Guide to Negotiation: Tips and Techniques

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Faculty Bio

Liz Stone is the...

Managing Director of The Dubin Group, a legal search firm based in the Bay Area, hired by firms and companies for placement services. She regularly advises on the legal market and career strategy. Liz is a former litigator and practiced with several Am Law 100 firms. On the side, Liz performs stand-up comedy at clubs throughout the country.

Liz is a graduate of the University of California, Hastings College of Law and the University of Virginia.

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Program Agenda

- Top Issues
- Tips on the Topic
- Participant Questions
- Takeaways
- ABA Resources

Top Issues

- Know Your Style
- Understand the Process
- Rules of Thumb
- Ethics

Dealing With Anxiety

- Know yourself – concerns about negotiating, cultural bias, personal style
- Learn about the process
- Prepare, prepare, prepare
- Practice makes perfect
The Process

• Preparation: the most important and often overlooked step
• Information Exchange: the best negotiators ask questions and listen
• Explicit Bargaining: making the ask and negotiating
• Closing and Commitment

Preparation

• People who take the time to prepare do exponentially better
• Market Research: you want objective information to support your position and to believe in your goal
• Goal Setting: set a goal and a floor; get specific
• Prepare Your Argument
• Prepare Your Strategy

Market Research

• Objective information helps you set an optimistic goal and gives you leverage
• Talk to people in your field and to recruiters
• Professional groups/internet research
• Look for apples to apples comparisons
• An ask justified by market information will be reasonable
Goals

- Set goal and floor
- If you are new to negotiating, set more modest goals
- Get specific
- Tell people your goal, write it down, bring the notes with you into the negotiation
- Know your compromise points

Prepare Your Argument

- Start with the other side's needs and identify shared interests
- Practice “role reversal”
- Anticipate their arguments and prepare your responses
- Write out all data and points that support your argument
- Use threats very sparingly

Prepare Your Strategy

- Style: Competitive vs Collaborative?
  - Prepare for your style
  - Prepare response to the other side's style
- Timing
- In person, phone, or email?
  - In person gives helpful non-verbal cues
  - Emails can be misinterpreted
- Who has authority?
Information Exchange

- Establish a rapport
- Ask questions and listen
- Signal Leverage
  - If strong, be fair
  - If weak, don’t bluff - play to uncertainty of the future or “What would you do if you were me?”

Explicit Bargaining

- Rules of Thumb
  - Anchor point sets expectations
  - Most negotiations meet in the middle
  - Leverage is a matter of perception and can change
- Do I Open First?
  - Yes, if you have strong information
  - Chance to set anchor point
  - No, if you have minimal information

Open Optimistically Or Realistically?

- Optimistic is the highest number for which there is a supporting reference point (vs outrageous, with no justification)
- One off transaction: usually open more optimistically than a long term relationship
- Optimistic openings allow you room for concessions
- Don’t open optimistically if you have weak leverage and the other side knows it
Concessions

- Concessions are the language of cooperation
- Move slowly on least important issues first
- Size of early concession indicates your bottom line
- If you give up something huge right away, the other side won’t value it as huge
- Don’t make a huge concession early and then none later - people can’t adjust expectations
- Use “if...then...” to keep things reciprocal

Closing

- External deadlines can drive closing (e.g., a deadline for another job offer, company budget deadlines)
- Split the difference – if you are close but not there, propose splitting the difference
- Secure commitment (usually get it in writing)

Ethics

- Be trustworthy and fair, follow through on your commitments
- Your reputation is at stake
- Bluffing about bottom lines is generally accepted
- Lies about facts or consequences are unethical
- Better to not answer a question than to lie (or respond with the truth about your goals)
Audience Questions?

Takeaways

- Preparation is key
- Set specific goals
- Consider the other side's needs/listen
- Be ethical
- Practice makes perfect

Recommended Reading

- Bargaining For Advantage: Negotiation Strategies for Reasonable People, by G. Richard Shell
- Difficult Conversations: How to Discuss What Matters Most, by Douglas Stone
- Women Don’t Ask: The High Cost of Avoiding Negotiation – and Positive Strategies for Change, by Linda Babcock and Sara Laschever
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