The Negotiation Institute: A Day of Hands-On Training in Legal Bargaining Skills

October 3, 2015
Washington, DC
9:00 a.m. to 4:30 p.m.

Location
American Bar Association
1050 Connecticut Avenue, NW
Washington, DC 20036
This program is designed to help you develop practical skills in legal bargaining. To ensure an interactive experience, attendance will be limited to 50 persons. You will participate in hands-on roleplaying, and have the opportunity to request feedback from a faculty of leading academics, attorneys, and trainers.

As a participant you will:
- Spend a full day working to improve your legal bargaining skills
- Participate in negotiations yourself, where you will analyze the results and see video of skilled bargainers dealing with the same problem
- Explore the psychological forces that often distort decisions of opponents, clients—and perhaps yourself
- Understand the ethical rules that govern negotiation by lawyers
- Survey your personal bargaining style
- Practice dealing with “tough” bargaining tactics
- Learn how to approach what may be your toughest negotiation – with your own client

Who should attend?
- Lawyers who want to improve their legal bargaining skills
- Lawyers who handle transactional or litigation matters
- Clients who must deal with legal negotiations
- Professionals who want to receive feedback about their bargaining style
- Lawyers interested in learning more about a skill they use every day

This program is delivered by some of the country’s leading law and negotiation trainers.

Agenda

- The concepts that underlie legal bargaining
- How to prepare for a negotiation
- Negotiating a settlement
- Ethical issues in bargaining
- Understanding your preferred bargaining style
- Negotiating with your own client
- Dealing with difficult tactics
Institute Faculty

Dwight Golann, Professor
Suffolk University Law School
Boston, MA

Howard Herman
Director, ADR Program
U.S. District Court
San Francisco, CA

Jane Juliano
Chief, Alternative Dispute Resolution Unit
U.S. Office of Special Counsel
Washington, DC

Joan Stearns Johnsen, Professor
University of Florida, Levin College of Law
Gainesville, FL

Nancy Welsh, Professor
Penn State University
Dickinson School of Law
Carlisle, PA

Registration Information

The deadline to register for the Institute is Friday, October 2, 2015. Participation is limited to the first 50 registrants. To register online, use your ABA member ID number. Alternatively, you may create a customer account on the ABA website and receive an ID number. Register online at www.americanbar.org/dispute.

Rates*

ABA Dispute Resolution Section Member $400
ABA Member $425
General Registration $450

*Early bird rates are available online.

Registration rates include coffee breaks and lunch. A limited number of scholarships will be available.

Cancellation Policy

Cancellations must be received in writing by email to Melissa.buckley@americanbar.org or fax: 202.662.1683. Cancellations received by September 4, 2015, will receive a refund less a $50 processing fee. After September 4, no refunds will be granted, but registration substitutes will be allowed.

CLE Information

The ABA directly applies for and ordinarily receives CLE credit for ABA programs in AK, AL, AR, AZ, CA, CO, DE, GA, GU, HI, IA, IL, IN, KS, KY, LA, MN, MS, MO, MT, NH, NM, NV, NY, NC, ND, OH, OK, OR, PA, SC, TN, TX, UT, VT, VA, VI, WA, WI, and WV. These states sometimes do not approve a program for credit before the program occurs. This course is expected to qualify for 4.8 CLE credit hours including 1 ethics hour in 60-minute states, and 5.8 credit hours 1.2 ethics hours in 50-minute states. This transitional program is approved for both newly admitted and experienced attorneys in NY. Attorneys may be eligible to receive CLE credit through reciprocity or attorney self-submission in other states. For more information about CLE accreditation in your state, visit www.americanbar.org/dispute or call 202.662.1680.
Negotiation Institute
October 3, 2015
American Bar Association
Washington, D.C.

AGENDA

8:00 AM
Registration
5th Floor Foyer

Breakfast
5th Floor Foyer

9:00 AM
Welcome and Introductions
5th Floor John Marshall B/C

9:05 AM
The Concepts That Underlie Legal Bargaining
5th Floor John Marshall B/C
This session introduces participants to the foundational aspects of negotiation theory and practice.

Faculty:
Howard Herman, U.S. District Court, San Francisco, CA

9:55 AM
How to Prepare for a Negotiation
In this and the following session participants will seek to negotiate the settlement of a lawsuit. The group will be split into two parts and each subgroup will be led through a series of questions based on its confidential information by members of the Institute faculty.

Sub-Groups Faculty: Room:
Group 1 Joan Stearns Johnsen, Esq., University of Florida, Levin 5th Fl. John
College of Law, Gainesville, FL Marshall A
Group 2 Jane Juliano, Alternative Dispute Resolution Unit of the U.S. 5th Fl. John
Office of Special Counsel, Washington, DC Marshall B/C
10:20 AM
Break
5th Floor Foyer

10:30 AM
Negotiating a Settlement

10:30 Negotiation
11:00 Individual critiques
11:20 Debrief and video analysis

The participants will split into small groups of four and will negotiate the sample case. The results will be displayed to allow the participants to compare their outcomes to others. A member of the faculty will conduct an interactive debriefing.

Faculty:
Dwight Golann, Suffolk University Law School, Boston, MA

<table>
<thead>
<tr>
<th>Sub-Group</th>
<th>Room:</th>
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<tbody>
<tr>
<td>Group 1 &amp; 2</td>
<td>5th Fl. John Marshall A</td>
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<td>Group 3 &amp; 4</td>
<td>5th Fl. John Marshall B/C</td>
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<tr>
<td>Group 5 &amp; 6</td>
<td>5th Fl. Common Room</td>
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<td>Group 7</td>
<td>4th Fl. Lewis Franklin Powell, Jr.</td>
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<td>Group 8</td>
<td>4th Fl. Sandra Day O'Connor</td>
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<td>Group 9</td>
<td>4th Fl. Anthony Kennedy</td>
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<td>Group 10</td>
<td>4th Fl. Thurgood Marshall</td>
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<td>Group 11</td>
<td>4th Fl. Ruth Ginsburg</td>
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<tr>
<td>Group 12</td>
<td>4th Fl. Guest Conference Room</td>
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</tbody>
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All groups should return to 5th Fl. John Marshall B/C at 11:15 AM for debriefing

11:50 AM
5th Floor John Marshall B/C
Understanding your Preferred Bargaining Style
This section of the program will explore the differences in the way different people approach negotiation and how the various styles match up against one another.

Faculty:
Joan Stearns Johnsen, University of Florida, Levin College of Law, Gainesville, FL

12:30 PM
Lunch
Lunch will be located in the 5th Floor Foyer and participants can be seated in 5th Floor John Marshall B/C
1:15 PM
Dealing with Difficult Tactics

1:15 Intro and individual prep
1:25 Negotiation
1:50 Individual critiques
2:10 Debrief and video analysis

In this session, participants will confront the issues involved in negotiating with parties who use “difficult” tactics, such as stonewalling and reneging on a tentative deal, or representing a client who wants to use such tactics.

Faculty:
Dwight Golann, Suffolk University Law School, Boston, MA

Group 1, 2, 3, 4
Group 5, 6, 7, 8
Group 9, 10, 11, 12
Group 13, 14
Group 15, 16
Group 17, 18
Group 19, 20
Group 21, 22
Group 23, 24

5th Fl. John Marshall A
5th Fl. John Marshall B/C
5th Fl. Common Room
4th Fl. Lewis Franklin Powell, Jr.
4th Fl. Sandra Day O’Connor
4th Fl. Anthony Kennedy
4th Fl. Thurgood Marshall
4th Fl. Ruth Ginsburg
4th Fl. Guest Conference Room

All groups should return to 5th Fl. John Marshall B/C at 2:10 PM for debriefing

2:30 PM
Ethical Issues in Bargaining
5th Floor John Marshall B/C

This portion of the program will examine ethical issues arising out of the allocation of authority between lawyer and client, the lawyer’s obligation to inform and consult with the client, and a lawyer’s duties in making representations or omissions in negotiation.

Speaker:
Nancy Welsh, Penn State University Dickinson School of Law, Carlisle, PA

3:30 PM
Break
5th Floor Foyer
3:40 PM
Negotiating With Your Client

3:40 Roleplay
4:00 Debrief and video analysis

After doing an exercise, participants will discuss better and worse ways of “bargaining” with a client, analyze the impact of loss aversion, and critique a video of a lawyer advising a client in the same situation.

Faculty:
Jane Juliano, Alternative Dispute Resolution Unit of the U.S. Office of Special Counsel, Washington, DC

Group 1, 2, 3, 4
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4th Fl. Ruth Ginsburg
4th Fl. Guest Conference Room

Groups should return to 5th Floor John Marshall B/C at 4:00 PM for debriefing and dismissal.

4:30 pm Adjourn