https://registrar.siu.edu/grades/incomplete.php>

#### **REPEAT POLICY**

An undergraduate student may, for the purpose of raising a grade, enroll in a course for credit more than once. For students receiving a letter grade of A, B, C, D, or F, the course repetition must occur at Southern Illinois University Carbondale. Effective for courses taken Summer 2013 or later, only the most recent (last) grade will be calculated in the overall GPA and count toward hours earned.

This policy will be applied to all transferrable credit in that only the last grade will be used to calculate grade point average. Only those courses taken at the same institution are considered repeats under this policy. *See full policy at* <https://registrar.siu.edu/students/repeatclasses.php>

#### **SIU's EARLY WARNING INTERVENTION PROGRAM (EWIP)**

Students enrolled in courses participating in SIU's Early Warning Intervention Program might be contacted by University staff during a semester. More information can be found at the Core Curriculum's Overview webpage: <https://corecurriculum.siu.edu/program-overview/>

#### **EMERGENCY PROCEDURES**

We ask that you become familiar with **Emergency Preparedness @ SIU**. Emergency response information is available on posters in buildings on campus, on the Emergency Preparedness @ SIU website, and through text and email alerts. *To register for alerts visit:* <https://emergency.siu.edu/>

#### **CENTER FOR LEARNING AND SUPPORT SERVICES**

Help is within reach. Learning support services offers free tutoring on campus and math labs. To find more information please visit the Center for Learning and Support Services website:

**Tutoring :** <https://clss.siu.edu/tutoring/>

**Math Labs** <https://math.siu.edu/courses/course-help.php>

#### **WRITING CENTER**

The Writing Center offers free tutoring services to all SIU students and faculty. To find a Center or Schedule an appointment please visit: <https://write.siu.edu/>

#### **GRADUATE POLICIES**



Graduate policies often vary from Undergraduate policies. To view the applicable policies for graduate students, please refer to the graduate catalog at <https://gradschool.siu.edu/about-us/grad-catalog/>

**Need help with an issue? Please visit SALUKI SOLUTION FINDER at**

<https://solutionfinder.siu.edu/>

#### **PLAGIARISM**

See the Student Conduct Code <https://srr.siu.edu/student-conduct-code/> Office of the Provost <https://pvcaa.siu.edu/> Fall 2019