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You're The Coach: Preparing Others to Lead a Negotiating Team

by

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Although no one would disagree that a group of lawyers from your firm working on a merger should be collaborating to negotiate the best possible outcomes for the client, the reality is that the lawyers sometimes fall short. Questions about what issues are in who's bailiwick as well as unclear process rules cause confusion and diminish impact.

Or take the case where a litigation team negotiating a settlement finds itself stepping on each other's toes as more than one attorney tries to take the lead. The result — a conclusion less than what was possible had they been more carefully choreographed.

These situations (and many others) demand that attorneys negotiate effectively as a unified team. But it's not easy for them!

Why? Lawyers, trained to think independently, may find it difficult to accept that sometimes negotiation must be played as a team sport. That's where you come in — to coach the negotiating team leader.

Your charge is to help him/her to understand **why** devoting time to honing team negotiation skills is important as well as to offer specific advice about **how** to do it.

Some suggestions you may want to offer:

1. Pick the negotiating team carefully.

A first impulse will be to enlist people with relevant subject matter/ technical expertise. Necessary but not sufficient. Explain that their selection criteria must also take personality into account. They should:

- *Filter Out the "Butt Kickers".*
If they're concerned about achieving a "win-win" outcome, they have to avoid win-lose people. Win-lose people are easy to spot — they're the ones who fundamentally believe that "winning" means exacting concessions from the other party, regardless of the hard feelings and dysfunctional working relationships that result.
- *Go Beyond the Usual Suspects.*
They should include people with diverse backgrounds - diversity on the team adds value because people see the issues from a variety of perspectives. Diversity also enhances a negotiating team's ability to craft creative proposals.

- *Eliminate the "Wanna Be" Heroes.*
Heroism can manifest itself in many ways in a negotiating team context—none of them good. People who are incapable of listening, those who talk too much or the ones who are constitutionally unable to take direction will cause negotiating disasters. Warn the negotiating team leader not to let them.

2. Invest time to prepare. As tempting as it may be given time constraints to meet briefly and then hope for the best, urge the negotiating team leader to resist. All negotiations benefit from preparation but team negotiations inevitably fail without it.

- *Get Clear About the Plan.*
The team must collaborate on a negotiating strategy. The team leader must be sure that everyone understands (and is on board with) the desired outcome as well as the implications for the client if negotiations fail.
- *Agree On Roles.*
Not everybody can play the lead. The team leader must decide who will orchestrate the negotiation and who'll be part of the supporting cast. Clarity regarding roles minimizes the chance that a well-intentioned team member will feel compelled to over-contribute.
- *Anticipate Pushback.*
The team leader should conduct a brainstorming session to come up with a list of the things they expect the other party to question or object to and determine how the team will handle these. Will the lead negotiator answer these or will she defer to a team member with particular expertise? Although the team won't be able to foresee every possible concern, they'll avoid being blindsided by most of them.

3. Pay attention to process.

- *Put Out Place Cards.*
Not literally but do encourage the team leader to think about who should sit where.
- *Arrange a "Time Out" Signal.*
Rather than relying only on verbal requests for time to regroup, suggest that the team leader recommend an unobtrusive gesture to inform others that a team member wants a sidebar. And, on a related note, propose the team adopt a "reply" protocol — agreeing in advance who'll respond to questions regarding various issues. The benefit to doing so is that the team is ensured that no one will go rogue by agreeing too quickly to something the other party proposes or, conversely, dismiss any ideas out of hand.
- *Appoint a Scribe.*
Documenting agreements is an important part of making negotiated solutions work and even more critical when multiple players are at the table. Suggest that the team leader delegate that task to someone on the team. Of course, he/she will be expected to circulate a draft within the team before it goes to the other party for sign-off.

And finally, counsel the negotiating team leader to use every negotiation as an opportunity to build his/her team's negotiating prowess. Recommend that the team take the time to debrief discussing what worked well and why as well as what they will do the next time to be even more effective.

When negotiating, two heads can better than one and three better than two, but only if the heads nod in unison. Lawyers can be coached to avoid the pitfalls — you can help them. They'll be grateful for the support you've provided.

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