



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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### **One Essential Concept Many Mediators Fail to Offer**

A core principle I learned at Harvard Law School's Advanced Mediation Workshop is negotiating based on interests, not positions. This is the idea in the seminal book, "Getting to Yes."

Most lawyers make the fundamental mistake of negotiating from positions, never realizing they should be seeking to create value by negotiating for their clients' interests.

For example, if, as a defendant, your client is exposed to punitive damages, your client's interest is a settlement covered by his insurance policy. His interest is not a settlement for the smallest sum possible, a position that risks a failed settlement and a trial, where he might be hit with a punitive award.

Seeking to create value based on your client's interests is a fundamental element of a skilled attorney's approach to negotiation. But, since lawyers are taught to negotiate positions, not interests, they often miss opportunities to create real value for their clients.

This is the essential concept that many mediators miss:

### **Helping the Parties Realize What Value They Can Create**

An excellent mediator will help the parties realize what their real interests are and then guide them to a resolution that serves those interests. That is why I tell parties mediation is an opportunity to create value they cannot create at trial.

Interest based negotiation is also why I tell parties, "If our process is correct, we will reach a

resolution that all parties feel is fair and meets your best interests.”

To reach an interest based resolution, I carefully prepare for the mediation, reviewing the submitted papers, and at the mediation, speak in private sessions with each party to learn their interests.

I never go straight to demands and offers, which is position based negotiation. To do so means parties miss the opportunity to create value based on their real interests.

I hope these ideas 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](mailto: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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