

# Alternative Dispute Resolution

Spring 2010

Dedman School of Law at SMU

Tuesday / Thursday, 9:00 – 10:15 a.m.  
Room 107 Florence Hall  
Adjunct Instructor Will Pryor

## Course Outline

All TEXT references are to Goldberg Sander Rogers Cole, DISPUTE RESOLUTION: NEGOTIATION MEDIATION & OTHER PROCESSES (Aspen: 5th Edition, 2007)(earlier editions are perfectly acceptable)

Occasionally, handouts may be available at [www.willpryor.com](http://www.willpryor.com)

### Thursday, January 7: Class 1

**Introduction:** Course overview and expectations, the exam, etc.

A brief history of Alternative Dispute Resolution (ADR), the Texas experience, and current status

Text: 3-12

Texas ADR Statute available online at:

<http://www.tmr.org/PDF%20Files/Statute-new.pdf> (easier to just Google “Texas ADR Statute”)

### Tuesday, January 12: Class 2

**Negotiation:** Strategy & Tactics

Text: 17-42

Getting To Yes: Chapters 1-5

**Thursday, January 14: Class 3**

**Negotiation:** Role Playing Exercises

**Tuesday, January 19: Class 4**

**Negotiation:** Style

Text: 44-70

Getting to Yes: Chapters 6, 7, 8

**Thursday, January 21: Class 5**

**Negotiation:** Case Evaluation

Text: 363-370

**Tuesday, January 26: Class 6**

**Mediation:** Introduction

Text: 107-115; 147-158

Sample Mediation Order (Dallas County) [www.willpryor.com](http://www.willpryor.com)

Sample "Rules for Mediation" (Dallas County) [www.willpryor.com](http://www.willpryor.com)

Appendix E Uniform Mediation Act

**Thursday, January 28: Class 7**

**Negotiation:** Negotiation Ethics

Text: 70-87

*Guest: Frank Yates*

## Tuesday, February 2: Class 8

**Mediation:** the Role of the Neutral

Qualifications, the “40 hour training course”, etc.

Text: 116-137; 139-143

## Thursday, February 4: Class 9

**Mediation:** Role playing exercises

**Sunday, February 7: SUPER BOWL!\***

## Tuesday, February 9: Class 10

**Mediation:** the Role of the Neutral (continued)

Text: 143-147; 428-436

Role playing exercises

### **A Special Note About February:**

**“Let’s say somehow you make it through that long Christmas-to-Super Bowl drag, and you’re feeling a little hopeful, and you’re congratulating yourself for the moral fiber you showed by just hanging in there, and sure enough the sun comes out again.**

**You can count on February to slam you back down. Another round of the flu, two weeks of rain, a pay cut because the company has to either reduce expenses or go out of business—it’s like losing in overtime after you’ve made a heroic comeback to tie in the last second of regulation.**

**What can you do then, what can you ever do?**

**Let me recommend the chicken pot pie”.**

**--from Jack’s Skillet, by Jack Butler\***

## Thursday, February 11: Class 11

**Mediation:** Current Issues: Confidentiality & Privilege

Text: 441-473

*The Many Faces of Mediation Confidentiality*

[http://findarticles.com/p/articles/mi\\_qa3923/is\\_199811/ai\\_n8821623/?tag=content;coll](http://findarticles.com/p/articles/mi_qa3923/is_199811/ai_n8821623/?tag=content;coll)

Appendix F National Standards for Court-Connected Mediation Programs

## Tuesday, February 16: Class 12

**Mediation:** Current Issues: Regulation, Supervision and Good Faith

Text: 158-197

Appendix H Model Standards of Conduct for Mediators

Texas Ethical Guidelines for Mediators, [www.texasadr.org](http://www.texasadr.org)

Texas Mediator Credentialing Committee Final Report, Texas Supreme Court

## Thursday, February 18: Class 13

**Mediation:** The Judicial Perspective

Guest judges share their recent and current judicial experience with mediation referrals: is it working? Why and why not?

Text: 389-428

Handouts: State & Federal Current Statistics

Final Report of the Advisory Committee on Court Annexed Mediation (Texas Supreme Court)

**Tuesday, February 23: Class 14**

**Mediation:** Advocacy in the Mediation Process

How can advocates take advantage of the mediation process, and use it for their client's benefit?

Text: 355-363

**Thursday, February 25: Class 15**

**Mediation:** Advocacy in the Mediation Process (continued)

*Guest Panel*

**Tuesday, March 2: Class 16**

**Family Law**

Unique application of ADR concepts to Marriage Dissolution and Child Custody Disputes

Text: 479-509

Appendix G Model Standards of Practice for Family and Divorce Mediation

Video: "Don't Forget the Children"

**Thursday, March 4: Class 17**

**Family Law**

*Guest Panel*

**Spring Break – Yes!**

## Tuesday, March 16: Class 18

### **Collaborative Law**

*Guest: Larry Hance*

#### **DISPELLING THE SEVEN DEADLY**

*Myths Regarding Civil Collaborative Law, Sherry Abney*

<http://www.texasadr.org/newsletters.html>, click on Fall 2008, p. 8

Text 373-375

**MARCH MADNESS BEGINS—Men's & Women's NCAA Basketball Championship Tournaments begin this week—have you filled out your bracket?\***

## Thursday, March 18: Class 19

**Arbitration:** Introduction & Overview

Text: 213-248

Appendix B Federal Arbitration Act

Appendix C Uniform Arbitration Act

Appendix D Revised Uniform Arbitration Act

<http://www.texasadr.org/> and click on The Whitepaper on Arbitration

<http://adr.org/sp.asp?id=22440> Commercial Arbitration Rules of the American Arbitration Association

## Tuesday, March 23: Class 20

**Arbitration:** Current Issues: Consumers beware!

H.R. 2010 Fairness In Arbitration Act

<http://www.opencongress.org/bill/111-h1020/text>

Consumer Due Process Protocol, American Arbitration Association

<http://adr.org/sp.asp?id=22019>

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**Thursday, March 25: Class 21**

**Arbitration:** Current Issues (continued): due process and statutory claims

Text: 248-284

**Tuesday, March 30: Class 22**

**Arbitration:** Current Issues (continued)

Judicial review, ethics

Text: 284-297

*Hall Street Associates LLC v. Mattel, Inc.*

<http://www.supremecourtus.gov/opinions/07pdf/06-989.pdf>

**Thursday, April 1: Class 23**

**Arbitration:** Real World Considerations: Drafting Arbitration Agreements  
And Counseling Clients

*Guest Presentation*

AAA Handout on Drafting Arbitration Agreement  
Appendix A Dispute Resolution Clauses

**Monday, April 5: Texas Rangers Season & Home Opening Game!  
(vs. TORONTO) \***

**Tuesday, April 6: Class 24**

**Arbitration:** Employment and Workplace ADR

*Guest Panel Presentation*

Text: 253-284

**Thursday, April 8: Class 25: NO CLASS (WRITTEN ASSIGNMENT REGARDING THE DESIGN OF A DISPUTE RESOLUTION SYSTEM)**

Designing Dispute Resolution Systems

Text: 301-354

**Sunday, April 11: The Masters Final Round from Augusta, Georgia\***

**Tuesday, April 13: Class 26**

**Connecting With Integrity:** The Role of Apology and Client Counseling  
Guest: Lee Taft

Text: 137-139

Article handout: The Commodification of Apology, Lee Taft

**Thursday, April 15: Class 27**

**Public Policy & International Dispute Resolution**

Text: 513-529; 531-567

**Tuesday, April 20: Class 28—Last Class!—Hooray!!!!**

Review, the exam and unsolicited career advice

**EXAM:**

**\*these items obviously have nothing to do with the class;  
they are just fun to think about**