

PRESIDENT'S MESSAGE

RESPECTFULLY SUBMITTED

The Art of Effective Negotiating

By Frank V. Carone

Significant success as a lawyer — or for most any type of professional or businessperson — is often based on your ability to negotiate. Whether it is with lawyers representing clients, entrepreneurs, elected officials, partners in your firm, clients, or just about anyone else, the more adept you are at bargaining the more you will probably accomplish.

While some lawyers are naturally good negotiators with innate grit or have actively developed the thought processes and skills that make them good, many others can become more adept with direction and practice. Also, a large percentage of the very best negotiators will tell you they are constantly refining and improving their abilities.

There are different ways to approach negotiating and much of it is situational, but a few fundamental concepts commonly separate effective negotiators from those that are not. Simply put...

- You need to accomplish your objectives. For example, if you are negotiating on behalf of clients and not getting solid — preferably outstanding — results, then you are not doing a good, let alone great, job of negotiating.
- Somewhat paradoxically, you are doing what you can to help the other side accomplish their objectives. That is, you are looking for ways to make the people you are negotiating with achieve their goals thereby facilitating their success.
- You recognize that by meeting your objectives and addressing your adversary's objective everyone walks away from the table as winners — which is what you are trying to make happen.



President Frank V. Carone, Esq.

Photo courtesy of the Brooklyn Bar Association

Consider business owners who need approval from governmental agencies to move forward with their project. As a lawyer, I am very focused on achieving my client's goal. In addition, I also work very hard during the negotiations, to make sure the applicable governmental agencies or regulator get what they need by deeply understanding important policy objectives. In the end, everyone wins.

This approach is critical for several reasons, one being that helping other people reach their goals, provided you are reaching your goals, is socially beneficial. It also makes tremendous business sense. When you take this approach, and do it well, the likelihood of repeated success over the long term, goes up exponentially.

So, how does this approach work?

It Is All About Their Enlightened Self-Interest

You need to eliminate the word "should" from your vocabulary when you want other people to behave in ways that can benefit you or

you believe can even benefit them. What you think they *should* or *shouldn't* really does not matter. This is usually true in all aspects of life and is especially the case in negotiations.

If you want someone to behave in ways that are supportive of your agenda, they will do so — not because they should — but because you have guided them to see how it is in *their* enlightened self-interest. If you cannot find a way to align your enlightened self-interest with their enlightened self-interest, it is highly unlikely you are going to get very much in the way of support for what you want. Exceptional negotiators are regularly expert at aligning everyone's enlightened self-interest.

Achieving Alignment

The process of aligning the enlightened self-interest of all involved is conceptually very simple. First, you must be very clear about your own enlightened self-interest. A relatively easy way to determine your enlightened self-interests with respect to any negotiation is to be able to answer questions such as these...

- Why are you participating in this negotiation?
- What outcome would satisfy you?
- What results would make you feel you have been extremely successful?
- What terms are absolutely non-negotiable?
- What are your minimum acceptable results?
- What happens if you do not reach a deal?
- How important is your long-term relationship with the other party?

It turns out that the majority of people are able to fairly easily determine their enlightened self-interests. When they do determine their self-interests and are centered on their goals and agenda, they become much more clever and shrewd negotiators, and thereby successful.

Now you must also identify the enlightened self-interest of the other parties. Exceptional negotiators tend to spend a lot of time and effort unearthing what is strongly meaningful to the other parties.

With a little bit of ingenuity, you will usually find meaningful overlap between your enlightened self-interest and that of someone else's. Specifically, even with the most taciturn lawyers or government officials on the other side of the table, I consistently can find signifi-

cant areas where our respective agendas overlap. Doing so, requires a certain amount of creativity and resourcefulness, but it is almost always possible, and everyone finishes the negotiation satisfied with the outcomes.

In a great many negotiations — especially high-stakes negotiations — there might be a great abyss between what you want to accomplish and what the other party is looking to achieve. Still, there are going to be areas of commonality — few initially and more over time. Begin to chip away. It is important to strongly highlight and leverage off all areas of agreement.

It is also often necessary to clearly communicate how taking the actions you advocate will enable the people you are negotiating with to achieve their own goals and objectives — their enlightened self-interest. There have to be aspects of the negotiation that will get them what they want. This might mean, for example, showing them how they will substantially profit by going along with your key terms. Exceptional negotiators prove to be very adept at framing their positions. However, this must be done in the context of other people and their enlightened self-interests, while their own enlightened self-interest is in the background.

So, what do you need to do? Simply put... for every person in every negotiation, ask yourself...

"What is his or her enlightened self-interest in these negotiations?"

"Am I appealing to his or her enlightened self-interest?"

If not...

"How can I align my enlightened self-interest with his or her enlightened self-interest?"

This approach to negotiations is grounded in integrity as well as results, so always remember: credibility is the hallmark and foundation for any negotiation. Therefore, vigilantly guard your credibility, it is your greatest weapon. Also, never forget that despite how unpleasant your negotiation may be, your adversary is your colleague. A lesson I learned very early from the late, legendary friend to many, The Hon. Theodore T. Jones, New York Court of Appeals. Showing respect will go a long way...

Lawyer Referral Service Reaches for the Clouds

By: Daniel R. Antonelli

The Brooklyn Bar Lawyer Referral Service ("LRS") is now online. Through its partnership with Community Lawyer, the LRS is excited to provide its attorneys with the opportunity to manage their referrals completely online. The Brooklyn Bar is the first bar association in New York City, and one of the first in the State, to bring its referral service into the cloud. Luddites fear not—members who prefer the traditional email/fax/paper check method may continue to receive referrals without change. For those who have long been waiting to point and click—fear no more. You can now enjoy the ease and efficiency of online referrals, reporting, and payment.

Functionality

Attorney members will be notified of referrals via email. The email will include a link to the attorney's personal page on the online portal. The portal is the hub where attorneys can view new referrals, submit initial status reports (where members currently enter "phone only," "retained hourly," etc.), update matter status, pay dues and fees, as well as view past referral information.

Again, attorneys who wish to manage their accounts as they have been will be able to continue in the same manner and will not notice any change in service. However, all members are en-

couraged to take advantage of the online portal, which will reduce attorneys' administrative work, increase efficiency, and save money.

Training

You are not on your own. While the Community Lawyer portal is intuitive, tutorials are available in various formats.

To view a walkthrough of the new system, please email Roseann Hiebert at rhiebert@brooklynbar.org, and she will respond with a link to the video tutorial.

Once logged into your account, you can also click the "Help Guide" link to access a searchable library of online articles covering common questions about how to use the portal.

Benefits to the Brooklyn Bar

The LRS has traditionally been a major source of revenue for the Brooklyn Bar. However, changes in the way potential clients find counsel has challenged referral services across the country. Services such as LegalZoom, Avvo, and Google have permanently altered the landscape. Legal help websites directly compete with attorneys; lawyer directories control large portions of the lawyer referral market; and Google has entirely changed the attorney-search game. The number one online search tool for attorneys is Google. Number two is YouTube—owned by Google.

The LRS is adapting to the changing landscape through two primary mechanisms. The first is the newly implemented Community Lawyer software, which is expected to capture more potential clients through an easier, faster, and more efficient user experience. The new management software is also expected to save

staff hours by streamlining LRS management, which will free up time that can be refocused on client retention and fee collection. The second mechanism is robust online marketing including search engine optimization, pay-per-click advertising, and social media. This marketing strategy puts the LRS high in Google search rankings—often on the first page—which secures a significant market share of potential clients seeking Brooklyn attorneys.

Sign Up

Existing LRS members should create an account by following the instructions in the Welcome email they received from Community Lawyer. If no email was received, members should contact LRS Director Roseann Hiebert at rhiebert@brooklynbar.org. Non-members interested in joining the LRS should also reach out to Roseann Hiebert.

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