11.011 The Art and Science of Negotiation
Spring 2006

Problem Set #1 – Part 1

Due Session 9

In this problem set you will prepare for and analyze your performance in a negotiation case called *Patriot National Insurance versus Byrnes, Byrnes, and Townsend*. Part 1 of the assignment takes you through the preparation phase. You will receive the remainder of the assignment once you've completed the negotiation.

Patriot vs. BB&T is a complex case focusing on settlement negotiations for a personal injury claim against an insurance company. The case is derived from an actual situation. In the case, the plaintiff Barbara Torey (the BB&T client) has brought suit against Adler Auto (a Patriot client) alleging that a proximate cause of the automobile accident in which she was injured was faulty repairs on her car by Adler. The case contains common information about the law, the accident, injuries, witnesses, etc. and confidential information. You will represent one party (Patriot or BB&T) in this case and negotiate with a representative of the other party. You have full authority to settle the case at any amount that you consider acceptable.

This memo takes you through preparation for the negotiation. You may supplement or elaborate the steps as you deem appropriate, but you will need to prepare the information described below for class on Monday. You should note these on the attached sheet and be ready to hand it in when you come to class. To prepare for Monday you should:

1. *Assess your BATNA and set a reservation price.* The BATNA in this case is shared—going to court. You have a lot of information about the legal case. You will have to summarize this in some way to evaluate your BATNA and set a reservation price. We discussed decision trees in class as one way to evaluate an option like a going to court. This is not a course in decision analysis, so I'm not expecting you to construct elaborate trees or conduct sensitivity analysis. Use a tree (or another form of analysis) for what it is good for: helping you differentiate between what information is essential and what is superfluous and in assessing the impact on the outcome in the terms that are important to you. You will have to make simplifying assumptions and, in . It will probably be most useful if you start with qualitative statements about probability such as "*very likely*," "*likely*," or "*not bloody likely*,' and then assign rough quantitative probabilities. For instance you may decide that "*very likely*" means 85% or 90% certain. It is difficult to assign exact probabilities in many cases anyway, so just try to be clear and sensible.. Since you don't have the legal background to do a detailed case or jury assessment of the case (or at least I assume you don't) stick to the big factors and document the choices and assumptions you make, your rationale, and their implications for your analysis. You may also want to take contextual factors such as the uncertainty in your assessment, your client's interests, and your or your client's attitudes toward risk into account in translating the case evaluation into a reservation price.

2. *Estimate your counterpart's reservation price and construct an initial model of the ZOPA.* Follow the format we've discussed in class. Again weigh the facts of the case and contextual factors in making your assessment.
3. *Set an aspiration value and determine what your opening offer or demand will be.* Also estimate these values for your counterpart.
4. Compose a paragraph that a) identifies what you think are the important factors in the case, b) describes your negotiation strategy, and c) assesses (on a scale of 1-10) what you think your bargaining power is in this situation.

Please record this information on the attached sheet and bring it to class with you on Monday.

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Prep sheet for Patriot vs. Byrnes, Byrnes, and Townsend

Name _____   Role _____   Group Number _____

1. My reservation price is _____.

2. My best estimate of my counterpart's reservation price is:

3. My best estimate of the ZOPA going in is (sketch below):

4. My aspiration value for the negotiation is _____.

5. My initial offer/demand will be _____.

6. My estimates of my counterpart's aspiration and intial offer/demand are:

      Aspiration   _____

      Initial   _____

7. My assessment of my bargaining power on a scale of 1-10 is _____. (attach paragraph on key factors and strategy)

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Problem Set #1 – Part 2

Due Session 9

Your assignment is to analyze the preparation and negotiation stages of *Patriot vs. BB&T*. Based on class discussions we have had to this point you should analyze your own preparation and look at how it played out in the negotiation. In the end you should be able to give a clear account of why you got one deal rather than another and what the implications of this experience are for future negotiations.

1. Summarize your preparation for the negotiation, focusing initially on the values you prepared. Then look back at your preparation through the lens of your experience in the negotiation. What shaped your analysis? Why did you focus on some information? Did you omit or screen out other information? How you interpret the information that was available in the case? How did this shape your expectations and how did your expectations shape your actions? Did you prepare differently than your counterpart did? How would you account for any differences? For example, did your role (representing insurance agency vs. attorney for private client) influence the way you and your counterpart looked at the "facts" of the case?

2. Analyze how the preparation translated into the negotiation. Did the size and location of the ZOPA match your expectations? Did you revise your estimates in the course of negotiation? What were you responding to if and when you did? Did you revise any of the values (reservation price, aspiration . . .) you committed to in preparing during the negotiation? What tactics did you and your counterpart employ? How did these tactics shape your respective perceptions and expectations? What worked and what didn't in this negotiation? Did tactics work in the way they were intended to? What surprised you? Explain why you reached the agreement you did (including no agreement) rather than others that were possible.

3. Situate your negotiation in the results you have from the class. How would you analyze your preparation and tactics against the full set of counterparts in the class? What does this tell you about your estimates and about the relationship between opening demands/offers, aspirations, and reservation prices? What does the information you have on your classmates' negotiation help you understand about the dynamics and outcome in your case?

4. Finally, what advice would you derive from this experience about how to prepare for and negotiate in similar cases in the future?