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Legal Article – Keys to Negotiation, Part II.

In Part I of this article (from my September 2006 Newsletter), I introduced some of the fundamentals of negotiation. In this Part II, I hope to teach you some fun tactics in negotiation.

You might recall from Part I the fundamentals of negotiation: (1) Be indifferent; be ready to say “no” and walk away. (2) Be petty; play the game in front of you, negotiating as appropriate to that game. (3) Be knowledgeable; know yourself and your opponent.

With the fundamentals in hand, we can move on to fun tactics. If you are married, these negotiation tactics might seem familiar to you. Spouses naturally use tactics, especially with the kids.

Appeal to a Higher Authority. An interesting tactic is to keep the decision maker away from the table. A distant decision maker seems only to receive concessions, not give them. Examples of distant decision makers include another officer of the company, an attorney or a spouse. If this tactic is used against you, ask to speak with the higher authority not the middle man who lacks authority to negotiate. Car salespeople love this tactic.

Good Cop / Bad Cop. Prior to negotiation, designate the good cop and the bad cop, and remember your roles (and remember to have fun with your roles). Use the good guy for all concessions and the bad guy for hard posturing. Although this might appear like a cheesy detective show tactic, it can work once, the first time, on an unsuspecting victim. This tactic is like a summer rerun – the rerun is new to you if you’ve never seen it before.

Silence. Silences can be unnerving. You can use silence to make the other side uneasy, and thereby draw out more information and concessions. Listen without interruption, then pause. Wait them out - they might even start up talking again. But avoid stare-downs (save tense silences for your marriage). Instead fill gaps with questions or get busy with your notes, etc.

Stalemate -- Set Aside. When faced with a stalemate, put the issue aside for later.

Split the Difference. Never take or offer this ploy. If you take the ploy, you likely settled for a bad number. If you offer this ploy and the other side refuses, then you probably lowered your position to the split number. The other side, on the other hand, keeps its pre-split position.

Fait Accompli. Document your proposal thoroughly so that it is easy for the other party to accept (with all needed documents completed and ready to sign).

Offer Withdrawn. Use as a last resort, especially if you are being nibbled upon. Here you just walk away. If the other side pursues you, great. If they let you go away, that's fine. If the other side withdraws its offer on you, understand that it is close to its walk-away point. Counter-offer slightly above the withdrawn offer. Be wary of the other side now, however, because "offer-withdrawn" is a heavy-handed tactic.

AND FINALLY...Remember the moral from Part I: Don't get carried away with negotiation tactics. Deals are built on mutual respect and trust. Usually you achieve your best results by being fair and treating people fairly. It helps to negotiate for win-win outcomes, because stable relationships are only built on mutual benefit. Also, in many situations and relationships, you create a bad impression by making a show of negotiation. Use your better judgment.

Please feel free to call me if you want to talk more about this topic.

Funny Papers

I went on a diet, swore off drinking and heavy eating, and in 14 days I had lost exactly two weeks. – Joe E. Lewis.

Bob Newhart's theory of accounting: If you got within a couple bucks, it's okay.

This ad really appeared in a Utah Newspaper:

Post Date: Aug 7th, 2006
\$10,000 06' Suzuki GSXR 1000.
Farmington, UT 84025.

This bike is perfect! It has 1000 miles and has had its 500 mile dealer service. (Expensive)
It's been adult ridden, all wheels have always been on the ground. I use it as a cruiser / commuter. I'm selling it because it was purchased without proper consent of a loving wife. Apparently "do whatever the f--- you want" doesn't mean what I thought.
Call me, Steve. (801) 867-8292

Ideas

Anger is never without reason, but seldom with a good one. – *Ben Franklin*.

The question is, therefore, whether the principles of liberty and equality that we see as the foundation of liberal democracy have a similar universal significance. I believe that this is the case, and I think that there is an overall logic to historical evolution that explains why there should be increasing democracy around the world as our societies evolve. It is not a rigid form of historical determinism like Marxism, but a set of underlying forces that drive human social evolution in a way that tells us that there should be more democracy at the end of this evolutionary process than at the beginning.
– *Francis Fukuyama, from "After the End of History."*