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A practical handbook for negotiation

Monique Hay

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Book review

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***Negotiation: Theory and Techniques* by Nadja Spegel, Bernadette Rogers and Ross Buckley, Butterworths, Sydney, 1998.**

Not surprisingly, this book deals with all aspects of negotiation. The book begins by recognising that a large part of a lawyer's practice involves negotiation. However, until recently, this essential aspect of the practice of law has not been a part of formal training for lawyers. The book aims to remedy this gap by providing a practical manual about negotiation for law students and practitioners. As such, the book is comprehensive, but very easy to read with limited use of jargon.

The focus of the book is on developing skills in negotiation. (It forms part of the Butterworths Skills Series.) The authors have supplied activities and role plays throughout the book to aid development of these skills. The book is very user friendly — all chapters contain a succinct summary of the major points, and the major points are also visually represented in a 'mind map', clearly illustrating the relationship between the concepts (excellent for visual learners).

The book is not only well referenced throughout, but each chapter finishes with a 'Further Reading' list where the authors recommend readers to a large number of other references on the topic of each chapter, establishing the book as a valuable research tool.

The book is logically structured into two halves. The first half deals with the negotiation process, whilst the second half focuses on developing skills used in negotiations.

Chapter one is an overview of the negotiation process and introduces the concepts and subjects that will be covered in the book. The chapter identifies how negotiations arise and the factors which will impact on a negotiation.

The concept of the constructive approach to negotiation is introduced in chapter two. There are many different strategies, such as the adversarial approach or the interest based approach, which can be adopted in a negotiation. The book discusses these strategies in depth. The authors advocate a 'constructive approach', whereby negotiators are skilled in a variety of different strategies and consciously choose their approach in accordance with the specific circumstances of the negotiation. This approach recognises that it is a lawyer's role to secure the best possible deal for their client — and overcomes a mistaken idea that negotiation is a 'soft' process where clients' rights are compromised just to come to a negotiated settlement.

Preparation is of vital importance to the outcome of a negotiation. Chapter three looks at *all* aspects which will impact on the preparation for a negotiation. This chapter actually focuses on how the brain works and how to utilise questioning techniques to enable effective retrieval of information from the brain. This chapter gives some insight into how you, your client and your opposing negotiator may react to various circumstances. This sort of information is rarely found in other books on the same topic yet is really vital to a negotiated outcome. The authors have also set out a comprehensive preparation process which will be useful as a checklist for participants in a negotiation.

Chapter four looks at the process of the negotiation itself; from the opening stage, to the exploration of issues, interests and options, and finally the agreement. This chapter discusses the advantages and disadvantages of various techniques to open the negotiation and looks at dealing with tactics which are sometimes employed to make one party feel

uncomfortable during a negotiation. The book looks at various options to break deadlocks in the negotiation process. The consequences of a negotiated agreement and the factors which should be considered in the agreement document are analysed. The authors also look at the consequences if a negotiation does not end in an agreement.

Dealing with people that are perceived to be difficult is a source of frustration for negotiators. (You know who you are!) In chapter seven, the authors look at the differences between negotiators in terms of behavioural style. The model of behavioural style is called DISC, and looks at types of negotiators in terms of being Directors, Influencers, Stabilisers or Conscientious types. The authors encourage negotiators to look at other people, and themselves, in terms of this model. The authors comprehensively list 'Dos and Don'ts' which will enable negotiators to alter their negotiating style to accommodate the behavioural style of other parties and create an environment conducive to agreement.

Chapter ten points the reader to areas of law which impact on a negotiation, such as the effect of 'without prejudice' communication, and liability for conduct prior to and during the negotiation. As emphasised earlier, there is limited use of legal jargon, and this section is readily accessible by non-lawyers.

The authors also devote several chapters to topics such as strategies to use conflict effectively, ethical issues, communication and the effect of power on a negotiation.

The book focuses on skills a lawyer should adopt to be an effective negotiator. However, the book contains material which is applicable to all negotiations, and is highly recommended, not only to law students and practitioners, but to all readers interested in negotiation. Unlike most other books on negotiation, the book focuses on *all* issues surrounding a negotiation, and not just the tactics to employ when 'playing the game'. ♦

Monique Hay, Solicitor, Minter Ellison, Brisbane.