COURSE NAME: Alternative Dispute Resolution

COURSE NUMBER: Law 732

PROFESSOR: Mary Kay Kishardt

ESSENTIAL PREREQUISITES: None

DESIRABLE PREREQUISITES: Civil Procedure

COURSE BOOKS: Riskin, Dispute Resolution and Lawyers
Fisher & Ury, Getting to Yes

METHOD OF GRADING & APPRAISAL OF STUDENT FOR GRADE:
Exam 30 %, Dispute Analysis paper 30%, class work, quizzes and short papers 40%

SUMMARY DESCRIPTION OF COURSE: This is an overview course on the roles lawyers play in dispute resolution. It includes theoretical material on interviewing and counseling, negotiation, mediation, arbitration and other court-connected and private processes as well as simulated exercises.

COURSE CONTENT: See the attached course syllabus for an example of what will be covered. When the course is offered in the summer, the material covered remains similar but there are fewer course meetings all of which are 3 hours instead of 2 so the syllabus will be organized differently.

RELEVANCY OF COURSE FOR CAREER PURPOSES: Alternative dispute resolution processes like mediation and arbitration are no longer considered “alternative”, they are well ingrained in the legal system. Regardless of the area of practice attorneys today are expected to be familiar with them.
This course will focus on various dispute resolution processes including interviewing and counseling, negotiation, mediation, arbitration, and court-annexed processes. In addition to acquainting you with these processes, my objective is to familiarize you with some skills in using them and give you some experience in how to help a client choose or build the most appropriate dispute resolution or prevention process.

The class will include lectures, demonstrations (video-tape and live), discussions and simulations. The length of the reading assignments varies. I expect you to be fully prepared for each class. It is important that you keep up with the assigned reading as the exam will be closed book and it will be difficult to catch up on missed reading at the end of the semester. You will be responsible for all the readings regardless of whether we cover them in class. In some classes, we will be conducting simulations and it is essential that everyone be present. I expect to be contacted concerning any absence. A student with an unexcused absence may be ineligible to take the final examination. You will be required to conduct some simulated exercises outside of class. You will be asked to provide a reflection paper on those experiences.

A short written assignment due on November 20 will also be required and will count for 30% of your final grade. Further instructions regarding this assignment will be distributed. An additional 20% of your grade will be based on other written assignments, simulated exercises assigned during the semester, class participation and preparation. The final exam will be worth 50% of your grade.

Below you will find the reading assignments for the course. I will attempt to adhere to the schedule but truthfully, some variation from it has been the norm. You will always be advised in advance concerning your required reading for the next class.

We will use the Riskin & Westbrook et al.4th edition text on *Dispute Resolution and Lawyers* (Text). *Getting to Yes* is also required.
Class 1  INTRODUCTION
An overview of ADR
Text 1-35, 59-61

Class 2  THE ROLES OF LAWYERS
Text 64-74, 80-105

Class 3  THE ATTORNEY – CLIENT RELATIONSHIP: INTERVIEWING
Text 105-115,141-149,156-163

Class 4  THE ATTORNEY – CLIENT RELATIONSHIP: COUNSELING
Text 115-140

Class 5  NEGOTIATION
Overview
Text 168-174
Process
Text 174-178
Approaches
Text 178-186
Adversarial Strategies & Tactics
Text 186-206

Class 6  NEGOTIATION
Problem-Solving Strategies & Tactics
Fisher & Ury, *Getting to Yes*
Text 221-22

Class 7  NEGOTIATION
Settlement
Text 236-53
The Roles of Culture, Race, Religion and Gender in Negotiation
Text 274-304

Class 8  MEDIATION - Introduction
Text 309-324
Brief Takes on Real Mediations (*Optional Reading*)
Text 333-360

Class 9  MEDIATION
Stages of the Process
Text 361-379

Class 10  MEDIATION
Lawyers as Mediators
Text 405-413, 429-444

Class 11  MEDIATION
Representing Clients in Mediation
Text 444-451, 542-548

Class 12  ARBITRATION
Overview
Text 553-558
Consumer Goods and Services Contracts
Text 635-647
When to Use Arbitration
Text 708-734
Med. – Arb.
Text 827-832

Class 13  COURT ANNEXED PROCESSES
Early Neutral Evaluation
General Order, W.D. Mo. Early Assessment Program
Memo, EAP Report (handout)
Court Annexed Mediation
Text 752-756

RECENT INNOVATIONS & ADAPTATIONS
Collaborative Law
Text 838-842
Partnering
Text 842-846
Online Dispute Resolution
Text 847-856
Private Judging
Text 825-826

Class 14  ADVISING CLIENTS IN SELECTING A DISPUTE RESOLUTION PROCESS
Text 163-167, 923-930
Mo. Sup. Ct. Rule 17 (handout)
Dispute Analysis Presentations
Disabled Student Services
UMKC endeavors to make all activities, programs and services accessible to students with disabilities. A Campus Coordinator for Disabled Student Services is available to arrange for reasonable accommodations. If you need accommodations, it is important that you contact the Coordinator as soon as possible to arrange for providing appropriate documentation and the prescribing of reasonable accommodations in the classroom and for exams. For information call (816) 235-5696. Speech and hearing impaired use Relay Missouri, 1-800-735-2966 (TT) or 1-800-735-2466 (Voice.) For questions or further information, see Adela Fleming in the Law School Administrative Suite.