

Assessment of Stone Soup Course Experience

This questionnaire is for faculty to describe and assess your experiences with “Stone Soup” Project assignments or activities. Your responses will be posted on the Indisputably blog and may be disseminated in other ways as well. Please describe specifics of your experience, but do not include information that could identify any student (except as noted below) or subject of a Stone Soup assignment or activity.

1. Faculty name: **Lara Fowler**
2. School: **Penn State Law**
3. Course: **Negotiation & Dispute Resolution Design**
4. Semester: **Spring 2017**
5. Number of students in the course: **17**
6. Briefly describe the Stone Soup assignment or activity (e.g., interview or focus group class). If you assigned students to conduct an interview, summarize the type of subjects and focus of the interview. If you conducted a focus group class, describe the speakers and issues discussed.

Students were assigned to interview a practicing attorney or judge about a negotiation. I gave them this assignment in two parts:

Part 1:

In preparation for interviewing an attorney about a recent negotiation, draft up a list of 5-6 questions that you might want to ask that person.

Please note that we are not asking for confidential information, but rather, information in general about a negotiation they were recently involved with. Submit these draft questions before class, and we will discuss potential questions in class.

Part 2:

Refine your list of 10-12 questions (either focused generally on negotiation style, or thinking through a recent negotiation)

Find an attorney to interview (ask for ~30 minutes of their time). Okay to do so in person, skype, via phone.

Submit a write up that includes the following:

1) General summary of the discussion: what did you learn, what did you find interesting, what surprised you?

2) Questions you asked and a brief summary of their responses to each question

3) Questions that you might wish to have asked after you finished up the conversation

7. Was the assignment required, one of several options, or for extra credit?

Assignment was required.

8. If students were to write a paper, how long was the paper supposed to be (in double-spaced pages)?

Students short reflections of 1-2 pages on what they learned (see questions above).

9. When was the assignment due (or when did you conduct a Stone Soup activity)?

I assigned this as part of their 4th week of class, and gave them a few weeks to accomplish the assignment (and then had to extend that time by a bit given people's efforts to find time with the person they were interviewing).

10. What percentage of the grade was allocated to the assignment?

10%

11. Did you discuss in class the results of students' work? If so, what did you and the students learn from this discussion? Was this a good use of class time?

Yes. We spent quite a while discussing what they had learned, and what they wished they had asked. The students loved this assignment (though were initially intimidated by it), and loved the discussion—well worth the class time.

12. What did students learn that they wouldn't have learned without the Stone Soup assignment or activity?

I think they learned more about the range of negotiating styles, and more about their own negotiation style. They also learned that if they asked for an interview, people were happy to give them time (but that it took some time to schedule).

Sample excerpts of student responses are below:

One point I constantly hear from people when I express that I am interested in transactional work, is that you build those skills, including negotiation skills, once you are on the job. He explained that he developed his negotiation skills over time and relatively approaches them all the same way. I found this point particularly interesting because I thought each negotiation would be approached differently depending on the parties, the issues, and other differences. He may adjust his strategy slightly if he knows the other party is usually difficult, but he typically has the same approach.

What I learned from this discussion is that the attorney relies heavily upon setting goals for the negotiation process and structuring a step-wise process to achieve each goal. That is, I learned that the attorney does not like to have flexibility in his negotiation process, he does not like to delve into tangential interests when because these interests can often take the central issue out of context. What surprised me about the attorney's demeanor towards negotiation is how conservative he was towards the process, that is, the attorney only wants parties to concentrate on the matter at hand so the negotiation can be timely and fair towards each other's primary interests.

The two biggest takeaways were: (1) the importance of good gestures in either gaining trust of someone you want to assist you or in curbing negative emotions attached to the negotiation, and (2) the importance in finding the reason, beyond monetary value, of a party's actions. The attorney used a good gesture of paying for mediation and an expert to help another co-plaintiff, who was eager to settle her claim, to unselfishly put her own interests aside temporarily to help his client. Additionally, the good gesture of the plaintiff's friends/defendants, visiting him helped the family accept settlement.

The second takeaway was exemplified by digging to the bottom of why the workers' comp carrier and third-party carrier were claiming opposite things in regards to the plaintiff's status as an employee. By finding that they were different carriers, each looking to protect their respective bottom lines, it became apparent that they were not looking out for the best interest of the policyholder. Because of this, the first mediation consisted of the workers' comp policy carrier, the third-party policy carrier, and the employer negotiating with the mediator as to who was to bear the responsibility. This saved the plaintiff time, especially when time was an issue when seeking compensation for the plaintiff's care, by allowing the discrepancy to be resolved through mediation as opposed to two separate sets of litigation.

From a student who interviewed a judge: Let me just start by saying how impressed I was by his warmth and candour; this was a most rewarding conversation, particularly given his impressive profile. Putting aside the pressure of having to talk to someone of his stature on the phone (and needing to be in charge of the discussion, so to speak), I must say this was so easy and straightforward, mostly thanks to his very easy-going personality which I got to notice beforehand in our email exchange as we set up the conversation. By the way, as I had sent him a reminder email today, he immediately replied telling me that he is willing to talk to me today, which we did. In terms of 'people skills' then, this was a true lesson of humility and of how to make other people that you interact with feel at ease. As for the actual conversation, again, I was surprised to see just how much content he was able to convey in such a short amount of time (we talked for 25 minutes). I must admit I did not expect to learn so many new things about the topic. All of his ideas are listed below but really what I take home from the discussion with him is that negotiating is about working with other people, rather than the (underlying) law.

From a Chinese LLM student: I had a wonderful chat with Prof. _____ on the subject of negotiation skills, he's been so nice and patient, and the conversation's been quite inspiring. One thing that surprised me most is that I find the negotiation skills are as much important for the criminal cases as for the civil cases. As a public defender, _____ is quite experienced in negotiating with the prosecution department, the plea bargaining is something new to me, as in China, it not may be allowed for the attorney to conduct such bargaining.

From another Chinese LLM student: Through this interview, the attorney enlightened me about how to settle with other side parties and how to solve problems, which gives me a lot of new thoughts. Also, it inspired me to think what skills should I improve and apply into my negotiation. Before this meeting, I prepared several questions, however, which are finally turns out to be not very useful. Sometimes, the attorney will expand some cases or mentioned other thoughts for questions that I have not prepared.

I found this assignment to be very insightful. It is one thing to study negotiations in the classroom, and quite another thing to actually negotiate in the real legal-world. Interviewing an attorney gave a glimpse of reality. For my interview, I spoke with _____, who currently clerks with the Honorable Judge _____ of the County Court of Common Pleas. Prior to her work as a law clerk, Attorney worked as a personal injury and worker's compensation practitioner for many years. This interview focused more on her work in those areas of law, rather than her current positions as a law clerk. In interviewing Attorney, what I think I found was the most interesting was her true commitment to planning a negotiation plan. I posed to her the following question: "At the beginning of the negotiation, what is your

approach (for example do you “hardball” your first offer, have the opposing side speak first, etc.)?” She answered by stating that I was incorrectly assuming when a negotiation started. She went on to explain that a negotiation starts the moment the client comes to you—that every interaction with your client and the opposing party is important. I found her answer very surprising because I had not thought of a negotiation that way before. Previously, I considered a negotiation to be a set period in which two (or more) parties negotiated a deal; but, framing a negotiation as Atty. did, highlights the importance of planning. I found that Attorney’s responses shed true light on how negotiations work and what a future attorney can do to improve their skillset.

13. What worked well with the assignment or activity?

Students enjoyed the assignment overall. It was interesting to hear their reactions, both in class, and in the written reflection.

14. What would you do differently if you do it again?

If I did it again, I’d share some of my previous students’ reflections as I think a lot of students were nervous about talking with someone about this kind of question. Some interviewed acquaintances and some friends or family. Either way, helping them really understand the assignment beforehand might have helped them feel more comfortable.

15. What would you advise other faculty considering using a Stone Soup assignment or activity?

This is a great assignment that really helped the students understand more about negotiation. Writing a paper that really focused on negotiation styles might have been good as well, but this kind of interview also helped them as well.