

MAKING THE MOST OF YOUR NATURAL TALENTS

Negotiation Skills For Women Lawyers

Do you freeze up when it is time to negotiate a deal? Would you rather count an alligator's teeth than sit across the table from your adversary and try to settle a case?

Good news: As a woman, you have natural abilities that will allow you to negotiate for what you want. For once, sex-stereotyped behavior is going to work in your favor. (An apology at the outset this article is fraught with sex stereotyping. It is done consciously and at least a bit apprehensively.)

Broadly speaking, negotiating styles fall into two camps: adversarial and cooperative. We are all familiar with the adversarial style. That's the style of car sellers, marketplace hagglers, and grayed lawyers strong-arming their opponents. It is marked by threats and the rapid exchange of numbers, and often produces a winner and a loser.

The cooperative style, on the other hand, focuses on the interests and needs of the two parties to the negotiations and results in a compromise that makes both parties mostly happy. The negotiators communicate their clients' objectives, and the negotiation revolves around finding ways that the objectives of both clients can be achieved. Cooperative negotiating is gaining in popularity, and is well presented in *Getting to Yes* by Roger Fisher and William Ury (Houghton Mifflin, 1981).

Regardless of the style employed, several key skills that you already have will assist you. First, women are generally good listeners. Listening is the most important thing you can do in negotiations. Listen to what the other person says, and identify the messages about what interests underlie his or her position. Listen to what the other person doesn't say, which can often be as important. Is there something that you think is important to the other side that hasn't been expressed? Are silent assumptions being made about the situation at hand? Ask clarifying questions, and try to rephrase the other's position to make sure you have it. Stephen Covey, in his book *The 7 Habits of Highly Effective People*, (Simon & Schuster, 1989), calls this the principle of seeking first to understand, then to be understood.

A caveat on listening: be sure you listen without interrupting. Deborah Tannen (*You Just Don't Understand* (William Morrow and Company, Inc., 1990)) says that women typically interrupt other women with supportive comments and finish each other's sentences in order to build rapport and demonstrate understanding. She says also that men often find such interruptions to be offensive and frustrating. There may be good reasons to interrupt or to finish your opposite number's sentences, but do so with forethought and with knowledge of the reaction it may cause.

Second, women generally are better than men at negotiating without the intrusion of egos. Women understand male (or competitive) egos, and the accompanying needs for recognition, control, and winning. Use this knowledge to your advantage. You can let the other side speak first. Far from conceding power, this actually gives you a leg up because you will know what is important to the other person before you begin your presentation.

Similarly, you can let the other person have the last word. After negotiating several small items with one opposing counsel (an extension of time, where to meet and under what conditions, etc.), I realized that he did not consider a negotiation over until he had had the last word. I used this knowledge in the negotiating the ultimate settlement by giving him a dollar figure that was still a bit above my bottom line. When he then came back with a number that was in accord with my bottom line, I graciously acquiesced.

Complimenting the other side's preparation and refraining from derogatory comments about the other side's positions also play to ego.

When women's own egos are not in the way, they can more readily see points on which they and the other person agree, and make concessions that are necessary to achieve a compromise.

Third, women are more likely to be creative in developing solutions. Rather than focus on traditional or expected outcomes such as cash-for-release, women may suggest apologies, or training for managers, or bringing in a third party to provide some needed services. Such creativity can break deadlocks and focus the discussion on the issues that really matter to the parties.

One final observation about women and negotiations is in order. I have heard women lawyers attribute their discomfort with negotiating to a feeling that they are perceived as weak, or aren't respected in negotiations. Although a full discussion of negotiation techniques is beyond the scope of this article, one fundamental negotiating skill can remedy this perception: preparation. Before you sit down to hammer out a deal with someone, take some time to reflect on your situation and that of the other party.

What does each side want? What does each side have to give? Where are the pressure points for each? What interests does each side have apart from the main deal or settlement that is at hand?

Think, too, about the style of the lawyer representing the other side, and what effects different approaches might have on him or her. Plan ahead for what you are likely to hear from the other side and what your responses should be.

Knowing the facts and law of your situation and as much as possible about the probable course of the negotiations will leave you feeling stronger and more confident. It will allow you to present your client's position forthrightly and unapologetically, and your strength will shine through.