

Negotiation Strategy Checklist

From: Travis J. Martin - How to Fight Corporations and Win

Winning Negotiations: From First Offer to Final Resolution

Use this checklist to prepare for and execute effective negotiations with corporations.

Pre-Negotiation Preparation

Know Your Numbers

Your Position:

- Actual damages: \$ _____
- Time invested (hours): _____
- Expenses incurred: \$ _____
- Total economic loss: \$ _____

Your Target:

- Ideal outcome: \$ _____
- Acceptable outcome: \$ _____
- Walk-away point: \$ _____

Their Position:

- What they' ve offered: \$ _____
- Estimated cost to them if you escalate:
\$ _____

- **Their likely settlement range:** \$ _____

Know Your Leverage

Your Strengths:

- Strong documentation
- Clear policy/law violation
- Similar cases/precedents in your favor
- Regulatory complaint filed or ready to file
- Media interest or public relations risk
- Class action potential
- Other: _____

Their Weaknesses:

- Pattern of similar complaints
- Recent negative publicity
- Regulatory scrutiny
- Clear violation of their own policies
- Financial pressure
- Other: _____

Your Weaknesses:

- Gaps in documentation
- Partial responsibility for issue
- Unclear terms/policies
- Time constraints
- Limited resources for escalation
- Other: _____

Their Strengths:

- Arbitration clause limiting your options

- Deep pockets for legal defense
 - Ambiguous policies
 - Your partial fault
 - Other: _____
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First Contact Negotiation

When They Make the First Offer

Their Offer: \$ _____

Your Response Strategy:

- Don' t accept immediately** (even if it' s good)
- Don' t reject immediately** (keep door open)
- Ask for time to consider** (24-48 hours)
- Ask them to put it in writing**
- Ask clarifying questions**

Questions to Ask:

1. “Can you explain how you arrived at this amount?”
2. “Does this include [specific item]?”
3. “What is the timeline for payment/resolution?”
4. “Will this require me to sign a release? Can I see it?”
5. “Is this your best offer, or is there room for adjustment?”

Your Response: _____

When You Make the First Offer

Your Opening Demand: \$ _____

(Should be higher than your target to leave negotiation room)

Justification:

1. _____
2. _____
3. _____

Supporting Evidence:

- Attached documentation
 - Reference to policy/law
 - Comparison to similar cases
 - Calculation breakdown
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Negotiation Tactics

Effective Techniques

Anchoring:

- Start high (but reasonable) to set the range
- Justify your number with facts
- Make them negotiate up from your floor, not down from their ceiling

Silence:

- After stating your position, stop talking
- Let them fill the silence
- Don't negotiate against yourself

Incremental Concessions:

- Make small concessions slowly
- Get something in return for each concession
- Signal you're reaching your limit

Time Pressure:

- Set deadlines for responses

- Reference upcoming regulatory filings
- Mention other options you're pursuing

Good Cop/Bad Cop (if negotiating with a partner):

- One person is reasonable
- Other person is skeptical/harder to please
- Creates pressure to satisfy the "good cop"

Phrases That Work

- ✓ "I appreciate the offer, but based on [evidence], I believe \$X is more appropriate."
- ✓ "I'm willing to be reasonable, but I need you to meet me halfway."
- ✓ "If we can't reach an agreement, I'll have no choice but to [escalate action]."
- ✓ "I'm not trying to be difficult, but I need to be made whole."
- ✓ "What can you do to make this right?"
- ✓ "I understand you have constraints, but so do I."

Phrases to Avoid

- ✗ "I'll take anything at this point."
 - ✗ "I'm desperate to resolve this."
 - ✗ "I can't afford to fight this."
 - ✗ "This is ruining my life."
 - ✗ "I'll sue you!" (empty threats)
 - ✗ "You're all crooks/idiots/etc." (personal attacks)
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Evaluating Offers

The Offer Evaluation Matrix

Offer Amount: \$ _____

Compared to Your Numbers:

- Ideal outcome: ___% of target
- Acceptable outcome: ___% of target
- Walk-away point: Above/Below threshold

Non-Monetary Terms:

- Timeline acceptable?
- Release terms reasonable?
- Confidentiality required?
- Admission of fault included?
- Future protection included?

Total Value:

- Cash: \$ _____
- Credits/refunds: \$ _____
- Services: \$ _____
- Other: \$ _____
- **Total:** \$ _____

Decision:

- Accept
 - Counter-offer
 - Reject and escalate
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Counter-Offer Strategy

When to Counter

- Their offer is below your acceptable range
- Terms are unacceptable (even if amount is close)
- You have strong leverage they haven't acknowledged
- You're confident you can get more

How to Counter

Your Counter-Offer: \$ _____

Justification: “While I appreciate your offer of [their amount], I must respectfully counter with [your amount] because:

1. _____
2. _____
3. _____

I believe this is fair and reasonable given [evidence/precedent].”

Concessions You're Willing to Make:

1. _____
2. _____

What You Want in Return:

1. _____
 2. _____
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Settlement Terms Checklist

Before You Accept Any Offer

Payment Terms:

- Amount is clearly stated
- Payment method specified (check, wire, credit, etc.)
- Timeline for payment (immediate, 30 days, etc.)
- Consequences if they don't pay on time

Release & Waiver:

- You understand what rights you're giving up
- Release is limited to this specific issue
- You're not waiving future claims for different issues
- You're comfortable with the scope

Confidentiality:

- You understand what you can/can't discuss
- Exceptions for legal/tax purposes
- Penalties for breach are reasonable
- You can live with the restrictions

Non-Disparagement:

- Mutual (they can't badmouth you either)
- Allows truthful statements
- Doesn't prevent regulatory complaints
- Doesn't prevent honest reviews

Other Terms:

- No admission of liability (if that matters to you)
- Account/service restoration (if applicable)

- Credit report correction (if applicable)
 - Future protection (if applicable)
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Getting It in Writing

Settlement Agreement Essentials

Must Include:

- Names and contact info for both parties
- Specific amount and payment terms
- What the payment is for (brief description)
- Release language (what claims are resolved)
- Signatures and dates
- Effective date

Should Include:

- Confidentiality terms (if agreed)
- Non-disparagement (if agreed)
- Governing law and jurisdiction
- Entire agreement clause
- Severability clause

Red Flags:

-  Overly broad release (releasing claims you don't even know about)
 -  One-sided confidentiality (only you are silenced)
 -  Unreasonable penalties for breach
 -  Waiver of right to file regulatory complaints
 -  Admission of fault on your part (unless true and necessary)
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When to Walk Away

Signs You Should Reject and Escalate

- Offer is insultingly low with no room to negotiate
- They're acting in bad faith (lying, stalling, etc.)
- Terms are unacceptable (overly broad release, etc.)
- You have strong leverage they're ignoring
- Principle matters more than money
- You have time and resources to escalate
- Similar cases have resulted in better outcomes

Your Walk-Away Statement:

“I appreciate your time, but I cannot accept this offer. I will be pursuing [specific next steps: regulatory complaint, arbitration, small claims, etc.]. I remain open to a reasonable settlement if you reconsider.”

Closing the Deal

Final Steps

1. Review the written agreement carefully

- Read every word
- Understand every clause
- Ask questions about anything unclear

2. Consider legal review (for large settlements)

- Consult an attorney if amount is significant
- Understand tax implications

3. Sign and return

- Keep a copy for your records
- Note the date you signed
- Track when they should pay

4. Verify payment

- Confirm payment received
- Verify amount is correct
- Ensure check clears or wire settles

5. Close your file

- Withdraw any regulatory complaints (if required)
- Update your records
- Archive all documentation



Post-Negotiation Analysis

What Worked

Successful Tactics:

1. _____
2. _____
3. _____

Key Leverage Points:

1. _____
2. _____

What Didn't Work

Ineffective Tactics:

1. _____

2. _____

Missed Opportunities:

1. _____

2. _____

Lessons Learned

For Next Time:

1. _____

2. _____

3. _____



Pro Tips

Psychology of Corporate Negotiations

Remember:

- They want to minimize cost and risk
- They respond to credible threats, not empty ones
- They prefer quick, quiet resolutions
- They' re negotiating with a budget/authority limit
- The person you' re talking to may not be the decision-maker

Use This to Your Advantage:

- Be organized and professional (signals you' re serious)
- Reference similar cases and precedents
- Mention regulatory complaints and public exposure
- Be willing to walk away (shows you have options)
- Make it easy for them to say yes (reasonable demands)

Common Mistakes to Avoid

- ✗ Accepting the first offer without negotiating
 - ✗ Revealing your walk-away point too early
 - ✗ Getting emotional or personal
 - ✗ Negotiating against yourself (lowering your demand without a counter)
 - ✗ Ignoring non-monetary terms
 - ✗ Signing without reading carefully
 - ✗ Failing to get it in writing
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Remember: Negotiation is not about winning or losing. It's about reaching a fair resolution that makes you whole.

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