

MASTERING THE ART OF NEGOTIATION: BOOK REVIEWS

Make no mistake, mediation is a negotiation! Mastering negotiation and mediation requires a nuanced understanding of human behavior, strategy, and communication—an understanding that is deepened by the combined insights of three important negotiation books: **Getting to Yes**, **Start with No**, and **Never Split the Difference**. **Getting to Yes** (first published in 1981 by Roger Fisher and William Ury) provides the foundational framework of principled negotiation, emphasizing mutual interests, objective criteria, and the separation of people from the problem. **Getting to Yes** provides skills essential for collaborative resolutions and long-term relationship preservation. It teaches practitioners and mediators to focus on why each side wants what they want, enabling attorneys and mediators to reframe positions into shared goals and workable solutions. **Getting to Yes** also encourages practitioners to focus on party interests in lieu of positions to achieve a better understanding of the obstacles to resolution. **Getting to Yes** also suggests that participants discuss and review carefully their **BATNA** (Best Alternative To a Negotiated Agreement) in order to understand fully a proposed resolution. In contrast, **Start with No** (first published in 2002 by Jim Camp) challenges the conventional wisdom of agreement-seeking by encouraging negotiators to embrace conflict, preserve emotional distance, and remain outcome-independent. In **Start with No**, Jim Camp's methodology empowers participants and attorneys to control the negotiation process by staying anchored to mission and vision rather than emotional reactions or arbitrary compromise. In **Start with No**, Jim Camp suggests that having a clear vision of outcome make participants more resistant to manipulation or pressure. Interestingly, by starting with a "No" and why, parties are better able to explore how to get to a "Yes". Finally, in **Never Split the Difference** (first published in 2016 by Chris Voss), Chris Voss introduces tactical empathy and calibrated questioning from the world of high-stakes hostage negotiations and how those techniques apply equally to civil dispute resolution as well. In **Never Split the Difference**, Chris Voss shows how active listening, emotional labeling, and "mirroring" can disarm resistance and uncover hidden leverage. Chris Voss's techniques equip negotiators with tools to build trust rapidly, influence without force, and extract critical information that often remains beneath the surface in traditional approaches. Together, these three perspectives form a comprehensive, adaptive strategy: **Fisher and Ury** lay the groundwork for principled resolution, **Camp** fortifies internal control and clarity of purpose, and **Voss** unlocks the subtle emotional dynamics that tip the balance in high-pressure scenarios adaptive strategy. Practitioners that understand the differences in these techniques and when to use them elevate their ability to mediate disputes, close deals, and create durable agreements under even the most difficult circumstances. For more information or to schedule a CLE with Professor Clement to discuss these techniques in more detail, please contact Perry Dampf Dispute Solutions.



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