

The Kalon Law Firm, LLC
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The Kalon ADR Center. Create Value, Not Conflict.

THE LUMINIS: INSIGHTS FROM THE KALON ADR CENTER

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3 More Ways to Get Better Results in Mediation

Once you understand the big negotiation concepts of creating value through interest based negotiation (not position based) and BATNAs, you can best realize your strategy of creating value through using certain tactics.

Here are three tactics to create value for your client in a mediation:

1. Anchor

Anchoring is a tactic of establishing expectations. If you are negotiating over a settlement value, you set expectations on value by making an early demand or offer that is just outside the ballpark of the value of the case. A first demand of \$300,000 on a case you value at \$100,000 is anchoring.

There is a disadvantage to anchoring first - you show your hand to your opponent, who now suspects your \$300,000 demand means you will settle for \$100,000.

Accordingly, you have an advantage if you go second, setting an anchor in reply to your opponent.

A defendant may, in reply to a \$300,000 demand, anchor with \$15,000, signaling a \$50,000 settlement value.

2. Make Incrementally Smaller Moves

If you demand \$300,000 and get a \$15,000 offer, don't move to \$295,000, then \$250,000,

then \$100,000 (Incrementally bigger moves of \$5,000, \$45,000, and \$50,000).

Instead, each move should be incrementally smaller (such as \$250,000, \$220,000, \$200,000; which are moves of \$50,000, \$30,000, and \$20,000).

Incrementally smaller moves further signal where you are willing to settle the case, but without showing your hand.

3. Make a Big, Conditional Move

Almost always, after anchoring and incrementally smaller moves, the parties will run out of room, with the plaintiff at, say, \$175,000, and the defendant at, say, \$40,000.

This is the time for a big conditional move, where the plaintiff could say, "I will move to \$140,000 (a \$35,000 move) if the defendant moves to \$70,000 (a \$30,000 move).

The conditional move allows you to move out of the corner you were painting with incrementally smaller moves and get to your settlement value. Otherwise, your negotiation collapses.

I hope these three tactics will help you get better results.

Want to Set Up a Mediation With Us?

If you have a case that you are unable to resolve, we can help you reach an agreement with your opponent, create value for your client, and close your case, avoiding the expense, time, and uncertainty of trial (a resolution method of last resort). We use Doodle to conveniently set up hearing dates and can set dates within a forty-five day window.

If you need a date immediately, we will work with you to make it happen.

Contact Christopher P. Kriesen at Ckriesen@kalonlawfirm.com

The Kalon ADR Center gives 10% of its revenue to a fund for graduates of the Hartford Youth Scholars to help further their education needs.

THE PEOPLE OF THE KALON ADR CENTER



Attorney Kriesen is the founder and principal of Kalon. He has been practicing law as a trial and appellate lawyer for over twenty-years. He completed Harvard Law School's Advanced Mediation Workshop at the Program on Negotiation. He serves as an Attorney Trial Referee, Factfinder, and Arbitrator at the Hartford Superior Court. He completed an eight-class, one-year program at the Stanford GSB. He holds a Juris Doctor from The University of Connecticut School of Law.



Demetra Turi is a member of Kalon's founding team. She manages business operations at The Kalon Law Firm. Prior to joining the firm, she gained more than 27 years of experience at an insurance defense firm in Hartford. Her many roles there included legal assistant, IT manager, bookkeeper, and billing manager.

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