

**ALTERNATIVES TO LITIGATION – PROFESSOR BUSH**  
**COURSE SYLLABUS – SPRING 2018**

**Class Time: Thursday, 2-5 pm**

(Readings are from **Riskin & Westbrook** text [RW4 OR RW5, as below], and **Course Materials [CM] books I-III** [in Copy Room] and Added Mater. [on TWEN].)

**Week 1:**

Introduction to “ADR” Processes

*Reading:* Bush, *Dispute Resolution: The Domestic Arena*, 1-22 (posted on TWEN)

Identifying Goals: Client Interviewing—Principles

*Reading:* RW4, 11-19, 66-74 [RW5, 7-14, 43-49]; Bush, *Client-Centered Lawyering Skills* (posted on TWEN)

**Week 2:**

Identifying Goals: Client Interviewing—Skills Exercise

*Reading:* Same as previous

Matching Tools to Goals: Process Choice, Private and Public

*Reading:* CM I, 16-77 (circled page numbers), plus *handout*

**Week 3:**

Adjudication: Process Features and Effects

*Reading:* CM I, 105-157 (un-circled page numbers)

Adjudication: Matching Effects to Goals – Private and Public

*Reading:* Same as previous

**Week 4:**

Adjudication: Skills Exercise – Public Policy Process Advocacy

*Reading:* Same as previous, plus *handout*

Arbitration: Process Features and Effects – the “Mirror” of Adjudication

*Reading:* CM II, 141-222, RW4, 369-79 [RW5, 391-401]

**Week 5:**

Arbitration: Process Features and Effects – Private and Public Goals

*Reading:* Same as previous, plus *additional articles posted on TWEN.*

**Week 6:**

Arbitration: Puzzles and Ethics – the “Essence” of “Classical Arbitration”

*Reading:* Same as previous

Arbitration: Skills Exercise – Private Client Process Counseling

*Reading:* *Handout*

**Week 7:**

Arbitration: Legal Doctrine and its Impact

*Reading: CMII, 224-236, RW4 410-34 [RW5, 433-63]*  
Arbitration: “Formalized Arbitration” -- Features and Effects  
*Reading: CMII, 238-269; plus additional articles posted on TWEN*

**Week 8:**

Negotiation: Process Features and Effects – “Classical” and “Modern” Negotiation  
*Reading: RW4, 117-67 [RW5, 113-154]; Fisher & Ury, Getting to Yes [posted on TWEN]*  
Negotiation: Skills Exercise – the Different Approaches Compared  
*Reading: Handout*

**Week 9:**

Negotiation: Process Limits – Why Negotiation Fails and What to do Instead  
*Reading: CMIII (pages TBA)*  
Mediation: Process Features and Effects – “Evaluative” and “Facilitative” Mediation  
*Reading: RW4, 205-18 [RW5, 211-25], CM III (pages TBA)*

**Week 10:**

Mediation: Process Features and Effects – “Evaluative” and “Facilitative” Mediation  
*Reading: RW4, 230-48 [RW5, 234-51], CM IV (pages TBA)*  
Mediation: Process Limits – the Critique of Mediation (and ADR)  
*Reading: CM III (pages TBA)*

**Week 11:**

Mediation: “Alternative ADR” – “Transformative” Mediation  
*Reading: CM III (pages TBA)*  
Mediation: Transformative Mediation – Process Features and Effects  
*Reading: same as previous*

**Week 12:**

Mediation: Skills Exercise – Comparing Directive and Non-Directive Interventions  
*Reading: Handouts*  
Mediation: Process Choice “Squared” – Mediation Models, and Private and Public Goals  
*Reading: same as previous*

**Week 13:**

Hybrid Processes: Process Features, Effects and Limits  
*Reading: RW4, 502-06, 520-27, 564-75 [RW5, 509-14, 527-32, 556-68]*  
ADR Ethics – Mediators, Arbitrators, Judges (and Lawyers)  
*Reading: RW4, 266-86 [RW5, 306-21], CM III (TBA)*

**Week 14:**

ADR Processes: Process Choice or Process Priority?

*Reading: Bush, "Imaginary Conversation" [posted on TWEN]*

ADR Processes: Process *Tools* or Process *Values*?

*Reading: RW4, 20-44, 576-90 [RW5, 569-84].*

**Review Session:**

Course Conclusion and Sample Exam Review

*Reading: Handout (Bush, Process Choice Checklist)*