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Exam No. _____

570 ALTERNATIVE DISPUTE RESOLUTION

Fall Semester 2003-2004

Final Examination
UNM School of Law

Professor Scott H. Hughes
Take-Home Examination
Wednesday, December 10, 2003

THE DETAILS:

Due Date: **Saturday, December 20, 2003 by Noon**
Place: **Janet Cox's Office**

THE DIRECTIONS:

Place your confidential exam number on every page. Do not otherwise identify yourself. As a suggestion, if your word processor can do footers, place your exam number in a footer and it will automatically appear on every page.

Please start each answer at the top of a new page, except for questions with subparts that can be placed on the same page. Use only the front side of 8½ inch x 11 inch paper. Each answer should be typed, double spaced, and 12 pt. type. I will not accept handwritten answers. **Be concise and edit your answers.**

Staple all pages together in the order of the questions. Number your answers to coincide with the number on the questions. Don't restate the questions. **Remember to keep a copy of your answers, just in case I lose an exam.**

For purposes of the exam questions, you will be responsible for incorporating all of the reading material (including the textual materials and all handouts), lectures, presentations in class, and the discussions.

Each question has a maximum number of points available. This will give you some idea of the relative weighting of each question.

You are not to consult with each other nor anyone else regarding the subject matter of the class, the content of these questions, or the preparation of your answers from **Wednesday, December 10, at 8:00 a.m. until Saturday, December 20, at Noon.** You may, however, ask me whether or not you are missing any of the handouts.

Deliver your stapled answers to Janet Cox's Office by the date and time specified above. **Do not be late. I reserve the right to penalize the grade on any late exam.** I do not need these questions back, just your answers.

The Questions:

1. Critique the following paragraph (and the underlying assumptions), from page 5 of Chapter 1 (10 points):

There are many reasons for conflicts to develop, at both the individual and at the group level. Some conflicts are based on belief systems or principles, some are based on personality differences, and others on conflicts about material goods or personal or group status or reputation. Because there are so many different reasons conflicts develop and because much conflict is dangerous and unproductive, the theory of conflict attempts to understand the different sources of conflict, the dynamics of how conflict develops, escalates or declines and how conflict can be managed, reduced or resolved.

2. Should mediators have a duty with regards to the result of the mediation? Take a position and defend it. You will not be graded on the position you take, but how well you defend it and the substance you provide in your answer. (10 points).
3. When most people negotiate, what is the most important thing for them to obtain? Explain your answer (5 points).
4. Did the Uniform Mediation Act get it right when it came to privileges? Take a position and defend it. You will not be graded on the position you take, but how well you defend it and the substance you provide in your answer. (15 points).
5. What is the answer to question (5 points apiece).
 - a. 3.15 on page 9 of Chapter 3?
 - b. 3.79 on page 61 of Chapter 3?
6. When it comes to bargaining, what is (are) the potential conflicts that can arise between an attorney and his/her client? (10 points).
7. If almost all forms of ancient and traditional mediation are normative, what are the pros and cons of the non-normative model adopted for almost all modern forms of mediation? (20 points).
8. Explain the interplay between self-determination and confidentiality in mediation. (10 points).
9. Take a position about this statement and defend it: "The Prisoner's Dilemma has a lot to teach us about negotiation." You will not be graded on the position you take, but how well you defend it and the substance you provide in your answer. (20 points).
10. Critique decision trees. (10 points).

11. What is the principle purpose of mediation? Answer this question and defend your answer. There are several very supportable answers to this question. So, you will not be graded on the position you take, but how well you defend it (10 points).
12. Who was Vilfredo Pareto and why do we talk about him with regards to negotiation (5 points).
13. Define the following terms (3 points apiece):
- a. Surplus allocation
 - b. BATNA
 - c. WATNA
 - d. Target
 - e. ZOPA
 - f. Reservation Price
 - g. Empathy
 - h. Noise (in terms of ADR)
14. What assumptions does a competitive approach make about negotiation? What assumptions does a competitive approach make about the other side? (10 points).