



The University of New Mexico

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Exam No. _____

570 INTRODUCTION TO ALTERNATIVE DISPUTE RESOLUTION
Fall Semester 2007

UNM School of Law
Hughes
Final Examination
Home

Professor

Take

Due Date: You must return your final exam to the Registrar by 4:00 p.m. on December 14, 2007

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.

Remember:

1. **Do not restate the questions; just your answers only, please.**
2. **Number your answers to coincide with the number on the questions.**
3. **Remember to keep a copy of your answers, just in case I lose an exam.**
4. **Print out two hard copies of what you submit, just in case your computer fails.**
5. **Do not be late. Late exams get penalized.**

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. References to the text or other written materials in your answers to these questions will help me to understand that you have analyzed and integrated the material into your thinking and, thus, it may beneficially impact your score on any given question.

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 until after the later of (1) 4:01 P.M. December 14, 2007 or (2) having turned in your exam. You may, however, ask me whether or not you are missing any of the handouts.

There are no page limits on the questions. The weight of the questions depends solely on the points allotted.

The Questions:

Questions worth 2 ½ points apiece:

1. What is Night Baseball Arbitration and how does it work?
2. What is the “law merchant” and what role does it have in our work on ADR?
3. Who is “Montana”?
4. What does ZOPA stand for?

Questions worth 5 points apiece:

5. Name the stakeholders in the video The Story of Qui Ju.
6. Describe both the pros and cons of the principle that the mediator should be neutral and impartial.

From here on out, please start each answer at the top of a new page, Each answer should be double spaced, and 12 pt. type. **Be concise and edit your answers. Questions with typos, grammatical errors, or poorly worded sentences demonstrate that you did not read back through your answers to see how you could improve your thinking (and your answer).** I do not, however, grade on grammar, punctuation, typos and the like on final exams.

Questions worth 10 points apiece:

7. What can we possibly learn about ADR from the prisoner’s dilemma?
8. How does the idea of metaphor and language figure into our understanding of ADR?
9. Explain arbitrability and describe the current state of the law on it.
10. Describe the current state of confidentiality (all parts) under the Uniform Mediation Act.
11. Do you agree with the position of the Uniform Mediation Act you laid out in the previous answer? Take a position and defend it. You get no points by describing both sides. Your score will not be based upon the position you take, but upon the reasons you bring to bear.
12. Should mediators consciously try to balance power during mediation? Discuss both the pros and cons.

Question worth 20 points:

13. You have a client that has a claim for age discrimination in employment. You have just discovered that her employee manual has a mandatory arbitration clause that appears to you to be solid. You must now advise her on the ramifications of this provision. For your answer to this question, pretend that I am your client and answer this question from your client: “If I lose in Arbitration, can I appeal?”