

THE TOP FIVE THINGS EVERY LAWYER SHOULD KNOW ABOUT NEGOTIATING

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1. Prepare.

Identify your bottom-line needs. Decide ahead of time where you can compromise without sacrificing your overall goals. Learn about the other side's needs. Review the most critical law and facts, so you can justify your positions and debunk the other side's.

2. Manage Your Expectations.

Don't dwell on your weaknesses, but consider the settlement pressures on the other side. You have more bargaining strength than you think.

3. Manage your concessions.

Where you start affects where you end up. So your initial position has to leave you with sufficient room to move. It should be the most favorable proposal to your side that is plausible and justifiable. (Don't kill the talks by starting with an arbitrary extremist position.) From there, make only small grudging concessions.

4. Observe.

Ask questions and try to get the other party talking. Listen closely and you will get clues about their real agenda. A phrase may give away their intentions; a gesture or grimace may reflect their true position.

5. Pause Before the Final Handshake.

When you are satisfied with the other side's offer, don't take it right away. Act reluctant. Otherwise they might not be satisfied with the result, and if you hold off, you might be able to get more from them than you thought. Similarly, it is also important to "sleep on it" to be sure your own side is completely satisfied with the outcome.

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