STRUCTURE OF A NEGOTIATION (AND OTHER HELPFUL TIPS)

Structure of a Negotiation:

1. **Introductions**
   Greet the other side. Shake hands and thank them for meeting with you.

2. **Set an Agenda**
   What issues/concerns/needs do you need and want to address with the opposing side? Here, you are essentially setting out a roadmap for the negotiation. The other side may present its own agenda that differs from yours. Take notes on the agendas that are proposed. Later in the negotiation, you can come back to any issues that have not been addressed or recap all the issues that were covered.

3. **Exchange Information**
   This is your chance to engage in fact-finding and to identify the needs and interests of both parties. Both sides want and need certain things in order to come to an agreement. Know what these are for your client, and ask questions to gather information on the opposing party’s needs and interests. Only after both sides have an understanding of where the true conflict lies between the parties can actual proposed resolutions take place.

4. **Negotiate Proposed Resolutions**
   Here’s where the negotiation really starts to happen. Both sides should begin offering ideas on how the parties can come to an agreement to resolve their issues. As a general rule, NEVER accept an initial proposal offered by an opposing party. Dig into your client’s interests and be sure that the most important things your client needs are addressed. Don’t be afraid to be creative with offering proposed solutions—a proposal doesn’t always just have to be about money or other tangible items. It can also involve intangible offers that allow one party to save face or that address the emotional needs and desires of the parties.

5. **Wrap-Up**
   As the time limit on your negotiation expires, be sure to clearly wrap-up the conversation. If the parties have reached some kind of agreement, write it down and clearly articulate to everyone at the table what terms are included. If no agreement was reached, arrive at a clear stopping point, recap what issues were addressed, and discuss arrangements to meet again at a later time to continue negotiating.

6. **Self-Analysis**
   Once the negotiation is over, each team will leave the room and prepare for a ten-minute self-analysis in front of the judges (each team presents separately). The two questions you will address for the judges during your self-analysis are: (1) If you negotiated this again tomorrow, what would you do the same and what would you do differently? and (2) How well did your strategy work in relation to the outcome?
Other Helpful Tips:

Preparation

Thoroughly analyze the general information and your client’s confidential facts. Know the facts thoroughly so that you don’t get caught uninformed or misinformed in a round.

Know your client’s BATNA. This is the Best Alternative to a Negotiated Agreement. If the parties do not reach an agreement in the negotiation, what alternatives does your client have?

If necessary, value your client’s case so you have some leverage when negotiating dollar amounts. Think about possible proposed resolutions in advance.

Setting an Agenda

Know what specific issues MUST be addressed re your client’s interests. Establish early on that those issues are things your team will address during the round. If the other side presents an agenda, try to merge the two agendas and write down what topics will be covered. You can come back to this common agenda during the round to stay on track.

Helpful questions in agenda-setting: (1) What do you consider the principal issues to be? (2) What are your client’s primary objectives?

Information Sharing

Think about what information you would like to gather from the opposing party. Brainstorm and create a list of questions pointed at obtaining that information. Be thorough in identifying what information you would like to get.

Information you may want to gather about the opposing party includes information about their factual situation, goals, needs, pressures, alternatives, and concerns.

Think about what questions the other side will likely ask you and anticipate how you will share that information.

A few helpful questions in fact-finding: (1) With regard to the facts, how does your client view the situation? (2) Why does your client want X? or Why is X important to your client?
Negotiation Strategies

When evaluating your client’s situation, identify three things:
(1) the thing(s) your client MUST get out of the negotiation
(2) the thing(s) that would be NICE for your client to get out of the negotiation
(3) the thing(s) that your client DOESN’T CARE about getting out of the negotiation

All of your client’s interests, needs, and goals will fall into one of these three categories. Focus on the MUST haves. Bring up issues related to that category early on in the negotiation so that adequate time can be spent addressing them. Don’t focus your time or energy negotiating over things in the other two categories until the MUST haves are dealt with.

Think about what these same things might be for the opposing party.

Go into the round with some idea about what kind of proposed resolutions you’d like to see. Be thorough in thinking about what options and opportunities exist for settlement.

Recognize that you will almost certainly need to give something up to make the negotiation work—both sides should “win” to some extent and neither side should feel “taken.” HINT: The things your client DOESN’T CARE about or that are NICE to have are easier to give up while still getting a good result for your client.

Good times to use the caucus:
(1) if the negotiations have stalemated or the two sides are arguing more than working towards a resolution
(2) once it looks like a deal is starting to come together and you want to run proposed numbers or terms with your teammate

Wrap-Up

Be very clear about what was accomplished during the round. You absolutely MUST write down any agreed-to terms, conditions, monetary payments, etc. Recap the agreement for everyone in the round and make it clear what the next step is.

NOTE: Do not exceed your settlement authority. You can say that you will talk to your client about certain things, but if something is outside your clearly stated (in the facts packet) settlement authority, you cannot agree to it definitively.
If no agreement is reached, be clear about where things stand between the parties and set a specific next step, i.e. “Let’s both talk to our clients and meet again in two weeks to come back to these issues.”

**Self-Analysis**

Self-analysis questions:
1. If you faced a similar situation tomorrow, what would you do the same and what would you do differently?
2. How well did your strategy work in relation to the outcome?

Each team member should cover one of the self-analysis questions. When you go back into the room to do the self-analysis, introduce yourselves to the judges and indicate who will cover which question. Remember that your presentation here is equally as important as it was in the round itself. Maintain good eye contact with the judges, sit or stand up straight, don’t fidget or fiddle with a pen, and speak clearly and directly.

**Scoring**

The judges’ scoring centers on the following:
- negotiation planning;
- flexibility in deviating from your strategy or plan in order to resolve the issue;
- outcome of the session;
- teamwork;
- relationship between the negotiating teams;
- the quality of your self-analysis.