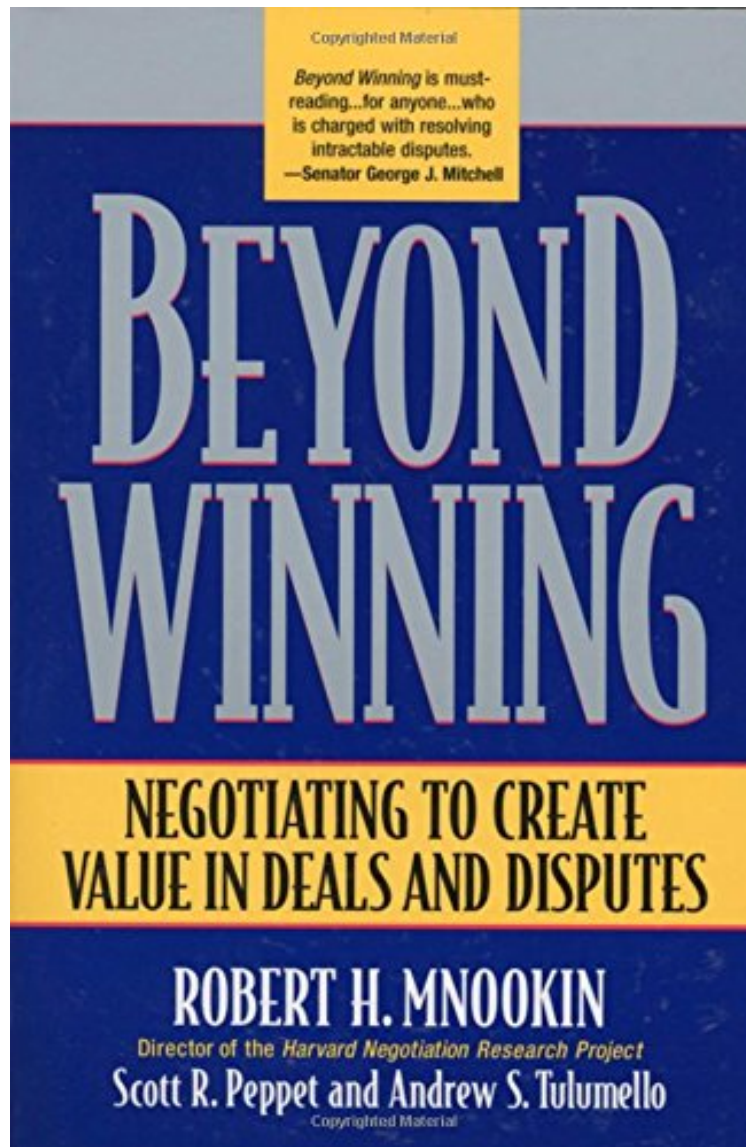


(Library ebook) Beyond Winning: Negotiating to Create Value in Deals and Disputes

Beyond Winning: Negotiating to Create Value in Deals and Disputes

Robert H. Mnookin, Scott R. Peppet, Andrew S. Tulumello
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Robert H. Mnookin, Scott R. Peppet, Andrew S. Tulumello : Beyond Winning: Negotiating to Create Value in Deals and Disputes before purchasing it in order to gage whether or not it would be worth my time, and all praised Beyond Winning: Negotiating to Create Value in Deals and Disputes:

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Conflict is inevitable, in both deals and disputes. Yet when clients call in the lawyers to haggle over who gets how much of the pie, traditional hard-bargaining tactics can lead to ruin. Too often, deals blow up, cases don't settle, relationships fall apart, justice is delayed. *Beyond Winning* charts a way out of our current crisis of confidence in the legal system. It offers a fresh look at negotiation, aimed at helping lawyers turn disputes into deals, and deals into better deals, through practical, tough-minded problem-solving techniques. In this step-by-step guide to conflict resolution, the authors describe the many obstacles that can derail a legal negotiation, both behind the bargaining table with one's own client and across the table with the other side. They offer clear, candid advice about ways lawyers can search for beneficial trades, enlarge the scope of interests, improve communication, minimize transaction costs, and leave both sides better off than before. But lawyers cannot do the job alone. People who hire lawyers must help change the game from conflict to collaboration. The entrepreneur structuring a joint venture, the plaintiff embroiled in a civil suit, the CEO negotiating an employment contract, the real estate developer concerned with environmental hazards, the parent considering a custody battle—clients who understand the pressures and incentives a lawyer faces can work more effectively within the legal system to promote their own best interests. Attorneys exhausted by the trench warfare of cases that drag on for years will find here a positive, proven approach to revitalizing their profession.

From Publishers Weekly Observing that today's tough, adversarial legal negotiations preempt mutually beneficial problem solving between parties, Mnookin (director of the Harvard Negotiation Research Project and a professor at Harvard Law School) and his coauthors urge lawyers to adopt a proactive, optimistic and realistic mindset to transform their practices. Though they are careful to acknowledge the difficulty of changing from the standard gladiatorial stance, Mnookin, Peppet and Tulumello present compelling examples of the advantages that such a change can bring in divorce cases, sales of existing companies, real estate deals and contract negotiations. Their comparison of litigation-gone-bad (e.g., the *Buchwald v. Paramount Pictures* lawsuit that benefited neither party) with more positive approaches (e.g., the problem-solving mode used in the once-nasty Digital Equipment Corp. patent infringement dispute with Intel) argues for serious consideration of their techniques. For those still resistant to giving up their Road Warrior ways, the authors provide tables of strategies with "Limiting Assumptions" contrasted with "More Helpful Assumptions" that dare even the most pigheaded to ignore common sense. Although Mnookin, Peppet and Tulumello have consciously aimed the book at attorneys who want to serve clients' broader needs better as well as to protect their interests, the authors' practical, straightforward and jargon-free style makes this a valuable resource for anybody who is about to hire an attorney, file a lawsuit or sign a contract. (Oct.) Copyright 2000 Reed Business Information, Inc. From Booklist Mnookin heads the Harvard Negotiation Research Project; both of his coauthors have been project research fellows. Conventional negotiating strategy often requires adversarial positions, but the authors propose viewing negotiating as a problem-solving task. They target lawyers (and, by extension, those who hire lawyers) who "feel sickened by the trench warfare and exhausted by cases that drag on" when opposing battle lines are drawn. They explain that creating value is the key to successful negotiating. The goal should not be to win the biggest piece of the pie but to make the pie bigger! The authors show how negotiation requires balancing three sets of tensions: those between winning and "making the pie bigger," between empathy and assertiveness, and between principals and agents. They suggest that lawyers are uniquely positioned to create value when resolving disputes and making deals. A major portion of the book is devoted to illustrating concrete problem-solving techniques, and the authors conclude with a consideration of the professional and ethical dilemmas posed by legal negotiations. David Rouse Copyright American Library Association. All rights reserved With its lively examples and its innovative framework for managing the tensions intrinsic to any negotiation, *Beyond Winning* is must reading for lawmakers as well as lawyers for anyone, in fact, who is charged with resolving intractable disputes and forging lasting agreements. (Senator George Mitchell) Much negotiation literature suffers from one of two problems. Either it is too theoretical to be of use to practitioners or it is simplistic, purporting to give advice to negotiators in cookbook form. *Beyond Winning* captures the most important theoretical economic and social science material and uses vivid examples to demonstrate techniques for using theoretical insights in practice. The mini-case histories and transcripts of portions of negotiations that appear throughout the book are especially valuable ways both to illustrate theory and to provide practical guidance for its application. (Carol B. Liebman, Columbia Law School) The authors provide specific, concrete strategies lawyers and their clients can employ to mitigate the tensions that make legal negotiation so difficult. They integrate theory and practice in ways that do justice to the complexity of each. (Jennifer Girarda Brown, Quinnipiac College School of

Law) On the cutting edge of negotiation literature, *Beyond Winning* is a spectacular integration of our contemporary understanding of negotiation, modern social science, and the legal context. This is an excellent book and is sure to become a must-read for lawyers, law students, and executives who deal with the legal process on a regular basis. (Max Bazerman, Harvard Business School) Observing that today's tough, adversarial legal negotiations preempt mutually beneficial problem solving between parties, Mnookin and his coauthors urge lawyers to adopt a proactive, optimistic and realistic mindset to transform their practices [Although] aimed at attorneys who want to serve clients' broader needs better as well as to protect their interests, the authors' practical, straightforward and jargon-free style makes this a valuable resource for anybody who is about to hire an attorney, file a lawsuit or sign a contract. (Publishers Weekly) Conventional negotiating strategy often requires adversarial positions, but the authors propose viewing negotiating as a problem-solving task. They explain that creating value is the key to successful negotiating. The goal should not be to win the biggest piece of the pie but to make the pie bigger! (David Rouse Booklist) [*Beyond Winning*] rallies all of the [Harvard Negotiation Research Project's] prior gems of wisdom on negotiation around the central theme of creating value. [The book] should be required reading for all lawyers and law students, for all mediators and judges. It is a book that every lawyer should ask his or her client to read (or reread) prior to commencing any important transaction or dispute, negotiation or mediation. Crafted in a reader-friendly style, the book energetically promotes an interdisciplinary approach to problem-solving in negotiation. In contrast to other experts' advice to be reactive initially in a negotiation, the authors here encourage a proactive, 'take charge' approach to engaging negotiators across the table in problem-solving. This approach is not initially directed to the substance of the dispute or transaction, but rather to the nature and structure of the negotiation process that the parties might together design. This is a book for everyone who negotiates a universe that includes all of us. Inevitably, it will move lawyers into a new paradigm of thinking about higher-quality solutions in negotiation and mediation, and about how to achieve the best possible results for their clients. It is bound to change the world of negotiation in this new millennium. (John W. Cooley ABA Journal 2000-11-02) The practice of law has become more contentious and competitive, not less. The authors of [*Beyond Winning*] advocate that parties [instead] practice 'value creation' (i.e., the attempt to 'enlarge the pie') so that both parties to a negotiation receive bigger returns. The book does an excellent job of breaking down relationships, players, tensions and organizations to lay bare the inner-workings of the actors in a negotiation and the situations they create. Because of its unique objective of educating attorneys and clients, *Beyond Winning* is a good addition to any library on negotiation. (William J. Estes New York Law Journal 2000-11-28)