

## Five Steps to Effective Online Negotiations

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## Five Steps to Effective Online Negotiations

Master Series presented by the Illinois State Bar Association

Live Webcast

Friday, June 18, 2021

1:00 – 3:00 p.m.

2.0 hours MCLE credit, including 2.0\* hours Professional Responsibility MCLE credit in the following category: *Professionalism, Civility, or Legal Ethics credit*

***Marty Latz is one of the most accomplished and persuasive negotiators I know.  
—George Stephanopoulos, Anchor, ABC News Good Morning America***

*Should you negotiate with video or just on the phone? When should you go back-and-forth via email or send a written offer? Why not just do the entire negotiation in person, face-to-face?*

**How you interact in negotiations has a direct and immediate impact on your results.** Yet we tend to engage and make these decisions off-the-cuff. Don't. Instead, take advantage of the experts' proven research to use the most effective strategies and get your best deals. Don't miss this dynamic and fast-paced seminar taught by **Martin Latz**, one of the nation's leading experts and instructors on negotiating techniques, as he helps you better understand:

- What to do and *not* to do – on video, the phone, and in writing;
- How a strategic framework can help you evaluate when to engage in person, on video, or via the phone; and
- How to identify both effective and ineffective strategies and tactics to use in negotiating throughout various online environments.

**FREE Expert Negotiation advice after the seminar ends!** Attendees receive a complimentary e-mail subscription to Martin Latz's monthly negotiation column so you will never stop honing your skills.

### **About the Speaker:**

Renowned negotiation expert **Martin E. Latz**, Founder of the Latz Negotiation, has trained over 100,000 lawyers and business professionals around the world to more effectively negotiate, including in Bangkok, Beijing, Brussels, Hong Kong, London, Prague, Seoul, Shanghai, and Singapore. An Adjunct Professor – Negotiation at Arizona State University College of Law from 1995 to 2005, Latz has also negotiated for the White House nationally and internationally on the White House Advance Teams. Mr. Latz - a Harvard Law *cum laude* graduate – is the author of *Gain the Edge! Negotiating to Get What You Want* and his new bestseller *The Real Trump Deal: An Eye-Opening Look at How He Really Negotiates*. He has also appeared as a negotiation expert on **CBS, CNN, MSNBC** and **FOX** and in many national publications, including *USA Today, Politico, US News & World Report, The Christian Science Monitor, The Economist, South China Morning Post*, and many more. He writes a monthly negotiation column that appeared for many years in *The Arizona Republic* and that now is e-mailed to almost 40,000 readers per month. For more on Latz, visit [www.LATZNegotiation.com](http://www.LATZNegotiation.com).

*\*Professional Responsibility MCLE credit subject to approval*



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# ***THE FIVE STEPS TO EFFECTIVE ONLINE NEGOTIATIONS***

*with Martin E. Latz, Esq.  
Adj. Prof. of Law–Negotiation 1995 - 2005  
Arizona State University College of Law*

Illinois State Bar Association  
Live Webinar – June 18, 2021

## Faculty for this program

*“Marty Latz is one of the most accomplished and persuasive negotiators I know.”*

George Stephanopoulos, Host - ABC's *This Week*

**Martin E. Latz, Esq.**



[www.LATZNegotiation.com](http://www.LATZNegotiation.com)

- **Adjunct Professor of Law for Negotiation, Arizona State University College of Law 1995 - 2005**
- **Founder and CEO, Latz Negotiation, a national training, e-learning and consulting firm**
- **Developed and taught negotiation training programs for over 100,000 lawyers and business professionals around the world since 1995**
- **Negotiated for The White House nationally and internationally on the White House Advance Teams**
- **Appeared as a negotiation expert on CBS, CNN, MSNBC and FOX and has been cited in Politico, CNN.com, The Economist, The Globe and Mail, and many others.**
- **Author, *Gain the Edge! Negotiating to Get What You Want* & *The Real Trump Deal: An Eye-Opening Look at How He Really Negotiates***
- **Negotiation columnist for various newspapers since 1999**
- **Harvard Law School, *cum laude***

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*Presentation Outline*

*for*

***THE FIVE STEPS TO EFFECTIVE  
ONLINE NEGOTIATIONS***

## **CRUCIAL NATURE OF HOW TO NEGOTIATE**

### **A. International Association for Contract and Commercial Management (IACCM)/Center for Negotiation Study found:**

- 95% of negotiators say face-to-face is best BUT
- Up to 70% of negotiations are Virtual/Email
- Only 5% say that all negotiations are sincere
- 41% of negotiations include email
- 38% of negotiations include over the phone
- 21% of negotiations include online/video

## **MARTY V. KELD ONLINE NEGOTIATION**

### **BASIC FACTS OF ARCHITECT HOUSE (BUYER - MARTY) V. DK LOGISTICS (SELLER - KELD)**



Architect House needs a large amount of Italian furniture shipped from Vietnam and delivered to various U.S. locations



Longtime partner DK Logistics bid \$520,000 to deliver Aug. 4



Payment terms in bid: 100% on placement of order

Architect House requested meeting - now online - to address:

- *Price*
- *Time of Delivery*
- *Payment Terms*

## LESSONS LEARNED/TAKEAWAYS

- Lack of Relationship/Trust (despite rhetoric)
- Little information sharing
- No qualified questions or follow up
- Mutual interests and value unsatisfied/missed
- Little to no eye contact
- No visual aids
- Aggressive attitude and tactics
- Unilateral concessions

*Classic zero-sum adversarial negotiation environment and tactics*

## ***FIVE STEPS TO EFFECTIVE ONLINE NEGOTIATIONS***

### **1. Make a *Strategic* Decision**

*Stop negotiating instinctively or intuitively.*

*Start negotiating strategically based on the experts' proven research.*

### **2. Evaluate the Personalized Channels**

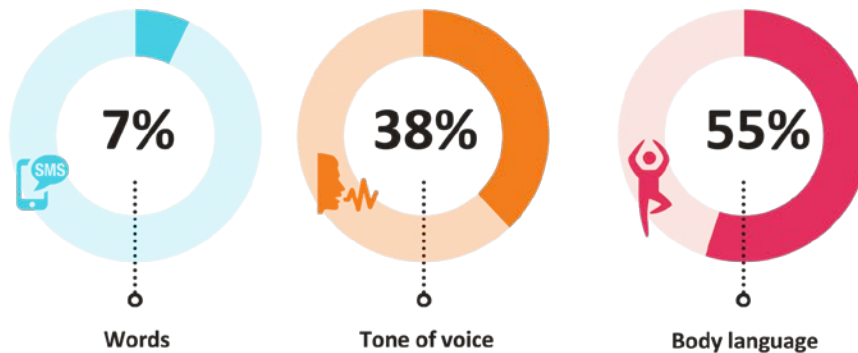
**Spectrum:**

**Most Personal**-----**Least Personal**  
(Face-to-Face) (Through others letters/writing)

### 3. Be Consistent Across the Spectrum

#### a. Mehrabian's Rule of Communication

*Recipients' feelings based on:*



*Disconnect between how you communicate leads to distrust*

#### b. **Research:** *People lie more often by email than face-to-face*

### 4. Set a Mini-Goal for Each Interaction and an Overall Plan (*Video v Phone Negotiations*)

#### a. Video Advantages

- (1) Humanizes counterpart
- (2) Harder to say "No"
- (3) Becoming the Standard - Reason to Decline?

#### b. Video Disadvantages

- (1) Distorted and unnatural feeling
- (2) Increased likelihood of miscommunication
- (3) Unconscious and inauthentic scrambled signals

***When in Doubt - Don't Do Video!***

c. Phone Advantages

- (1) Can handle conflicts
- (2) Efficient and quick
- (3) “In between” tool

d. Phone Disadvantages

- (1) No body language
- (2) Shorter connections
- (3) No visual support

## 5. Prepare to Negotiate the Rules of the Game

*Go through Five Golden Rules in negotiating How to negotiate*

- a. **Information** - find out counterpart’s goals and interests in how to engage and explore options that may satisfy all parties’ interests
- b. **Leverage** - consider Plan Bs if don’t agree
- c. **“Fair” Objective Criteria** - market value (what have similar companies done, precedent (how have the parties negotiated before), costs and efficiency, experts’ recommendations, etc.
- d. **Offer-Concessions** - be prepared to dance a little and concede on points
- e. **Control the Agenda** - with whom, what, where, when, how, etc.

## ***MARTY v. KELD IN PERSON NEGOTIATION***

### **REVIEW OF BASIC FACTS**

#### **ARCHITECT HOUSE (BUYER - MARTY) v. DK LOG. (SELLER - KELD)**



Architect House needs a large amount of Italian furniture shipped from Vietnam and delivered to various U.S. locations



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### **Video Part 1: LESSONS LEARNED/TAKEAWAYS**

- Built relations and created trust
- Shared notes/information
- Eye contact
- Lots of questions
- Rules of the game
- Agenda
- Variables

*Classic problem-solving negotiation environment and tactics*

## **Video Part 2: LESSONS LEARNED/TAKEAWAYS**

- All mutual interests and values discovered
- Honesty
- Open dialogue and sharing of information
- Structured
- Summary

### **SET A MINI-GOAL FOR EACH INTERACTION: *IN PERSON* v *IN WRITING***

#### **1. In Person Negotiations**

##### **a. Advantages**

- *Non-verbal behavior - lower stress for some*
- *Small talk - establish relations*
- *Better understanding*
- *More value identified*
- *No technical hurdles*
- *Lunch*
- *Team more efficient*
- *Visually easier*
- *Humor*

**b. Disadvantages**

- *Travel, cost, time*
- *Don't take time to evaluate*
- *Pressure/stress*
- *Negotiation styles*
- *Missing information*
- *Less structure*

**2. Do's and Don'ts of Video Online Negotiations**

**a. Do's**

- (1) *Take steps to build rapport and relationship based on common personal interests  
(Cialdini's "Liking Principle")*
- (2) *Be MORE transparent and explore MUTUAL interests*
- (3) *Schedule brainstorming to foster creative solutions*
- (4) *Cut some slack on non-verbal signals like eye contact, etc.*

**b. Don'ts**

- (1) *Remove "small talk"*
- (2) *Eliminate the LIVE video*
- (3) *Negotiate on your own - negotiate as a team*

- (4) *Be more relaxed about video than face-to-face*
- (5) *Check emails or texts while in a video negotiation*

### **3. In Writing Negotiations**

#### **a. Advantages**

- (1) *Craft exact message*
- (2) *Greater credibility/impact*
- (3) *Efficiency/cost*
- (4) *Paper trail - less miscommunication likely*

#### **b. Disadvantages**

- (1) *Harder to build rapport*
- (2) *More impersonal*
- (3) *Reduced information sharing re. interests/more positional*
- (4) *Less brainstorming/creativity - possible smaller pie*
- (5) *Easier to say “no”*

### **4. Do's and Don'ts of Specific Writings**

#### **a. *Email Negotiations - Do's***

- (1) *Be strategic and detailed - not sloppy*
- (2) *Manage the timing (when to send)*
- (3) *Support positions with justifications or standards*

- (4) *Include appropriate stakeholders*
- (5) *Consider email body v. attached document*

***b. Email Negotiations - Don'ts***

- (1) *Argue/Be Nasty*
- (2) *Send when upset (“24 Hour Rule”)*
- (3) *Assume counterpart culture*
- (4) *Lie or play credibility games (more lying by email than ...)*

***c. Written Agenda***

***d. Written Leverage***

***e. Written Standards/Benchmarks***

***f. Written Offers/Counteroffers***

***g. Written Agreement***

## **LESSONS LEARNED**

(1)

(2)

## **STRATEGY QUESTIONS?**

**[WWW.EXPERTNEGOTIATOR.COM](http://WWW.EXPERTNEGOTIATOR.COM)**

- ***100+ NEGOTIATION COLUMN LIBRARY***
- ***VIDEO CLIPS***
- ***COMMON QUESTIONS WITH ANSWERS***
- ***BLOG***
- ***MEDIA INTERVIEWS ON RECENT NEGOTIATIONS***

## MARTY'S "PEARLS OF WISDOM"

*For future "Pearls of Wisdom," Latz negotiation column sign-up:*

*[Marty@LatzNegotiation.com](mailto:Marty@LatzNegotiation.com)*

*Appreciate written comments!*

*And learn more with us on:*



[LinkedIn.com/in/MartyLatz](https://www.linkedin.com/in/MartyLatz)



[Facebook.com/Marty.Latz](https://www.facebook.com/Marty.Latz)



[Twitter.com/MartyLatz](https://www.twitter.com/MartyLatz)

***THANK YOU!***

## **SUGGESTED NEGOTIATION READINGS**

LATZ, Martin E., [\*Gain the Edge! Negotiating to Get What You Want\*](#) (St. Martin's Press, 2004)

&

[\*The Real Trump Deal: An Eye-Opening Look at How He Really Negotiates\*](#) (Life Success Press, 2018)

LATZ, Martin E., [\*Email Negotiations Do's and Don'ts\*](#), Latz Negotiation Column, May 2020

LATZ, Martin E., [\*Know How To Proceed When Talks Take a "Write" Turn\*](#), The Business Journal of Phoenix, October 4, 2002.

LATZ, Martin E., [\*Negotiating Online in 2020: Strategies to Get Results\*](#), Latz Negotiation Column, April 2020

LATZ, Martin E. [\*When to Put It In Writing\*](#), Latz Negotiation Blog

LATZ, Martin E., [\*Writing and Anchoring Powerful in Negotiations\*](#), The Arizona Republic, May 4, 2014

LATZ, Martin E., [\*Zoom Negotiations: Benefits & Pitfalls - Part 1\*](#), Latz Negotiation Blog, June 2020

JENSEN, Keld, multiple books at [www.KeldJensen.com](http://www.KeldJensen.com)

CIALDINI, Robert, *Influence: Science and Practice, 4<sup>th</sup> Edition* (Allyn and Bacon, 2001)

DAWSON, Roger, *Secrets of Power Negotiating, 2<sup>nd</sup> Edition* (Career Press, 2001)

FISHER, Roger, William Ury and Bruce Patton, *Getting To Yes: Negotiating Agreement Without Giving In, 2<sup>nd</sup> Edition* (Penguin Books, 1991)

MOVIUS, Hallam and SUSSKIND, Lawrence, *Built To Win* (Harvard Business School Press, May 2009)

URY, William, *Getting Past No: Negotiating Your Way From Confrontation to Cooperation* (Bantam Books, 1991)

LATZ'S 5 GOLDEN RULES OF NEGOTIATION

**RULE 1**  
INFORMATION IS POWER—  
SO GET IT

**Get the Info to Set Your Goals**

- Set and prioritize your goals
- Determine and prioritize your counterpart's goals
- Evaluate the power of relationships

**Practical Tactics for Goal-Setting**

- Brainstorm to set your goals
- Be aggressive and specific
- Tie your goals to realistic standards
- *Expect* to succeed
- Commit in writing

**Develop an Information Bargaining Strategy**

- **Get substantive information**
  - Find facts, issues, opinions
  - Uncover interests, not positions
  - Brainstorm options
- **Get strategic intelligence**
  - Obtain sooner, not later
  - Negotiate with right person
  - Learn counterpart's past tactics

**Ten Information-Gathering Tactics**

1. Leave your ego at the door
2. Be sincere
3. Establish trust
4. List your information needs
5. Do the "big shmooze"
6. Ask questions
7. Use the funnel—open- to closed-ended questions
8. Actively listen and use the "power of silence"
9. Ask "why"—get to interests, not positions.
10. Evaluate and use nonverbals/ body language.

**Prepare Blocking Techniques  
Reevaluate Your Goals**

**RULE 2**  
MAXIMIZE YOUR  
LEVERAGE

**Evaluate Initial Leverage**

- Find each side's need level
- Determine Best Alternative To a Negotiated Agreement (BATNA/Plan B)

**Why?**

- **Tells you when to walk:** Prevents you from making an agreement you should reject
- **Tells you when to sign:** Accept agreement only if it's better than your best likely alternative

**How?**

- **Brainstorm** alternatives to take if you don't/can't reach agreement
- **Convert** better alternatives into practical possibilities
- **Select the best** – and measure other offers against it

**Leverage is Fluid**

**Strike While Leverage is Hot**

**Five Leverage-Enhancing Tactics**

1. Quantify all sides' initial leverage
2. Improve your alternatives and limit their alternatives
3. Tactically share your leverage-related information
4. Communicate your leverage credibly and confidently
  - Be truthful – don't make it up
  - Be detailed
  - Provide independently verifiable alternatives
  - Explain the rationale underlying your best alternative
5. Selectively use risky leverage tactics like walkouts and threats

**RULE 3**  
EMPLOY "FAIR"  
OBJECTIVE CRITERIA

**The Power of Standards and Procedures**

- Creates the perception of independence and objectivity
- The more independent and objective, the more power

**Powerful Standards**

- Market Value Power
- Precedent Power
- Tradition Power
- Expert- and Scientific Judgment Power
- Efficiency Power
- Costs and Profit Power
- Policy Power
- Reciprocity Power
- Status Power: Title and Position
- Professional or Industry Standards Power

**Powerful Procedures**

- One cut, the other choose
- Take turns, draw lots, or flip a coin
- Use an independent third party, e.g., arbitrator or mediator

**Harness the Power by Using These Four Critical Tactics**

1. Find your most powerful standards and procedures *at the start*
2. Research standards and procedures your counterpart previously used
3. Do the "standards dance"
4. Never forget: Leverage trumps objective criteria

**RULE 4**  
DESIGN AN OFFER-  
CONCESSION STRATEGY

**Know Your Offer-Concession Patterns**

- Beware of the premature offer
- The longer you wait, the less eager you appear—timing pattern
- Early concessions include relatively larger moves—the size pattern

**First Offer Issues**

- **Advantages to first offers**
  - Set expectations
  - Elicit genuine reaction
  - Strategic advantages—leverage timing, information
- **Disadvantages to first offers**
  - Lack of information to appropriately set it
  - Other side gains information
  - Bracketing
- **Where to start**
  - First-offer expectations
  - Your original goal
  - Your most aggressive, yet reasonable, independent standard
  - "Room to move" psychology

**Psychological Expectations**

- Play the expectation game

**Offer-Concession Nuts & Bolts**

- Use specific, detailed language, explain the offer's rationale, and tie to standards
- Promote an air of finality and rigidity
- Carefully communicate your priorities and order of issues
- Learn when, how, and under what circumstances to use agents
- To bluff or not to bluff
- Closing strategies

**RULE 5**  
CONTROL THE  
AGENDA

**Prepare a Substantive and Atmospheric Agenda to Start**

- Setting the agenda for short-term negotiations
- Setting the long-term agenda

**Negotiate the Agenda**

**Manage the Deadlines**

- Determine what, if any, deadlines already exist
- Evaluate the deadlines' impact (deadline dynamics: urgency, timing, concession, and organization)
- Decide what type of deadlines you want (short, long, or flexible)
- Take the initiative—and set or negotiate the deadlines  
*Don't let them see you sweat*

**Apply these Agenda Control Tips and Tactics**

- Use the "power of the pen"
- Preview, agree, and focus
- Just do it
- The subtle control
- Control the turf
- To phone or not to phone—consider effect on:
  - Relationship
  - Efficiency
  - Written record