

*“Movie Deal”*  
*Basic Services Agreement*

**Instructor Notes  
& Background**

**Title**

Movie Star – Basic Services Agreement

**Skills Addressed**

Negotiating, drafting various components to an agreement, and managing clients

**Target Audience**

2Ls and 3Ls who have completed Contracts and have had some basic drafting and negotiating coursework

**Overview**

This is a basic in-class negotiating and drafting simulation intended for law students. The underlying scenario involves a potential deal between a novice filmmaker, Kia Zorn, and a fading rock star, Klaus Herzog (the lead singer of Zur Ümlaut), who is hoping to score the lead role in Zorn’s new movie and begin a second career as a movie star. The movie will begin shooting next month and has a very limited budget. The students negotiate and draft various components of an agreement. This scenario is traditionally used for drafting indemnification,

liquidated damages and termination provisions, although the scenario could be used for any number of other purposes. It also works well as a counterpart to the Math Tutor simulation, because it is of equal complexity and also involves students playing clients (so students who played clients in the Math Tutor simulation can play lawyers here, for example). The simulation is designed for use in one class session plus a drafting assignment (the drafting assignment is typically reviewed in the next class session). The in-class time for the exercise is less than two hours (not including debrief):

1. Instructions and introduction (1 minute)
2. Student preparation / reading the materials (9 minutes)
3. Meeting between clients and attorneys (30 minutes)
4. Meeting with the other side(with clients present<sup>1</sup>) (60 minutes)
5. Every student (including those playing clients) drafts specific agreement clauses (not the entire agreement - traditionally the exercise has had students draft indemnification, liquidated damages and termination provisions and if there is no deal, the students draft provisions that would be reasonable proposal options given the discussions) (between class periods - approximately one hour of work, although the time needed for the drafting will vary greatly depending on the student)
6. If desirable, review common mistakes and best examples<sup>2</sup> from the students' drafting work during the next class period (1 hour)

### **Scenario Background**

A fairly inexperienced movie producer, Kia Zorn, is making a new film and has set her sights on casting an aging musician of limited fame, Klaus Herzog, as the star of her film. Zorn believes that casting Herzog will have some appeal to potential funders. Herzog is looking for an opportunity to become a movie star and sees the starring role in the Zorn film as a stepping stone to his new career.

The agreement is relatively straightforward, with a few details to be ironed out about money, time and publicity, but there is significant overlap on all of these to make an agreement on the basic terms fairly simple. The complexity comes in with some of the legal terms, such as indemnifying parties against potential liability and using liquidated damages clauses to create incentives for certain behavior, for example.

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<sup>1</sup> This may not be conventional practice but it ensures that the student-clients can participate and observe. This way, the student-clients can also be assigned the drafting assignment and can share their observations of the negotiations during the debrief.

<sup>2</sup> This can work well where students are placed in small groups to identify mistakes collaboratively.

Students play both the roles of attorneys and clients.<sup>3</sup> Each student receives a one-page description with their role.<sup>4</sup> The students then draft portions of the agreement (traditionally focused on the legal issues, like indemnification, liquidated damages, and termination provisions).

### Learning Outcomes

- ✓ Introduce basic negotiation and client management skills
- ✓ Explore the perspective of the client and what it is like to have legal representation
- ✓ Introduce basic drafting skills on legal issues (indemnification, liquidated damages, termination, for example)
- ✓ Work with a client on understanding client interests, developing strategies for making deals or no deal, and managing client expectations

### Teaching Notes

1. Set-up and assignments for the students.
  - a. Introduction. Because the scenario is pretty straightforward, students will not require a lot of introduction, other than the logistics of the simulation (timeframe, assignment, e.g.). It is useful in advance to explain the drafting assignment (covenants and representations and warranties) to help students focus the discussion.
  - b. Schedule. It is useful to break up the exercise into small segments so that the students perform the necessary preparation (individual reading of the scenario, meeting between clients and attorneys to prepare, and the negotiation).
  - c. Attorney-client relationship. Student-attorneys receive very little background information and will need to interview their student-clients. Student-clients should be encouraged to play the role of clients as they would expect real clients to behave (e.g., not necessarily explaining every detail without prompting by good questions, withholding their true bottom line to see if they can get more in the deal, focusing on their interests only). This is not a simulation on how to manage difficult clients, but some realism may help make the point that

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<sup>3</sup> Another approach on student roles is to assign one-third of the students as observer / coaches for each student-attorney. The observers will report good and bad examples and also provide answers to any questions from the student-attorney partner (as a “coach”).

<sup>4</sup> The attorneys receive very little information about the scenario so they must rely on their clients to explain the situation and share client objectives.

interacting with clients is more complicated than reading a summary of client information.

2. Assignment. Each student (including those playing clients) drafts some of the key legal issues – such as indemnification, liquidated damages and termination provisions (if there is no deal, the students draft provisions that would be reasonable proposal options given the discussions).
3. Debriefing points for discussion.
  - a. Basic Negotiation Framework Points. The simulation is designed as an early introductory exercise in a drafting and negotiating course. Students may not yet understand the basic framework for thinking about negotiations – i.) understanding who is involved and what do they need (the interests of the two parties); ii) what possible proposal ideas are available to satisfy those needs (possible options); and iii) what happens if there is no deal (potential consequences). Simple questions about understanding these basic points can help spark the discussion on how lawyers plan for a negotiation, such as “what are the critical interests of each party and how did you figure that out?” (for student attorneys).
  - b. Timing of Proposals and Deal Specifics. Typically students get anxious in this process and start sharing proposal specifics quite early in the discussions, particularly where they feel that the scenario is pretty simple and the time frame pretty short. They should understand the value of information gathering and exploring what the underlying issues are for both parties before jumping into presenting proposals, even if they must do so efficiently to work within the time limits of the exercise. Student-clients (and observers, if used) can be helpful in discussing the good and bad in what they saw during the discussions (either the value of exploring issues before proposals or the problems that arose when proposals were exchanged prematurely).
  - c. Presenting Proposals / Dealing with Counters and Objections. Once students move to sharing proposals, they will invariably get stuck debating certain provisions (usually the payment amount). Students should understand the value of starting with “easier” topics first, those topics where the other party can easily see value in how their interests would be satisfied (in this simulation, that could be the forensic entomologist suggesting that the tutoring services take place at the offices of the math professor, because location matters much more to the math professor). Proposals should also clarify how the other party’s interests are satisfied (being explicit even if it feels obvious just to make sure to clarify the point). Lastly, students should be encouraged to respond to counter proposals or objections (or flat out “no”) by asking questions about underlying concerns rather than just debating the merits of the previous proposal.
  - d. The Challenges of Negotiating and Drafting Key Legal Clauses (either before or after the drafting assignment). Students will soon learn that there is more to

some of the core and sometimes complex legal issues than just finding a good sample. Negotiating the specific terms of a liquidated damages clause, for example, requires appealing to interests and also understanding the general purpose of such clauses. Students also must understand how precise such clauses must be written to provide for only one possible interpretation.

### **Handouts**

1. Role information for the movie producer (Kia Zorn)
2. Role information for the movie producer's attorney
3. Role information for the rock star (Klaus Herzog)
4. Role information for the rock star's attorney
5. Role information for the observers / coaches (if appropriate)