
PREFACE TO THE FOURTH EDITION

Negotiating is a routine part of the professional life of virtually all lawyers, regardless of their area of specialty. With the possible exception of writing, no subject is as important for lawyers to understand thoroughly and practice competently. Since the first edition of this book was published, law school curriculums have adapted to this reality more and more. Most if not all law schools offer a course devoted entirely to the study of negotiation, many schools offer multiple courses, and a few have even developed special programs in the field of negotiation and dispute resolution. This book was written with the goal of providing an in-depth, intellectually rigorous yet practically useful introduction to the study of negotiation for law students, as merited by the importance of negotiation to the practice of law.

The design of the book reflects, of course, my personal views about the study of negotiation. The following four themes, I believe, are reinforced throughout the volume, and give the book its unique character:

First, negotiation is an inherently interdisciplinary subject. The reprinted excerpts, narrative sections, and note material in this book draw heavily on insights from a variety of social sciences (particularly economics, psychology, and sociology), as well as more traditional legal sources like judicial opinions and law review articles.

Second, lawyers and other professional negotiators are best served by developing a thorough understanding of the structure of negotiation rather than merely mastering the execution of a list of tactics. The book attempts first to provide a conceptual framework for understanding negotiation and then consider how tactics that negotiators use and issues that arise at the bargaining table fit into that framework. By leaving the classroom with such a framework, students will have the tools to teach themselves to be successful negotiators throughout their lives as they continually face the need to adapt their skills to new contexts and changing situations.

Third, the basic structure of negotiation is the same regardless of the particular bargaining context. Many of the examples provided in the book come from contexts in which lawyers often find themselves. And some of the concepts covered—that is, challenges and opportunities created by the relationship of a principal party and his agent—are of particular relevance to lawyers, given the context in which they work. Nonetheless, the core concepts taught in the book can be applied to all negotiation situations, not just legal ones. Students should benefit from this approach whatever their career goals. Similarly, although the book was written with law students in mind, it can be successfully used for a course taught to students in other fields. I have used it to teach both M.B.A. and undergraduate courses.

Fourth, the goal of equipping students with the ability to implement what they have learned in their daily personal and professional dealings is best served by the following three pedagogical steps:

1. Communicate intellectually challenging concepts.
2. Reinforce those concepts by challenging students to apply them to new situations and to their life experiences.
3. Provide an opportunity for students to tailor the concepts for their own use in an interactive setting.

Each chapter of the book exposes students to challenging theoretical concepts through a combination of narrative material, excerpts of published books and articles, and note material that further explains and builds on points made in the narrative and excerpted sections. The “Discussion Questions and Problems” that end each chapter provide an opportunity for students to explore and apply the reading material in a class discussion format. Finally, a recommended negotiation simulation (or simulations) accompanies each chapter. These exercises, provided in the teacher’s manual that accompanies this book, were specifically designed to reinforce the concepts emphasized in the relevant chapter.

The structure of the book is unchanged from the last edition, with the chapters divided into five parts, with each part adding a new layer of complexity to the core concepts of the course. The most significant revisions in this edition are to Chapter 10 (in recognition of the significant amount of scholarship on gender differences in negotiation that has been published in the last decade) and to Chapter 14 (to reflect the burgeoning literature in the field of behavioral ethics). More minor updates, additions, and revisions have been made to the other chapters as well.

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As the book moves to its fourth edition, I remain committed to keeping the book short enough in length so that it can be assigned and taught in its entirety in a serious one-semester course, at least if it is offered for three or four units of credit. Only Chapter 3 is longer than about 30 to 35 pages, which I think of as the ideal amount of material to assign for each week of class. I think that professors can very reasonably expect students to read and prepare one chapter each week, even assuming that most will also require students to prepare out-of-class for weekly negotiation simulations (all of which are included in the teacher’s manual available to instructors from the publisher). The book’s design is modular, so instructors can choose to assign the chapters in a different order than the one I have chosen, to better suit their conception of the course without creating undue confusion on the part of students.

As I continue to study and teach negotiation, the list of people who have personally influenced my thinking on the subject and/or who have provided specific feedback or advice on the book continues to grow: the contributions, large and small, of Janet Cooper Alexander, Ian Ayres, David Babbe, Linda Babcock, Max Bazerman, David Binder, Richard Birke, Diane Birnholz, Iris Bohnet, Gabriella Blum, Bob Bordone, Paul Brest, Jennifer Gerarda Brown, Jeff Conner, Rachel Croson, Jeff Dasteel, Joe Doherty, Bob Feldman, Craig Fox, John Fleming, Clark Freshman, Dwight Golann, Don Gifford, Jonathan Greenberg, Chris Guthrie, Art Hinshaw, Chris Honeyman, Ken Klee, Al Korobkin, Grande Lum, Deepak Malhotra, Carrie Menkel-Meadow, Michael Meurer, Bob Mnookin, Michael Moffitt, Woody Mosten, Janice Nadler, Bruce Patton, Jeff Rachlinski, Alan Rau, Len Riskin, Lee Ross, Andrea Schneider, Dan Shapiro, Ed Sherman, Donna Shestowsky, Peter Singer, Cambra Sklarz, Guhan Subramanian, Eric Talley, Amos Tversky, Tom Ulen, John Wade, and Nancy Welsh are gratefully acknowledged, as is the invaluable research assistance provided over the years by Queenie Chen, Paul Foust, Jordan Jeffery, Parker Johnson, Mike LaPlante, Leib Lerner, Andrew Lux, Margaret Lynch, Paul McReynolds, Bo Moon, Gina Nicholls, Nick Palatucci, Sam Pierce, Antonio Spatafore, Jonathon Townsend, Luke Ward, Joe Woodring, and the entire UCLA School of Law library staff.

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