



# **Negotiating the Workplace: Lessons from 23 Years of Employment Law Practice.**

---

**Aaron D. Goldstein**

January 23, 2026

# Your presenter

---



**Aaron D. Goldstein**  
Partner, Seattle  
[Goldstein.Aaron@Dorsey.com](mailto:Goldstein.Aaron@Dorsey.com)

# What is this presentation about?

- **Almost a quarter century as an employment attorney!**
  - Navigating difficult bosses
  - Navigating difficult opposing counsel
  - Watching clients navigate difficult employees
- **What skill has made employers successful?**
- **What skill has made me successful?**

# What is this presentation about?

## In a Word:



# What is this presentation about?

- **“Negotiation” – Merriam Webster:**
  - *to confer with another so as to arrive at the settlement of some matter*
  - *to deal with (some matter or affair that requires ability for its successful handling)*
  - *to arrange for or bring about through conference, discussion, and compromise*
  - *to convert into cash or the equivalent value*
  - *complete or accomplish*

**What is this presentation about?**

**“Negotiation...**

***...is the art of letting someone else  
have your way.”***

**- Chris Voss, paraphrasing Sir David Frost**

**What is this presentation about?**

# **Negotiation**

***Navigating the complex web of human needs, wants, prejudices, and ego, (including one's own), in order to achieve a desired outcome.***

**- Aaron Goldstein (a week ago when putting together this presentation)**

**What is this presentation about?**

# **Negotiation**

- **Need not be manipulation in the pejorative sense.**
  - **We “negotiate” with our kids to get them to eat their vegetables.**
  - **We “negotiate” with our partners and spouses to take that trip we know they will enjoy, but are afraid to take.**
  - **We “negotiate” with our employees who need to up their game if they are going to be successful—at this job or any other.**

**What is this presentation about?**

# **Negotiation**

- **It is only “manipulation” in the negative sense if our desired outcome is at the other person’s expense.**
- **Being strategic about other people’s needs, wants, prejudices, ego and feelings is manipulative if it is at their expense.**
- **It is compassionate if it is for their benefit.**

**What is this presentation about?**

**What does being a good negotiator look like?**



# What is effective negotiation really about?

- **What effective negotiation isn't:**

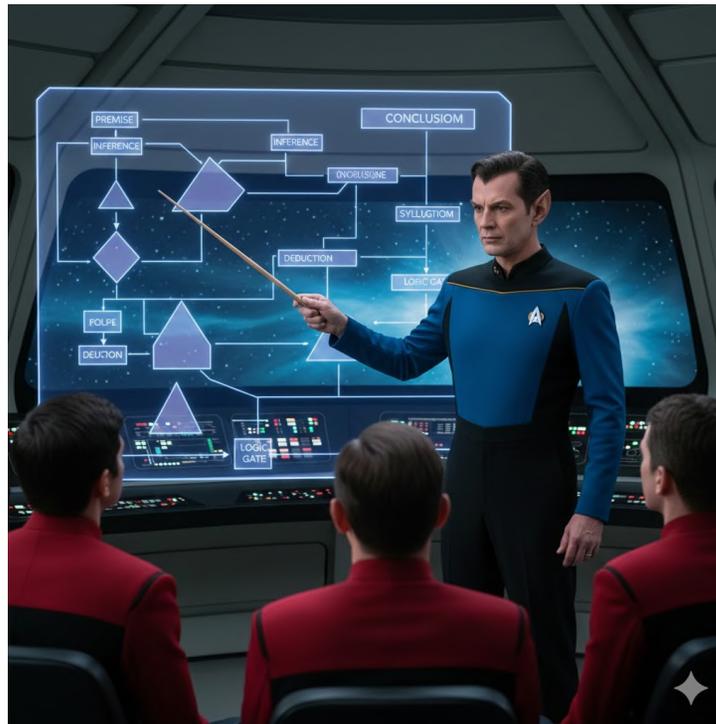


# What is effective negotiation really about?

- **What effective negotiation isn't:**
  - **Yelling, screaming, and intimidation are high risk strategies that very often backfire.**
  - **People aren't afraid to quit their jobs or to sue.**
  - **People who resist intimidation are very likely to demand more.**
  - **Intimidation has become socially unacceptable in the workplace.**

# What is effective negotiation really about?

- What effective negotiation *also* isn't:



# What is effective negotiation really about?

- **What effective negotiation *also* isn't:**
  - People do not operate according to logic and reason.
  - People make decisions based upon emotion and gut instincts.
    - Rider vs. elephant
    - People without emotions cannot make decisions.
  - Convincing people isn't about having the better argument, it is about how you make them feel.
  - People are amazing at rationalization and self-deception.
  - You aren't as rational and well-informed as you think.

# What is effective negotiation really about?

- What effective negotiation *also* isn't:



# What is effective negotiation really about?

- **What effective negotiation *also* isn't:**
  - You can't make everyone happy all of the time.
  - You can't smile and "relationship" your way to consensus.
  - There are bad actors out there acting in bad faith.
  - Sometimes conflict is necessary in order to achieve your goals.
  - If you need them to like you, you are going to rolled.

# What is effective negotiation really about?

- **Building Rapport**
- **Collecting Information**
- **Removing Your Ego From the Equation**
- **Embracing Constructive Conflict**
- **Letting Other People Have Your Way**

# Techniques for Building Rapport

- **Mirroring:**
  - Repeating what the person has said back to them in a way that shows interest.
- **Asking Questions:**
  - Help me understand where you (or your client) are coming from.
- **Labeling:**
  - Repeating back what the person has told you in a way that shows you understand.
- **Preempting:**
  - Explicitly stating the worst things the other person is probably thinking about you.
    - You probably think I’m going to stonewall in discovery, so let me tell you the discovery plan.
- **Looking for “That’s Right”:**
  - “Yes” is ambiguous. “Yes” might be intended to just make you go away.
  - “That’s right” means you’ve made the person feel heard.
- **Embrace “No”:**
  - No = information. If you are calm, it invites the other side to explain.

# Rapport Leads to Information

## Information is Currency

- **Figure out what the other person *really* wants.**
  - They may not say or even know what they really want.
- **At a high level, we all want the same thing.**
  - Validation
  - Control
  - To feel safe
  - To exercise competence
  - To feel like we are important
  - To feel like what we do is important
  - To feel understood
- **Find out how these issues are playing out for this person.**

# Rapport Leads to Information

## Information is Currency

- **Embrace disagreement as the pathway to more information.**
  - Beware the premature “yes.”
  - When you offer a solution and they say “no,” ask questions, mirror, elicit “that’s right.”
- **You might even uncover a “black swan.”**
  - A black swan is hidden information that tips the negotiation completely in your favor.
  - Example:
    - Employee tells you: I just can’t take that high paying promotion I’ve said I’ve always wanted, and I’m quitting.
    - Questions reveal: employee had a fight with spouse over childcare. They plan to move closer to their parents.
    - Solution: Research an excellent nanny and offer a raise that pays for it.

# What kind of negotiator are you?

- **There are three broad categories of negotiators:**
  - **Analysts**
  - **Accommodators**
  - **Assertives**
- **No one is 100% in any of these categories. It's a spectrum.**

- Credit – Chris Voss – Never Split the Difference

# What kind of negotiator are you?

## Analyst

- **Characteristics:**
  - **Methodical and diligent**
  - **NOT in a hurry, very careful**
  - **Need to understand all of the details**
  - **Need reciprocity—from a logical perspective**
    - **If I gave something, I should logically get something back**
  - **Less emotional**
  - **Silence means they are thinking, not that they are mad**

# What kind of negotiator are you?

## Analyst

- **Weaknesses/Challenges**

- Can come off as cold and standoffish
- Discount the value of relationship building (“but it is in your interest to do this”)
- Discount the importance of emotions
  - They can fail to see how their own emotions are affecting them and skewing their logic
- Can get frustrated by Assertive types’ big hurry

- **If you are an Analyst**

- Accept that emotions are at least as important as facts (and read *The Righteous Mind* by Jonathan Haidt)
- Be aware of your own emotions
- Be aware that your silence may not come off as thoughtfulness

# What kind of negotiator are you?

## Accommodator

- **Characteristics**
  - Optimistic and relationship oriented
  - Maintaining a good relationship is a goal in itself (maybe the primary goal)
  - Love to communicate and exchange information
  - Always looking for the win-win
  - Easy to disagree with
  - Great at engaging with others' emotions/needs

# What kind of negotiator are you?

## Accommodator

- **Weaknesses/Challenges**

- Hard to know what they really think.
- May over-compromise to preserve the relationship.
- Conflict avoidant.
- May get rolled by or blow up at assertive types.
- “Yes” may not mean yes (will quietly back out of an agreement).

- **If you are an Accommodator**

- Keep building those relationships, but don't be held hostage.
- Get more comfortable with conflict/criticism – for others' sake, not just your own.
  - You aren't doing your subordinate's any favors by holding back constructive criticism.
- Don't allow Assertives to scare you or make you angry.
- If you can keep from getting upset, your higher EQ is an advantage.
  - You can let the Assertive have your way.

# What kind of negotiator are you?

## Assertive

- **Characteristics**
  - In a hurry and hate to waste time
  - Candid, aggressive style
  - View silence as an opportunity to speak more
  - Values being respected
  - Sees negotiation as a competition to win (zero-sum thinking)

# What kind of negotiator are you?

## Assertive

- **Weaknesses/Challenges**

- Can come across as, or actually veer into, bullying.
- Can come across as rude, harsh, or overly blunt.
- Can be impatient.
- Can be controlled by their ego.

- **If you are an Assertive**

- Take a breath and slow down!
- Don't let your ego let you get manipulated.
- Leave room for other people's ideas and perspectives.
- Keep being direct and temper that directness with compassion.

# Dealing With Each Type

- **Analysts in the workplace:**
  - Will speak up with facts and logical deductions.
  - May be uncomfortable with or just ignore emotional perspectives.
    - Analyst's direct report: "I feel undervalued."
    - Analyst: "We assessed your contributions across 7 categories and your compensation reflects these contributions. This is all in line with how all of your peers are assessed and compensated."
    - Analyst's direct report "Ok." (Thinking: I just would like the occasional thanks...)
  - Good at documenting performance issues and discussing them in objective terms.
  - Bad at getting at why someone is performing poorly and helping them improve, unless it relates to resources or skills.

# Dealing With Each Type

- **My experience negotiating with Analyst lawyers:**
  - They come at you well prepared with a lot of case law, facts, and logical arguments.
  - They respond well to the same. You better do your homework.
  - They're human, so you can appeal to their ego, and you can still make them angry.
  - They like to take a long time to negotiate.
- **Translation to the workplace:**
  - If you are managing an Analyst, come prepared and don't get irritated by their preparation.
  - If you are an Assertive manager, don't let yourself feel undermined or disrespected by their well-prepared arguments.
  - If you are an Accommodator, don't think you can just smile, hug, and "relationship" your way past their arguments. Do your homework.
  - Analyst employees respond well to Analyst strategies, with a solid side helping of Accommodator.

# Dealing With Each Type

- **Accommodators in the workplace:**
  - Great at building relationships with people acting in good faith.
  - Can get rolled by bad actors (assumes too much positive intent).
  - Great at picking up on and addressing what is holding well-intentioned employees back.
  - Bad at giving direct critical feedback. Bad at pushing ill-intentioned people out.
  - Wants to make sure everyone is heard and feels valued.
  - Bad at moving meetings along and keeping people on the agenda.

# Dealing With Each Type

- **My experience negotiating with Accommodator lawyers:**
  - They come at you with charm and apparent kindness (sometimes flattery).
  - They respond well to the same. Don't skip the relationship building.
  - They can sometimes miss details.
  - They can be conflict avoidant, which causes them to fail or refuse to address points of disagreement.
  - This puts problems off to the future, where they may become worse.
- **Translation to the workplace:**
  - If you are managing an Accommodator, make sure they feel personally invested in (you should be doing this with everyone).
  - Thank them for their work, temper criticism with re-affirmation of investment in their success.
  - You are going to need to draw out points of conflict. If they don't like something you are doing, they will be hesitant to tell you.
  - You are going to have to work to make them feel safe to give you critical feedback, which is very important.

# Dealing With Each Type

- **Assertive types in the workplace**
  - **Great with clarity and directness – you know where you stand with an assertive boss.**
  - **Bad at seeing and addressing others' emotional reality.**
  - **Good at keeping meetings moving along... unless they have a lot to say.**
  - **Bad at making sure everyone feels heard.**
  - **Terrible at drawing out the valuable opinions of less assertive types.**
  - **May be bad at documentation due to a lack of patience (“just do what I say!”).**
  - **Unafraid to give critical feedback.**

# Dealing With Each Type

- **My experience negotiating with Assertive lawyers:**
  - They come at you with aggression and will try to establish dominance.
  - Responding with the same ends in a pissing match.
  - Responding with facts and logic will be met with more table pounding.
  - Instead, respond with a relaxed “let me hear you out” style.
  - They love to feel in charge, and are the easiest of the three to “let have your way.”
- **Translation to the workplace:**
  - If you are managing an Aggressive type, you have to balance hearing them out with establishing that you are in charge. Aggressive types respect strength.
  - Don’t act threatened when they assert themselves. Hear them out. Thank them for their input. And let them know that the decision is yours.
  - If you are managing an Aggressive type who thinks *they* should really be in charge, you’ll probably need to have a showdown where they either accept that you are the boss, or they leave.
  - You may also have to reign in an Aggressive type’s tendency to put themselves in charge of peers. You don’t want them shutting down Accommodators or bowling over Analysts.

# General Tips

- **Litigation is much more “zero sum” than the workplace.**
  - Usually, it’s about how much money one side has to pay the other.
  - But even in litigation, there are opportunities for a “win-win”.
    - Or at least a “lose less-win,” which often means controlling attorney fees.
  - Squeaky floor case.
- **In the workplace, there are many more opportunities for everyone to win by aligning interests.**
- **But the same stew of needs, wants, prejudices, ego and, most of all, feelings applies.**

# Break up the zero-sum dynamic.

- **Zero sum = split the pie**
  - There is one pie. Whatever you get is a loss for me and vice versa.
  - Society's narrative is all zero sum today.
    - What management doesn't have to pay its employees; it gets to keep for itself. And management is only out for itself.
    - Get what you can when you can because no one else is looking out for you.
- **Cooperation = grow the pie**
  - What can I do to help you grow the pie? What can you do to help me grow the pie?
  - I do better when you do better.
- **Be mindful of your own zero-sum perspective.**
- **Help those you manage move past a zero-sum perspective.**

# Break up the zero-sum dynamic.

**What this zero-sum dynamic looks like in the workplace:**

- **Employee:**
  - What management doesn't pay me, it keeps for itself.
  - If my teammate gets the promotion, I missed out on one.
  - If leadership goes with my colleague's suggestion instead of mine, I've lost prestige.
- **Manager/Management:**
  - Whatever I pay my employees is money I don't make.
  - If I do this for one person, I'll have to do it for everyone.
    - Not taking into account individual circumstances.

# Break up the zero-sum dynamic.

- **Explain your interests and show where they line up with the other person's interest.**
  - **If I don't make you do a bunch of meaningless legal work, you can offer my client a better deal.**
  - **If I'm flexible with scheduling discovery and litigation dates, you can reciprocate.**
  - **If you are selling more, the company makes more money, and under our pay structure, so do you!**
  - **If we have a generous vacation policy, it allows you to recharge your batteries and to do your best work.**
  - **If you are undermining your co-workers, you might make more money than they do, but we'll all end up making less than we could if we cooperated.**

# Reciprocity

- **The opposite of a zero-sum mentality is a reciprocity mentality.**
- **Humans are hard-wired for reciprocity.**
  - When someone does you a good turn, they feel obligated to return the favor.
  - This is what made humans successful as a species. We cooperate.
- **In litigation, even small kindnesses for opposing counsel (extensions on filing deadlines, cooperation in discovery) can keep costs down.**
- **In the workplace, employees feel obligated to work harder for employers who invest in their success.**
- **How do you move towards a reciprocity mentality?**

# Trust

- **Trust allows you to overcome the sense of vulnerability that keeps you in a zero-sum mind set.**
- **Some people are zero-sum because they are cruel or narcissistic.**
  - They enjoy other's suffering, or they only value their own wellbeing.
- **But most who act in a zero-sum manner are scared.**
  - What if I look like an idiot or weak in front of my client?
  - What if my manager throws me under the bus for our group's underperformance?
- **Trust is what lets you move past that fear towards cooperation.**

# There are three kinds of trust.

- 1) Predictability: I can predict the other person's behavior.**
  - Does not require any faith in the other person's honesty or motives.
  - Requires a *lot* of information, experience with the other person, and confidence.
- 2) Transparency: honesty and full disclosure.**
  - The other person is telling me all of the pertinent facts/not hiding anything material.
  - May not be enough if you don't trust the other person's judgment.
- 3) Competent Benevolence: the belief that the other person will effectively work towards your interests.**
  - The other person won't intentionally do things to harm me and is competent enough not to make a lot of mistakes.
  - Allows for trust without complete information or the ability to predict behavior.
  - You rarely get this in litigation.
    - Exception – mediation involving a vulnerable plaintiff.

# There are three kinds of trust.

- **When people talk about trust, they often mean the first or second kind. The third kind is the most effective.**
  - **The first kind of trust is fragile.**
    - They need me now, but may not in the future.
  - **The second kind isn't always possible. Businesses cannot be fully transparent.**
    - Upcoming sale of the business? You cannot tell the employees.
    - New product release? You cannot tell the employees.
    - ADA accommodations for a particular employee based upon hidden disabilities? You cannot tell the other employees.
  - **With enough investment and time, employees can trust their employers to look out for them...**
    - ...but our society's narrative pushes in the opposite direction.
    - Employer as "the man." Examples in the media.
    - A great example of this kind of trust is what Costco has achieved.
  - **This brings us to Goldstein's Law:**

# Goldstein's Law

## The Most Important Rule

**Demonstrate commitment to your employees' success!**

- **This is the third and best kind of trust.**
- **If your policies and communications show that you want your employees to succeed and that you are invested in them, it will be a lot harder to convince a fact finder that you acted with malicious intent.**
- **Perhaps more importantly, when your employees believe that you have their best interests at heart, they will give you the benefit of the doubt, which is priceless!**

# They're probably not crazy.

- **One of the most challenging things in a negotiation is when the other side acts in a way that doesn't make any sense to you.**
  - Why would this employee turn down this raise to work for that competitor?
  - Why would this employee sue over this meritless claim?
  - Why would this employee post this embarrassing story online?
- **This almost never means they're crazy. It means you don't understand.**
  - The employee might feel like they can be more effective at another job, even if they like everyone at their current job and would make more money if they stayed.
  - The employee might feel like a lawsuit is the only way to be heard.
  - The employee might crave attention more than they fear embarrassment.
- **Until you understand what is motivating the person, you won't know how to respond.**

# When they act “crazy,” how are you communicating?

- **If you act upset, you are going to make the other person more upset.**
- **If the other person is upset and you are calm, you will calm the other person down.**
- **What does your body language say?**
  - Are you frowning?
  - Are your arms crossed?
  - Are you looking away, checking your phone?

# How are you communicating?

- **I used to find it very hard to stay calm when the other person is very angry and upset.**
- **Now I understand that such moments are an opportunity to gather information and build rapport.**
- **Example 1:**
  - **Attorney suddenly dug in on a tough position after previously being flexible.**
  - **I surmised that the attorney was getting unreasonable pressure from their team, and asked if that was the case with compassion. I then asked how I could help.**
  - **All of the anger went away, and we worked together to move past the impasse.**

# How are you communicating?

- **Example 2:**

- **Attorney, who had previously been very reasonable, aggressively threatened a meritless suit.**
- **I surmised that the plaintiff was giving the attorney a very hard time. I calmly explained how I thought the case would unfold.**
  - **The plaintiff would lose, opposing counsel would waste a lot of time and have an unpleasant experience, and my firm would make a lot of money.**
- **I calmly weathered the angry response and said I didn't want that outcome either.**
- **I sympathized with opposing counsel's position and asked how we could work together to avoid the outcome.**
- **We managed to avoid the lawsuit.**

# How are you communicating?

- **Neither example would have worked if I had acted upset in response.**
  - Expressing compassion in response to the other person's frustration diffused the situation.
- **Neither example would have worked if I hadn't built rapport and trust.**
  - From early on, I made reasonable concessions that didn't hurt my case.
  - I admitted obvious weaknesses in my case early on and built credibility.
  - I also tried to get to know the other attorney.
- **Neither example would have worked if I had been a jerk at any point earlier.**

# Q & A





Verstela is recognized by SHRM to offer Professional Development Credits (PDCs) for SHRM-CP® or SHRM-SCP® recertification activities.

# SHRM Recertification Credit

**Activity:** 26-279HX

**Title:** *Negotiating the Workplace: Real World Lessons in Navigating Emotion, Risk and Resolution*

**Date:** January 23, 2026

**Professional Development Credits:** 1.0



# HRCI Recertification Credit

This Program, ID No. **730154**, has been approved for 1.00 HR (General) recertification credit hours toward aPHR™, aPHRi™, PHR®, PHRca®, SPHR®, GPHR®, PHRi™ and SPHRi™ recertification through HR Certification Institute® (HRCI®).

# HR HOTSPOT

Presented by Verstela

Explore more of our  
HR webinar content!





**Aaron D. Goldstein**

Partner

Dorsey & Whitney LLP

Seattle, Washington

Goldstein.Aaron@Dorsey.com

(206) 903-5434

Aaron brings over two decades of experience to companies' quirkiest, thorniest, and most complex employment issues. Aaron also works with companies to develop policies and practices that are engines for business growth and that reflect the culture and values of the companies he represents. When Aaron's clients are faced with litigation, he aggressively pushes their cases forward to an efficient resolution.

Aaron advises businesses and provides litigation expertise on all employment related matters, from trade secret disputes and non-competition agreements to discrimination and harassment claims, under Oregon, Washington, and federal law. Aaron represents clients before the Oregon Bureau of Labor and Industries, the Washington Human Rights Commission, the Washington Department of Labor and Industries, and the federal Equal Employment Opportunity Commission.

Aaron represents companies in a wide variety of industries including, banking, financial services, computer software, semiconductor fabrication, retail, and medical supplies.

# Legal Notice

**This presentation is intended for general information purposes only and should not be construed as legal advice or legal opinions on any specific facts or circumstances. An attorney-client relationship is not created through this presentation.**

# Building Teams

- **Assessing the combinations**
  - **Analyst/Analyst**
    - Going to get along great. It's going to be a slow, careful discussion, but that's ok!
    - Both parties will focus on the facts and maximizing their own rational interest.
    - If that means cooperating, great. If it means not cooperating, it's not personal.
  - **Analyst/Accommodator**
    - Likely won't be a lot of friction.
    - Accommodator may agree, then back out because they tried to make the analyst happy.
    - Analyst might get manipulated by the Accommodator who has a higher EQ.
    - Accommodator might get hurt by Analyst's failure to acknowledge feelings.

# Building Teams

- **Assessing the combinations**
  - **Analyst/Assertive**
    - Assertive is going to get frustrated by Analyst's slow deliberate pace.
    - Analyst is going to dig in because Assertive is pushing too hard.
    - Assertive might be angered by Analyst's challenging with facts and logic ("lack of respect").
    - Analyst might retreat to a reflexive "no" in response to pressure.
  - **Accommodator/Accommodator**
    - Zero friction and likely to get along on a personal level.
    - Might paper over disagreements—reach an illusory agreement.
    - Might spend the whole time chatting and not get anything done.

# Building Teams

- **Assessing the combinations**
  - **Accommodator/Assertive**
    - Accommodator might “yes” the Assertive to get them to go away.
    - Accommodator might play the Assertive by being more tuned in to the Assertive’s ego.
    - Assertive might run over the Accommodator.
  - **Assertive/Assertive**
    - Could go well or very poorly – mutual respect versus two betas in a fishtank.
    - Will understand and appreciate the other’s directness.
    - Both might insist on “winning.”

RECERTIFICATION  
**PROVIDER**



**2026**  
HRCI.ORG

# HRCI Recertification Credit

This Program, ID No. **730154**, has been approved for 1.00 HR (General) recertification credit hours toward aPHR™, aPHRi™, PHR®, PHRca®, SPHR®, GPHR®, PHRi™ and SPHRi™ recertification through HR Certification Institute® (HRCI®).



Verstela is recognized by SHRM to offer Professional Development Credits (PDCs) for SHRM-CP® or SHRM-SCP® recertification activities.

# SHRM Recertification Credit

**Activity:** 26-279HX

**Title:** *Negotiating the Workplace: Real World Lessons in Navigating Emotion, Risk and Resolution*

**Date:** January 23, 2026

**Professional Development Credits:** 1.0

# HR HOTSPOT

Presented by Verstela

Explore more of our  
HR webinar content!

