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# EXECUTIVE SEMINAR NEGOTIATION

## Teaching Note

The *Executive Seminar* and *Sally Soprano*<sup>1</sup> classes are substantively identical in their teaching points; they differ only in the roleplay they use. *Executive Seminar* is a “Sally clone” in that it, like *Sally*, is a negotiation of a contract that is presented as a one-time hire of a presenter/performer but has possibilities for a significant future relationship. Each class folder includes, in addition to the teaching materials, two short videos that show experienced lawyers bargaining the same case, with the same instructions, but using different styles and strategies.

The teaching points include:

- The fact that the performer, and to a lesser degree the organization, have a poor BATNA does not prevent either or both of them from negotiating a good deal if they use good techniques.
- Each roleplay includes multiple principles/standards that either side can cite. The principles do not dictate any particular outcome, but they are valuable in establishing a “range of reasonableness” and in avoiding confrontations that risk being triggered by positional strategies.
- Each party in these roleplays has strong interests which, if identified and exploited, can make the outcome much more valuable and decrease the importance of money terms in the deal. Both performers are more concerned with advancing their careers than with the amount they are paid for this engagement, and for both organizations, the money paid to the performer is much less significant than putting on a good program. The situation presents multiple opportunities to advance the performer's career and benefit the organization.

If students are asked to negotiate without preparation, many will arrive quickly at a simple monetary agreement such as \$10,000 in this case. But if students go through confidential preparation sessions in which the teacher asks the bargainers for each side to think about not only money offers but also alternatives, principles, and interests relevant to them and the other side, the effect is to “prime” them. Students prepared in this way are much more likely to come back with deals with significant interest-based terms. Copies of prep sheets for each side are included in this simulation folder.

If there is no priming, teachers can challenge pairs who quickly bring back a pure-money deal to use the remaining time to look for ways to embellish their deal by looking for non-monetary terms that make at least one side better off and neither side worse off. I note that in return for such a term one side may be willing to pay a little more or accept a little less than the pure money deal they have negotiated, and that they can always fall back on their first deal if other terms are not feasible.

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<sup>1</sup> Sally Soprano is a well-known and widely used negotiation simulation published by the Program on Negotiation at Harvard Law School. Many teachers and students in this field began with Sally, at least back in the day.



Students challenged in this way often come back with enhanced agreements with interest-based terms.

If a pair finishes quickly and already has an interest-based deal they can be asked to use the remaining time to privately debrief each other. I ask them to give each other feedback, both good and bad, but to make it as specific as possible ("Telling the other person they were great, or bad, isn't helpful...Both praise and criticism are welcome as long as they are specific: 'when you said X, I thought/felt..."). I tell them especially to take the opportunity to obtain information that in real negotiations the other bargainer would never disclose ("When I offered X, what did you think" "When you said Y I thought....was I right about that?")

Students are extremely interested in watching videos to see what professionals do, working with the same confidential instructions they had. Videos for Executive Seminar and Sally Soprano are available at [adrvideos.org](http://adrvideos.org). (Password is `adrteacher123`.) In *Executive Seminar*, the full negotiation video shows two bargainers with sharply differing styles: the Associate Dean uses a cooperative approach, while Williams' agent is quite competitive. In the second video, two lawyers who had reached a straight money deal (\$10,000) are challenged to see if they can come up with interest-based terms and negotiate a contingency arrangement and other soft terms.

For *Sally Soprano*, there is also an initial video showing two younger lawyers who negotiate competitively and each a contingency deal. A second video shows a pair of older attorneys, a white male and a black female, who use a friendlier, softer approach to work out a more complex deal that involves a continuing relationship. I ask students whether they can tell which pair are litigators and which are transactional lawyers—they always guess correctly, making the point that lawyers in different settings often bargain quite differently.



## Professor Golann's Debriefing Outline for Executive Seminar

### Questions re Executive Seminar

#### Leverage

**Q: To Williams agents: What do you think was the University's alternative to the agreement?**

- Junior fac at 2.5-3K total
- Need publicity in 2 days

**To University representatives: What was Williams' alternative?**

- Wait for another inquiry. Willing to do it for free.
- Only 2 ½ weeks to the event, but it is on a weekend.

**Q: Did you try to find out other's alternatives? Why or why not?**

- Asking directly may seem overaggressive or hostile, making the other side look bad.
- In real life, Univ might have started to prep fac speaker.

**Q: Why not check BATNAs?**

- too much time
- pushy/impolite
- make the other side look bad?
- they might ask you Qs in return

### GIVE RESULTS OF NEGOTIATION

#### SLIDE: NEGOTIATING RANGE

**Q: Williams had especially bad alternatives. What did you do? Mention them at all?**

- Bluff? Lie?
- Change the subject – avoid the issue
- Malhotra: If the parties or agents have a good relationship and especially if they know your situation, it may be better just to admit you don't have a good alternative and focus on standards and interests

**2 SLIDES: Lesson one: Lousy BATNA for both sides does not equal bad results in negotiation if you have good aspirations and a strategy to get there.**

- The other side may have a bad alternative too.
- Another side may value the relationship.
- Can focus on other issues.

Can argue principles, interests.

**The key is what was your aspiration going in? What walkaway point?**

#### PRINCIPLED NEGOTIATION:

**Q: How did you argue for a good result?**

##### University:

- Generalities: non-profit status, uncertainty re Williams
- Identify principles favorable to you:
  - Junior professors' salaries
  - Typical trainers 1.5-3K/day = 3-6K total
  - Discount from Jane: < 10K
  - No customization

**Williams:**

- Generalities: very popular, high salaries recently, Dean knows the book
- Principled criteria:
  - Top trainers: 5K/day or 10K, plus prep may go to 15-20K.
  - What Maxwell was going to pay Jane: 10K?
  - 3.5K/day Williams earned before
  - Short notice to perform.

**SLIDE: Principled options for salaries****Note:**

- The appearance of fairness is more important when parties are in or creating a relationship.
- Principles help assure each side knows the other is at least trying to be fair.

**Q: Another side: Which arguments were most effective?  
Did they influence you at all?**

**INTERESTS: An escape from both leverage and arguments****3 SLIDES**

**Q: What is Williams most interested in?**

- Career: showcase for career, build a business, republish book and CD
- Ego: feel fairly treated, star status; privacy if low salary
- Agent: large fee for a larger commission

**Q: What is Univ most interested in?**

- Promoting series/program: avoiding cancellation, getting a successful speaker
- tying money to the audience
- avoiding a precedent of high salary
- Dean: not get blamed if a dud

**Q: What creative options?**

- **Williams:**
  - Access to attendees, alumni network
  - Opening to publish book/CD by Maxwell Press
  - Promotion for him and book
  - The stage for a performance,
  - A continuing relationship with the business school, though not as a professor
- **University:**
  - Audition to assure quality.
  - Use or obtain Williams' contact list.
  - Sliding scale or incentives
- **Both:** Prompt email marketing campaign blast and advertising, connected events

**2 SLIDES:** advertising + cash and options

**SHOW** Creative bargaining results from Wilmer: Executive Seminar II video.

**3 SLIDES:** on interests

**Q: So, why didn't people do this in practice?**

**1 SLIDE: Obstacles to creative bargaining.**

**Lesson Plan -Timetable for Debriefing - 110 minutes**

- PowerPoints on interests 10
- Plan separately in two groups (15 minutes each) 30
- Negotiate 25
- Debrief 15
- Analyze videos of professionals 20
- Handout assignment 5