



Strategic Negotiation Identifying and Responding to Tactics



What is a Tactic?

- An intentional technique
- Designed to manipulate your expectations and/or psychological and physical well-being
- May create a physical response which causes less strategic thinking
- May cause you to negotiate in a less strategic way
- Which can be diffused if understood and rationally addressed



Filters

- Culture
- Gender
- Family
- Negotiation style
- Education and training
- Mood
- History
- Prior relationship
- Type of law practice



Before the Negotiation

“Plowing the Field”

- **Pre-condition demands - won't negotiate without concessions (process or substance)**
- **Location and environment**
- **Not returning calls, messages, letters**



Starting the Negotiation

“So You Think You Can Dance?”

- **Single text document**
- **Final offer -fait accompli**
- **Extreme opening offer**



“Catch Me If You Can!”

- **Misleading concession pattern**
- **Red herring** - false, highly distracting issue
- **Shifting and distracting** -question with a question, ignoring
- **Answer unresponsively** - vague
- **Promise to provide** - then divert



“Zorro” - Behind the Mask

■ **Masking intentions**

Bluffing (calculated incompetence)

Predictions (claims about future)

Claims (if repeated and not explored - then becomes fact)

Disinformation (technically true, but misleading)

Unilateral concessions vs.. offer/counteroffer



Getting the Deal

“It’s Not Over Until I Say It’s Over”

- **Escalation** - raising demands, adding conditions
- **Nibble** - late hit, add on
- **Salami** - concession slices, series of small demands, ends up big
- **Backtracking**



Dealing with Tactics

Pre-emptive / pro-active actions

- Control environment
- Prepare for process as well as substance
 - Research other negotiator
 - Know your own “hot spots”
- Establish process guidelines
- Reflect calm and confidence



Dealing with Tactics

Tactic first?

- Remember that it creates a competitive environment so choose wisely
- Have a reason – not a style
- Be prepared for the response



Responding to Tactics

- Identify that a tactic is being played
- Label the tactic
- Strategically respond to the tactic
 - Ignore them
 - Counter the tactic
 - Use humor
 - Negotiate on process