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Legal Negotiation: Theory and Applications

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Comments

This title has been superseded by a 2d edition, 2007.

Abstract

This book presents a comprehensive overview of legal negotiation for law students and lawyers studying their negotiating behavior. The analysis presented often is derived from the research of social scientists, but the book is specifically designed to teach the reader how to negotiate more effectively in the actual practice of law. Examples of specific negotiation techniques are included throughout the text, and theoretical models of social scientists are discussed only when the conclusions derived from them are directly relevant to legal negotiation. At the same time, the book avoids the mundane mechanics of both local negotiation practice and “pop-psychology.” Included within this single book are analysis of both competitive negotiation tactics and more collaborative approaches, such as problem-solving and cooperative tactics. No single negotiation

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strategy works best in all negotiations. Accordingly the lawyer should be able to use a variety of approaches and know when to choose each tactic. Most lawyers not only change their tactics from one negotiation to another, but also use a combination of varying tactics – for example, problem solving and competitive tactics – within a single negotiation. For this reason, this text divides the negotiation process into six components or subprocesses: negotiation planning, initial orientation, initial proposals, information bargaining, narrowing of differences and closure. This organization allows discussion in a single chapter of how the different approaches to negotiation – competitive, cooperative or problem-solving – address varying aspects of the negotiation process. The book focuses on negotiation as client representation. The lawyer’s role as an advocate changes the negotiation process in a number of ways that often are not considered in general negotiation texts written by social scientists and others. This book includes separate chapters on Negotiation Planning and Negotiation Counseling, and the impact of the client is stressed throughout the text.

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