

CONFLICT RESOLUTION
FINAL EXAMINATION - SPRING, 2009

This is an open book examination which you have two hours to complete. Identify yourself by placing your social security number on the cover of the blue book. Please read each question carefully and write your responses in the blue books. Be sure to clearly identify to which question you are responding.

1. Identify and briefly explain the elements necessary to properly **evaluate** and **value** a civil claim.
2. Assume that an insurance company is defending a lawsuit brought by a passenger allegedly injured in an automobile accident with the insured. Assume that you represent the plaintiff. The plaintiff has told you that the plaintiff would be quite willing to settle the lawsuit for \$50,000.00. In the course of negotiations with the insurance company's lawyer, assume that you are directly asked whether the plaintiff would be willing to accept \$50,000.00 in settlement. As a negotiating tactic, would you deny that your client would be willing to settle the lawsuit for that amount? Explain your answer.
3. How would you characterize your negotiation style? What are the advantages and disadvantages of your style of negotiating?
4. Identify the various forms of alternative dispute resolution. How do they compare and differ? What are their potential advantages and disadvantages compared with each other and with litigation? How should the choice among the different forms of ADR and litigation be made?
5. How would you introduce the concept of Alternative Dispute Resolution and the various options to a client who wants "their day in court"?
6. How would you introduce the concept of Alternative Dispute Resolution and the various options to an opposing party/attorney without appearing weak and/or unsure of your own negotiating position?
7. How would you evaluate a matter to determine whether mediation is recommended?
8. Should the court system require alternative dispute resolution? Why or Why not?
9. What are some ethical considerations as an attorney involved in negotiations and/or the various forms of Alternative Dispute Resolution?
10. Should an attorney be required to inform a client about the availability of ADR options prior to the filing of a civil complaint?

11. Compare what you have learned of conflict resolution, negotiation and alternative dispute resolution during this semester to the movie "A Civil Action" or to any other movie or television program which portrays litigation. Is it accurate or not? Cite specific examples if you can.