

Seeking Negotiation's Cutting Edge

Even lawyers like me who hate to negotiate will benefit from reading Phoenix lawyer Martin E. Latz's *Gain The Edge! Negotiating To Get What You Want*. Indeed, it is those of us who hate to negotiate who stand to benefit the most from Latz's organized and systematic approach to "making the deal."

My aversion to careful and patient negotiation started in law school, when I became acquainted with a negotiation technique called Boulwarism, developed by General Electric's Lemuel Boulware. Rather than engage in give-and-take negotiation with labor unions over wages, benefits and working conditions, Boulware would make an opening offer intended to be "firm but fair" and subject to little if any give and take. Boulwarism fell into disuse after 1969 when the Second Circuit held that those who used the technique were not bargaining in good faith.

With Boulwarism in disrepute, even lawyers like me—trying to find a principled way to get to "yes" in a hurry—have resigned themselves to learning something about negotiation. Latz's book is just what I needed.

Roger Fisher's and William Ury's *Getting To Yes* (1981) was an early effort at approaching negotiation as a skill to be learned by lawyers, although that book is not specifically directed to lawyers. Neither is Latz's book, but the strategies and tactics suggested by him are applicable to any lawyer who negotiates—which means any lawyer. Latz learned his first lessons about negotiation from Fisher at Harvard Law School, where Latz was a student in the early 1990s. He learned his lessons well.

Though all books on negotiation (and there are many of them) are measured by *Getting To Yes*, Latz's book soon may be recognized as having the edge in this genre of how-to books.

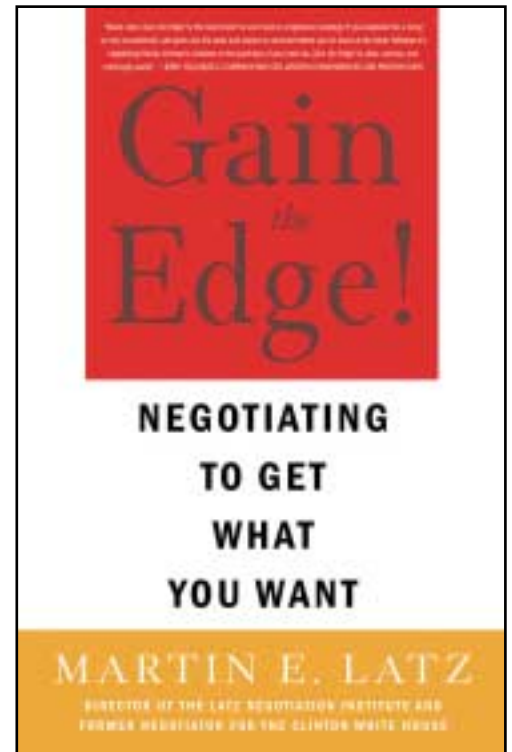
This book is well organized, well written and has just the right number of stories

and scenarios to illustrate the major points. And the author does make a number of major points, all stated clearly and supported by subsidiary points. The book is organized around Latz's five Golden Rules of Negotiation: (1) Information Is Power—So Get It; (2) Maximize Your Leverage; (3) Employ "Fair" Objective Criteria; (4) Design an Offer-Concession Strategy; and (5) Control the Agenda.

Latz's rules are unremarkable as generalizations; the gold is in the details. For example, even novices know that knowledge is power. Slightly less obvious is the difference between substantive information (e.g., fundamental interests and underlying positions of the opposite party) and strategic information (e.g., the opposite party's past tactics). Considerably less obvious are Latz's information-gathering tactics, such as strategically sharing information, using the power of silence at key moments and the importance of gathering information through open-ended questions as early in the process as possible.

After explaining how a good negotiator should gather information, the author demonstrates how a good negotiator can block her counterpart from getting *her* strategic information. Reminding his readers never to lie in a negotiation, Latz suggests various blocking techniques to avoid answering a difficult question, such as changing the subject, answering a different question or responding with your own question—somewhat like a politician trying to escape a trap—unless all else fails.

I find these techniques somewhat problematic. Few of these techniques will be effective with an experienced negotiator and even less so with one who has given the book even a casual read. Why not just proceed directly to Latz's final blocking



Gain The Edge! Negotiating To Get What You Want

by Martin E. Latz

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technique and say, "I'm not prepared to share that information with you" when your counterpart asks for information that you do not want to share? Your counterpart will respect you, and you will avoid misunderstandings.

Those who read *Gain the Edge* will surely be better prepared to negotiate—whether over settlement of a lawsuit, a complex purchase agreement or even one's own salary—than those who have not. The problem, of course, is that many of your counterparts likely will have read the book by the time you are ready to try out Latz's techniques. Though you may not have an edge over someone who has read the book, your counterpart will decidedly have the edge if she has and you have not. ▀

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