

Supplement Index

ACQUISITION AGREEMENTS

Drafting, § 11:5

ADMISSIBILITY

Evidence of offers of settlement,
§ 10:6.50

ALTERNATE DISPUTE RESOLUTION (ADR)

Class actions, § 6:7.1
Combining mediation and arbitra-
tion, § 6:7
Employment discrimination
claims, § 6:7
Factors to consider, § 6:7
Hybrid ADR methods. See
HYBRID ADR METHODS
Punitive damages awards, § 6:7

ANCHORING

Making or avoiding making first
offer, 5:3.50
Phantom anchors, 5:3.55
Precise offers, 5:3.75

APPROPRIATENESS AND CRITICISMS OF ADR

Tactics involving other parties,
§ 6:7

ARBITRATION AGREEMENTS

Generally, § 11:6.50

ARTIFICIAL INTELLIGENCE

Ethics and Caveats, 12:3.25
Optimal approach to negotiation,
1:5.80
Sources of information, 4:6.50

ATTORNEY OBLIGATIONS

Negligent advisement to settle,
§ 1:4

ATTORNEY OBLIGATIONS

—Cont'd

Settlement offers, § 1:4

AUTHORITY

Settlement authority, optimal
approach to negotiating,
§ 1:4

BARGAINING FOR INFORMATION

Informational tactics, 4:7

BLUFF

Transaction costs, 5:13.50

BOTTOM LINE

Liens, subrogation and setting
bottom line, § 9:3A

BRACKETING

Mediation tactic, § 6:7.75

BRAIN FUNCTIONS

Optimal approach to negotiating,
§ 1:3

BUSINESS DISPUTE MEDIATORS

Tactics involving other parties,
§ 6:7

CAVEATS

Generally, § 12:4
Ethics. See ETHICS
Particular types of negotiations,
§ 12:4A

CLASS ACTIONS

Arbitration, § 6:7.1

CLIENT COUNSELING

Systematic planning: second stages, § 9:11

CLIENT'S ROLE

Criminal plea bargains, § 1:4.50

COALITIONS

General tactics, § 5:12

COGNITIVE DISSONANCE

Optimal approach to negotiation, 1:5.65

COMBINATIONS OF TACTICS

Loan negotiation behavior, § 5:30

COMMUNICATION

Social intuition, 10:5.50

CONFLICT MANAGEMENT

General tactics, 5:5.50

CONFLICTS OF INTEREST

Ethics and caveats, § 12:3

CREDIBILITY

Emotional sincerity, § 3:2

CRIMINAL PLEA BARGAINS

Client's role, § 1:4.50

CUBAN MISSILE CRISIS

Analysis of negotiation, Appx B

DEAL-MAKING

Power, § 5:12

DEBATE

Emotional themes, § 5:10

Weaknesses, facing, § 5:10

DEVALUATION

Tactics, 5:29.50

DISCLOSURE AGREEMENTS

Informational tactics, 4:8.50

DISTANCE

Power, § 5:12.65

DOONESBURY NEGOTIATION

Ethics and caveats, § 12:2

DRAFTING

Editing and exchanges of agreements, 11:2.50

Win/win proposals, § 11:7A

ECONOMIC DURESS

Ethics, 12:2.70

EDUCATION AND TRAINING

Negotiation as a process, § 1:2

EFFECTIVE COMMUNICATION

Providing response, 10:4.50

EMBEDDED NORMS

Interest-based negotiations, 5:19.75

EMPATHY

Listening for information, 4:4.50

Trust, 4:2.50

EMPLOYMENT

DISCRIMINATION

Arbitration clauses, enforceability, § 6:7

Taxability of settlement, § 11:7A

ENVIRONMENTAL

PROTECTION AGENCY (EPA)

General tactics, § 5:12

ETHICS

Artificial intelligence, 12:3.25

Duty to disclose, civil matters, 12:2.50, 12:2.60

Economic duress, civil matters, 12:2.70

Moral Foundations Theory, 12:3.50

Sandbagging, 12:2.60

Self-interest of negotiator, 12:1.50

EVIDENCE OF NEGOTIATIONS

Generally, § 12:4B

INDEX

EVIDENCE OF NEGOTIATIONS

—Cont'd

Admissibility, § 10:6.50

FACT CREATION

Ethics and caveats, § 12:2

General tactics, § 5:12

FAX

Effective communication, § 10:6

FEDERAL ARBITRATION ACT

Generally, Appx C

**FINANCIAL CONDITION,
COMPANY'S**

Drafting, § 11:5

FIRST OFFER

Making or avoiding making,
5:3.50

Phantom anchors, 5:3.55

Precise offers, 5:3.75

FLATTERY

Trust, 4:2.30

FRAMING

General tactics, § 5:11.50

FRAUDULENT INDUCEMENT

Settlement, fraudulent inducement
of, § 1:4

GAME THEORY MODELING

Generally, § 6:3A

**GENDER-BASED
NEGOTIATING
DIFFERENCES**

Generally, 1:3.25

HYBRID ADR METHODS

Tactics involving other parties,
§ 6:7

**INDEMNIFICATION
PROVISIONS**

Drafting, § 11:5

**INFORMAL INFORMATION
DISCLOSURE**

Judicial settlement conferences,
§ 6:4

INFORMATION DISCLOSURE

Timeliness, § 2:4

INFORMATION TACTICS

The funnel approach, 4:5

Sources of information, 4:6.50

Technology, 4:2.79

INJUNCTIONS

Litigating for injunctive relief,
§ 7:2A

**INTEREST-BASED
NEGOTIATIONS**

Embedded norms, 5:19.75

General tactics, 5:19.50

**INTERNATIONAL
NEGOTIATIONS**

Generally, 1:6.50

**INTER-ORGANIZATIONAL
NEGOTIATIONS**

Tactics involving other parties,
§ 6:9A

**INTRA-ORGANIZATIONAL
NEGOTIATIONS**

Empowering other party to make
fair settlement, § 3:8

Tactics involving other parties,
§ 6:9A

**JUDICIAL SETTLEMENT
TECHNIQUES**

Tactics involving other parties,
§ 6:4

JUSTICE

Procedural, 1:2.50

LEFT BRAIN/RIGHT BRAIN

Optimal approach to negotiating,
§ 1:3

LEGAL MALPRACTICE

Settlement agreements, § 1:4

LEVERAGE

General tactics, § 5:18.50

LIENS

Subrogation and setting bottom line, § 9:3A

LISTENING FOR INFORMATION

Pulling, 4:4.75

LITIGATION

Power, § 5:12

LOAN NEGOTIATION BEHAVIOR

General tactics, § 5:30

MEDIATION

Alternative dispute resolution, combining mediation and arbitration, § 6:7

Bracketing as mediation tactic, § 6:7.75

Business dispute mediators. See BUSINESS DISPUTE MEDIATORS

Judicial settlement conferences, § 6:4

Privileged communications, § 10:6.50

Uniform Mediation Act, Appx D

MERGERS

Privileged communications, § 10:6.75

MIRRORING

Trust, 4:2.25

MISREPRESENTATION

Demands and bottom lines, applicability, § 12:2

MISSILE CRISIS IN CUBA

Analysis of negotiation, Appx B

MISTAKES

Psychology of negotiating, § 1:5.50

MODEL RULES OF PROFESSIONAL CONDUCT

Trust, 4:2.75, 4:2.77

MORAL FOUNDATIONS THEORY

Ethics, 12:3.50

NEGOTIATION PHASES

Systematic planning: second stages, § 9:7

NEGOTIATION TRAINING

Negotiation as a process, § 1:2

NEGOTIATION TYPES

Ethics and caveats, § 12:4A

NEUTRAL FACTFINDING

Tactics involving other parties, § 6:7

OFFERS OF JUDGMENTS

Diversity cases, applicable rules, § 7:9

OMBUDSMEN

Tactics involving other parties, § 6:7

PERSONAL INTERESTS, NEEDS AND FEELINGS

Bias of opponent, perceptions, § 5:21

PHASES OF NEGOTIATION

Systematic planning: second stages, § 9:7

PLANNING

Competitive negotiating resulting from potential win/win outcome, § 8:9A

Subtle concepts for planning pre-trial settlement negotiations, Appx F

INDEX

PLANNING—Cont'd

Working guide to following planning steps, **Appx E**

POWER

Distance, § **5:12.65**

Paradox, § **5:12.75**

Tactics involving other parties, § **6:6**

Types of power, § **5:12.50**

PRIVILEGED COMMUNICATIONS

Mediation, § **10:6.50**

Mergers, § **10:6.75**

PROBLEM, MAKING PEOPLE THE

General tactics, § **5:29.25, 5:29.50**

PROBLEM SOLVING

Family members, § **3:8**

PROCEDURAL JUSTICE

Generally, § **1:2.50**

PSYCHOLOGICAL COMMITMENT

General tactics, § **5:18**

Intra-organizational negotiations.

See **INTRA-ORGANIZATIONAL NEGOTIATIONS**

PSYCHOLOGY OF NEGOTIATING

Optimal approach to negotiating, § **1:5.50**

PUBLIC OFFICIAL GOALS

Client goals, § **2:5**

PULLING

Listening for information, § **4:4.75**

RAPPORT

Informational tactics, § **4:2.20-4:2.35**

Physical contact, § **4:2.35**

RATIONALES

Presentation, § **10:3**

REACTIVE DEVALUATION

Tactics, § **5:29.50**

REFLECTION

Effective negotiator, optimal approach to negotiating, § **1:3.30**

Optimal approach to negotiating, effective negotiator, § **1:3.30**

RELEASES

Drafting, § **11:1**

Scope of release, role of the client, § **1:4**

RISK

Identifying and assessing, § **1:3.50**

Risk matrix, § **1:3.75**

SELECTIVE INFORMATION DISCLOSURE

Information tactics, § **4:2**

SELF-INTEREST OF NEGOTIATOR

Ethics, § **12:1.50**

SETTLEMENT AUTHORITY

Optimal approach to negotiating, § **1:4**

SETTLEMENT ENFORCEMENT

Unauthorized settlement, client's rights, § **1:4**

SETTLEMENT NEGOTIATIONS

Admissibility, § **10:6.50**

Subtle concepts for planning pre-trial settlement negotiations, **Appx F**

SETTLEMENT OFFERS

Attorney obligations, § **1:4**

Diversity cases, applicable rules, § **7:9**

SETTLEMENT OFFERS

—Cont'd

Psychology of negotiating,
§ 1:5.50

SHARED GOALS

Client goals, 2:7.50

SHUTTLE DIPLOMACY

Tactics involving other parties,
§ 6:4

SOCIAL INTUITION

Communication, 10:5.50

**SOVIET MISSILE CRISIS IN
CUBA**

Analysis of negotiation, Appx B

**SPORTS CONTRACT
RENEGOTIATION**

Strategy, § 3:15

STATUTES

Civil Justice Reform Act, § 6:7

STRATEGY

Location, 3:2.50

**STRENGTHS AND
WEAKNESSES**

Facing weaknesses in debate,
§ 5:10

SUBROGATION

Liens, subrogation and setting
bottom line, § 9:3A

**TAXABILITY OF
SETTLEMENTS**

Employment discrimination,
§ 11:7A

TECHNOLOGY

Impact on negotiating, 1:5.75

**TIMELY INFORMATION
DISCLOSURE**

Informational tactics, § 4:2

TO NE

Use of threats, 5:14.50

TRAINING

Negotiation as a process, § 1:2

TRANSACTION COSTS

Bluff, 5:13.50

Trust, 4:2.80

TRUST

Candor, 4:2.77

Empathy, 4:2.50

Flattery, 4:2.30

Informational tactics, 4:2.10-
4:2.80

Model Rules of Professional
Conduct, 4:2.75, 4:2.77

Physical contact, 4:2.35

Rapport, 4:2.20-4:2.35

Technology, 4:2.79

Transaction costs, 4:2.80

Video recording negotiations,
4:2.78

UNIFORM MEDIATION ACT
Generally, Appx D

**VIDEO RECORDING
NEGOTIATIONS**

Trust, 4:2.78

WIN/WIN PROPOSALS

Generally, § 5:6, 5:6A

Drafting, § 11:7A

WORKING GUIDELINES

Planning steps, working guide to
following, Appx E