



November 8, 2014
9:15 AM – 10:30 AM

Session 503: Art of Negotiation: A Learn-by-doing Opportunity

Laugh, make new friends, and learn a bit as we splash and play in the art of negotiation! This is a safe learn-by-doing program that encourages you to experiment, fail, try again, and smile as we push and tickle each other to greater insights about how to persuade and bring people together in our increasingly polarized world. We will be using role simulations as our vehicle for practicing and discussing the art of negotiation. If nothing else, you will make some new friends. The program will begin with a brief introduction and immediately divide the audience into negotiating pairs and teams. Each of the participants will be given a separate role simulation that describes the nature of the dispute and the particular interests, desires, and fears of each player from the perspective of that player. The role simulation descriptions will not be shared. Instead, the participants, using their separate role descriptions, will engage in negotiations based on those roles. Faculty will circulate to observe and comment. At the end, there will be a general discussion of lessons learned to wrap up the program.

Program Chair & Moderator:

Sidney K. Kanazawa, *Partner*, McGuireWoods LLP

Speakers:

Tim Cheatham, *Senior Vice President & General Counsel*, Walmart International

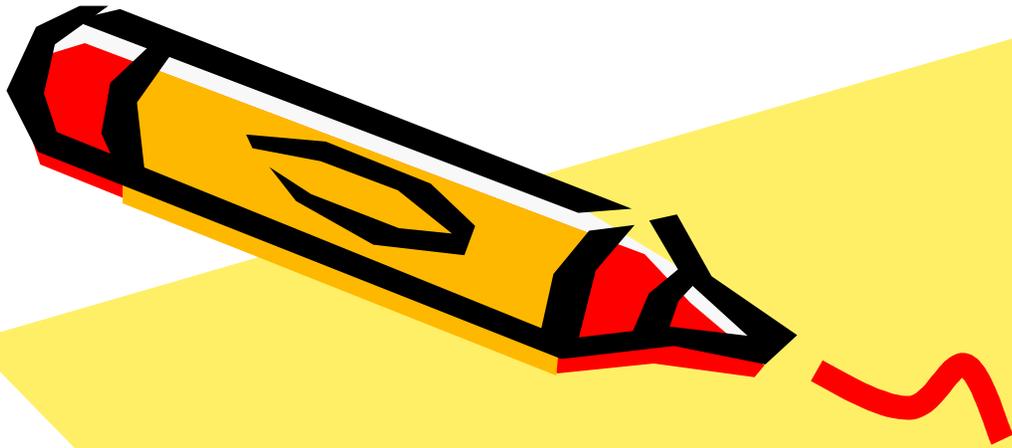
Stephanie Chin, *Vice President & Regional Chief Compliance Officer (Asia)*, Walmart

Louise K.Y. Ing, *Stockholder/Director*, Alston Hunt Floyd & Ing

Audra Mori, *Partner*, Perkins Coie LLP

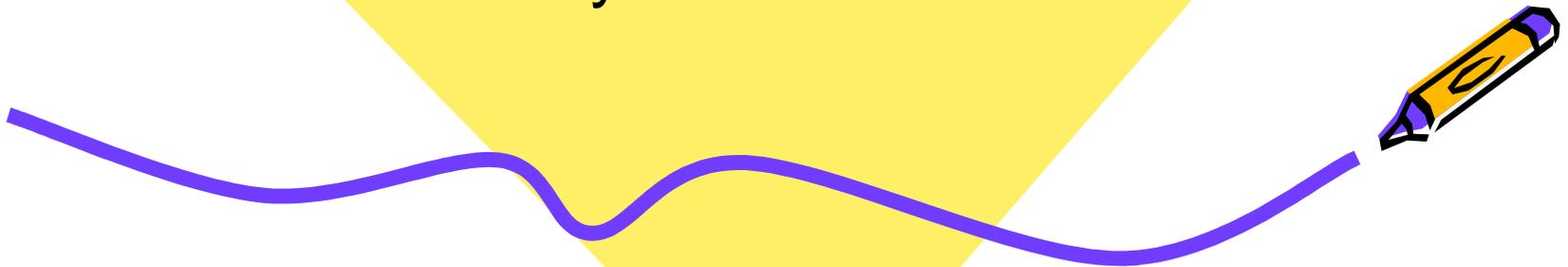
Gerald S. Ohn, *Attorney at Law*, Law Office of Gerald S. Ohn

Masahiro Takeda, *Vice President*, Sanwa Trading Company (Wine of Japan Import, Inc.)



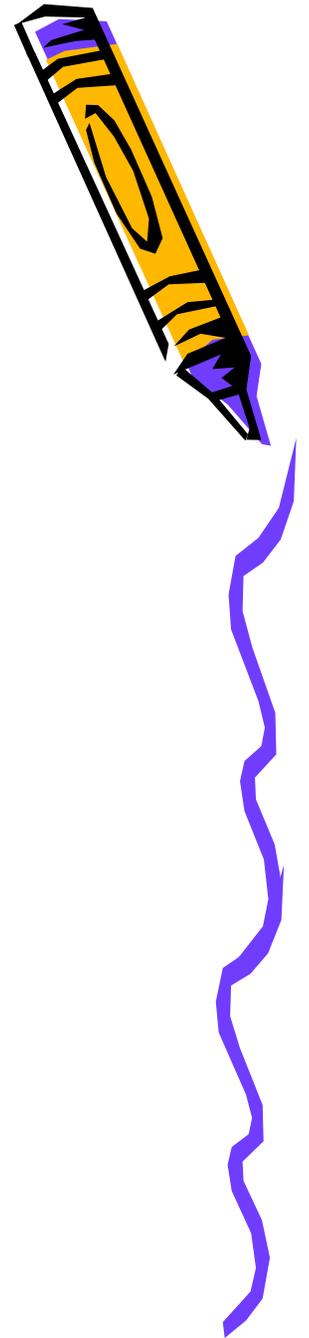
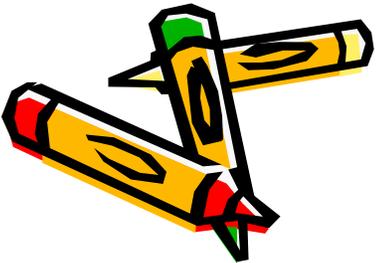
NEGOTIATIONS

Sidney K. Kanazawa



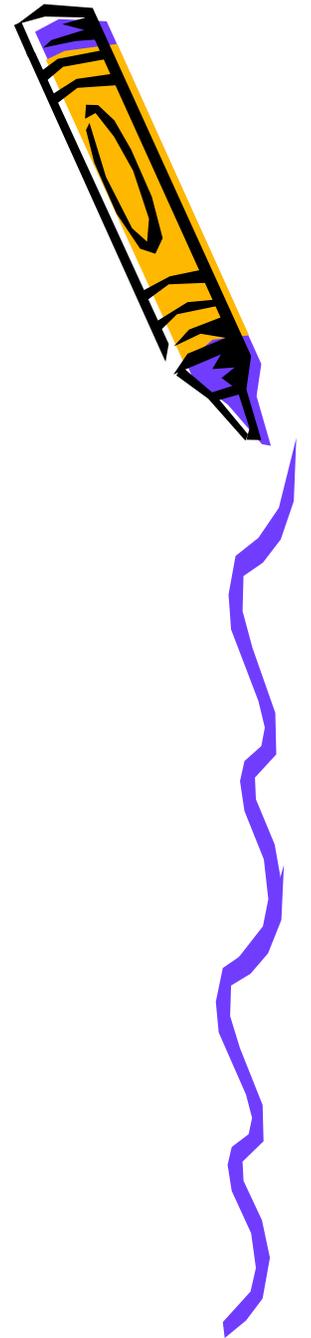
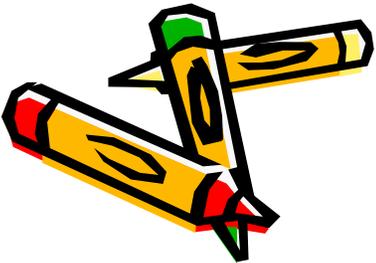
Key Elements of Negotiation

- Understand opposition's interests
- Build trust
- Create value

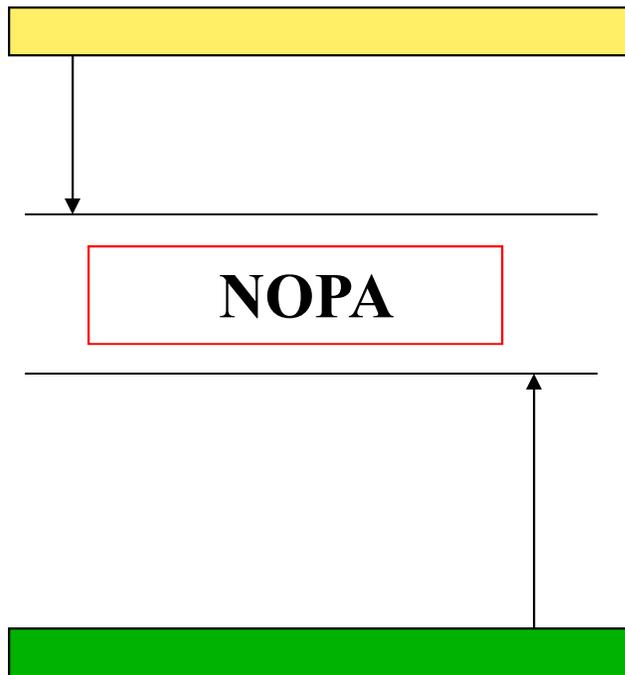


Key Concepts

- BATNA
- ZOPA
- Reservation Price

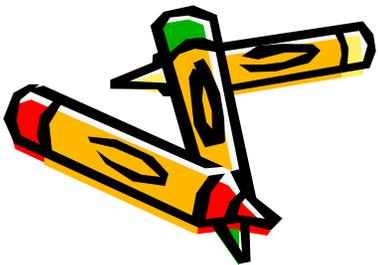
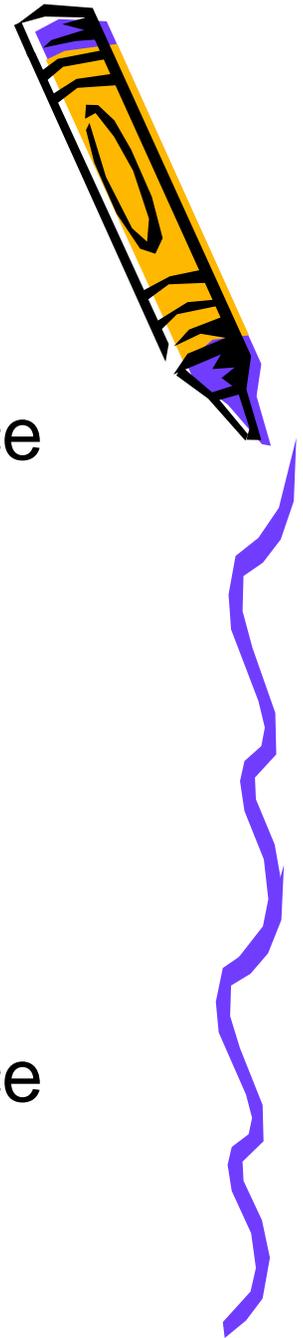


NOPA

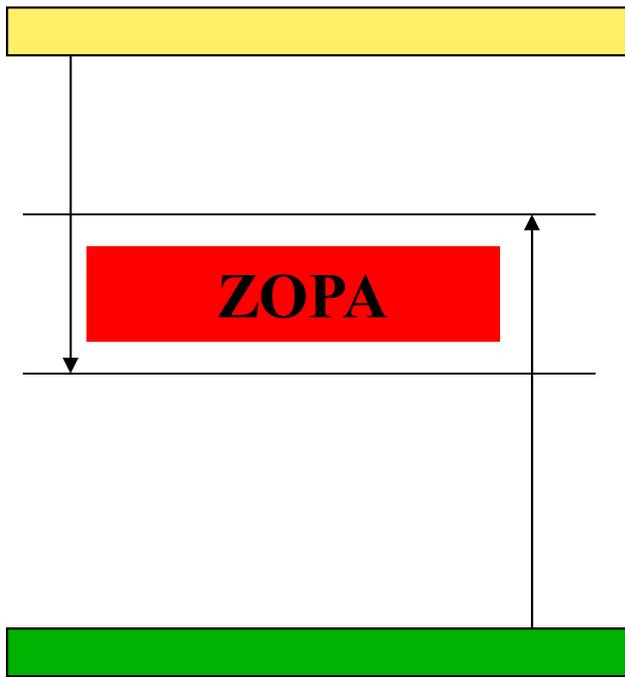


- Reservation Price

- Reservation Price

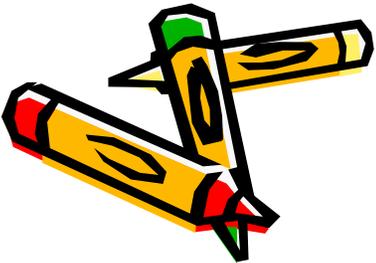
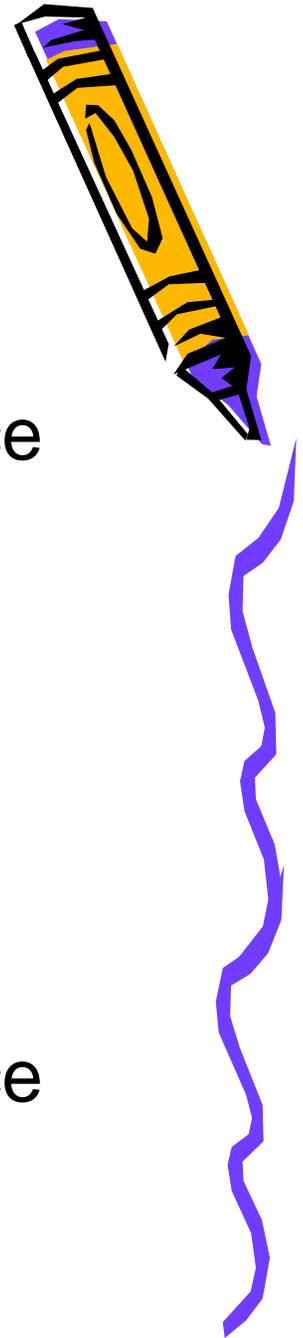


ZOPA



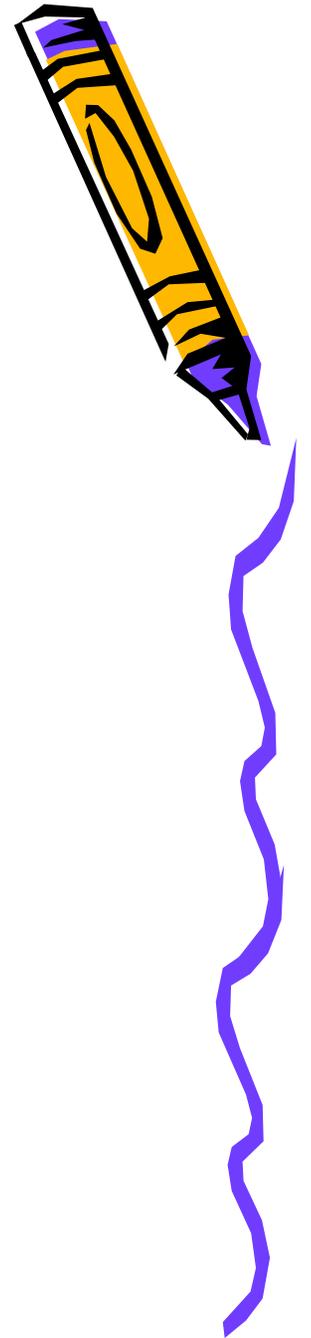
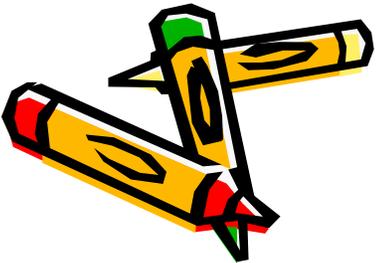
- Reservation Price

- Reservation Price



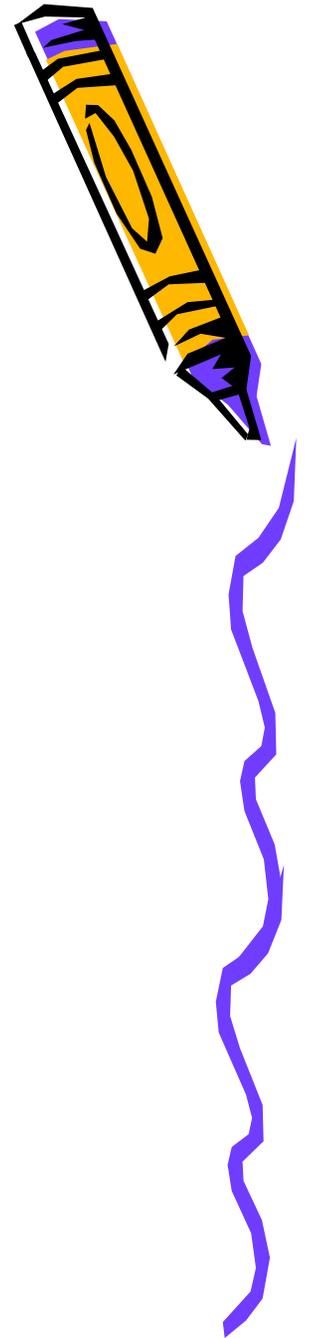
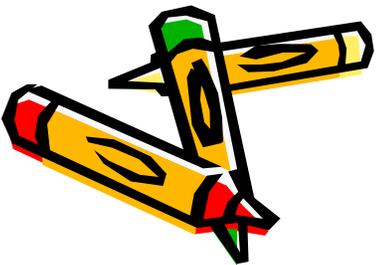
BATNA

- Evaluate Own Interests
- Understand Other Side's Interests
- How Can I Improve My BATNA?
- Options for Mutual Gain?

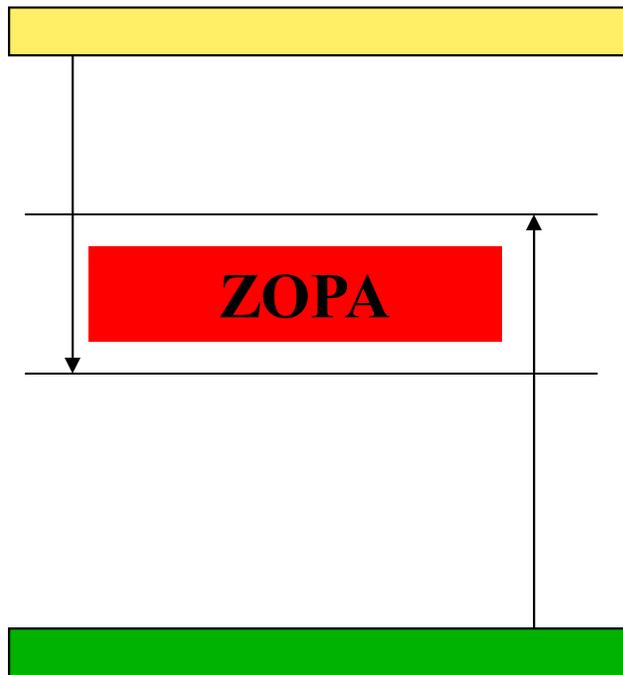


Anchoring

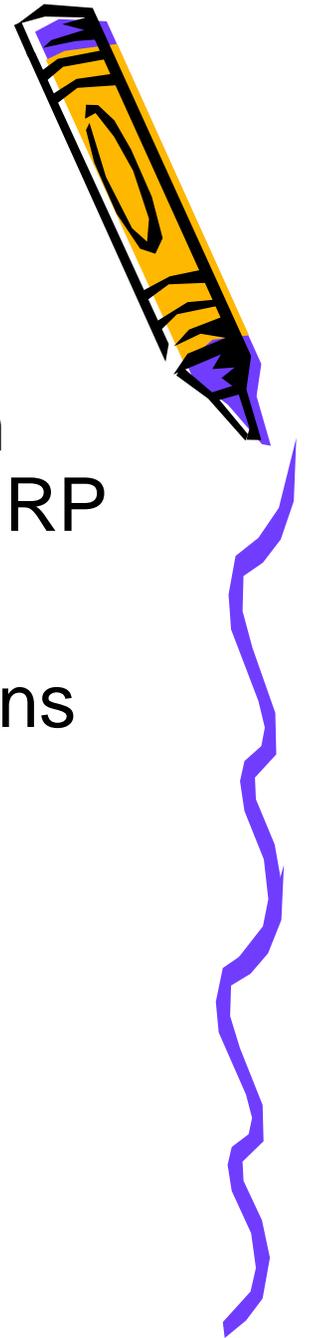
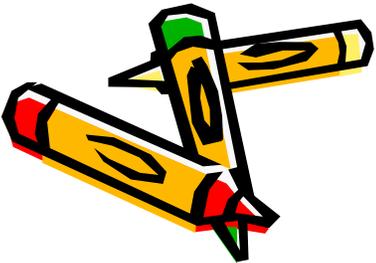
- First Offers (conventional wisdom)
 - Let other side make first offer
 - Avoid giving away information
- First Offers (anchoring)
 - More you know ZOPA
 - More willing to make first offer to anchor



Claiming Value

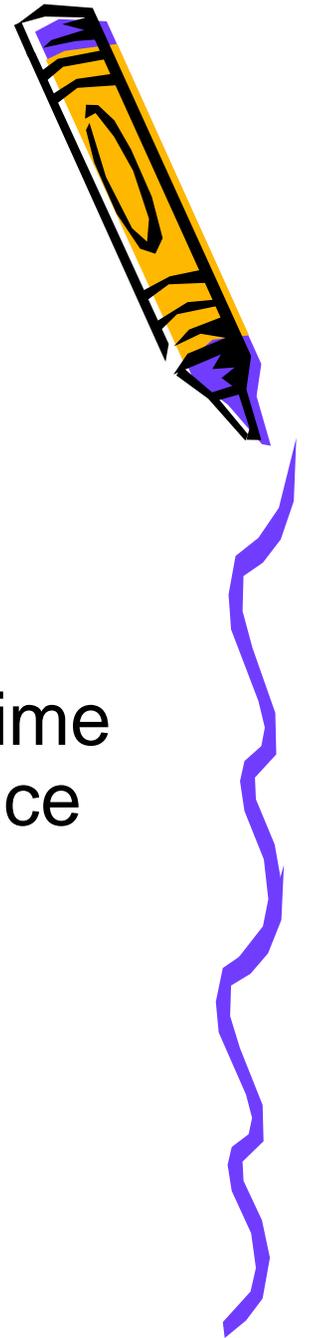
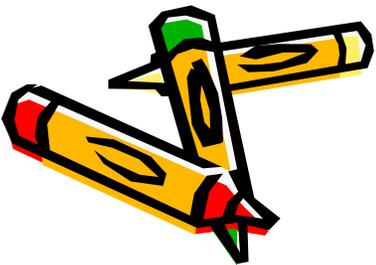


- Understand both sides' BATNA & RP
- Shape perceptions of ZOPA
 - Anchoring
 - Concessions
 - First Reactions
 - Positioning



Negotiator's Dilemma

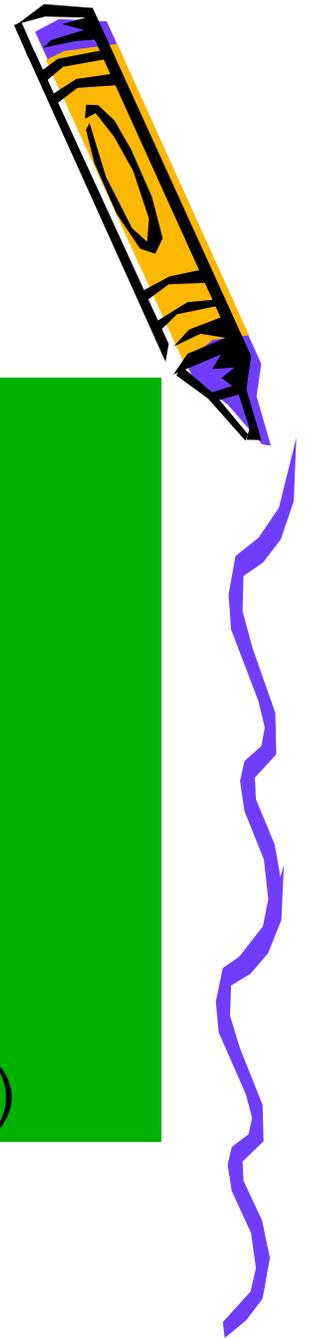
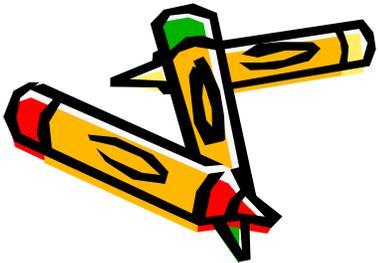
- Probe underlying interests
- Identify key *differences*: relative value, time value of money, expectations, risk tolerance
- Send message



Soft vs. Hard

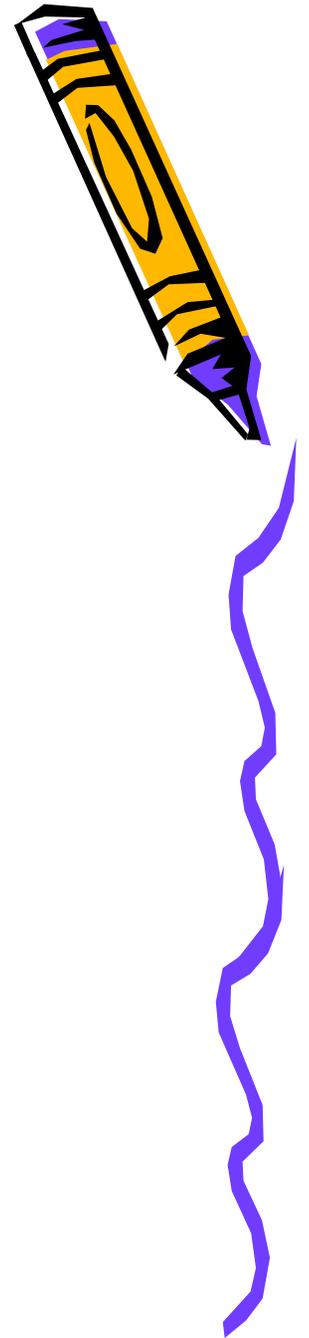
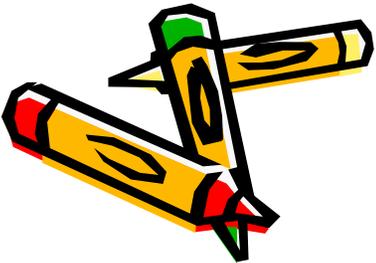
- Compromise
- Relationship
- Reasonable
- Concede
- Offer (will do)

- Principled
- My Way
- Extreme
- Stubborn
- Threaten (won't do)



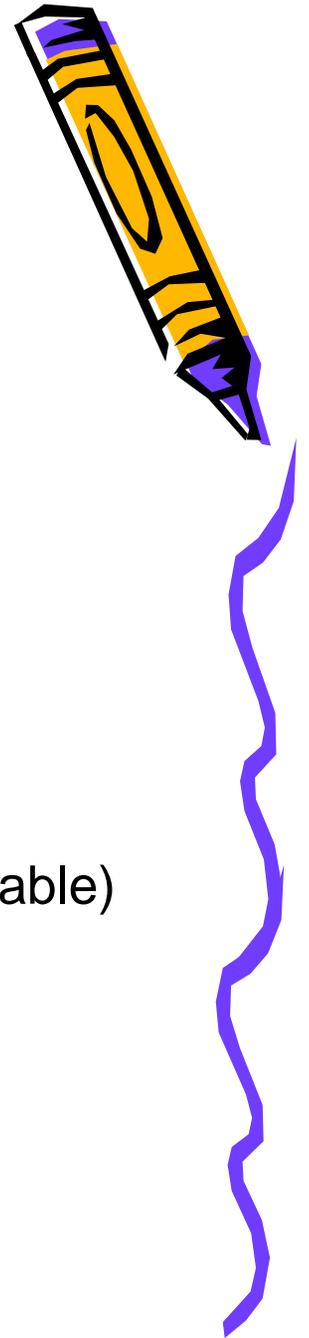
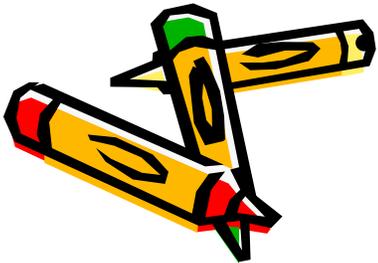
*Un*common Ground

- Valuation
- Time Horizon
- Expectations (contingencies)
- Risk Tolerance
- Relationships (long term)



Interactive Thinking

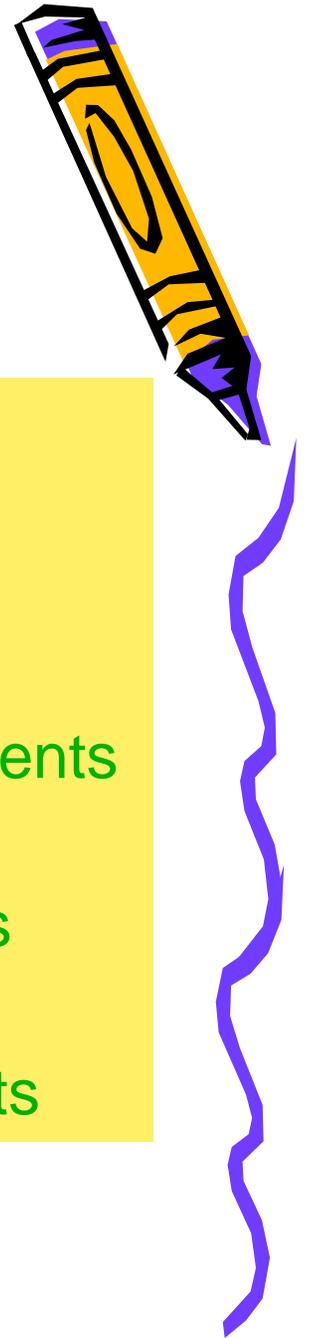
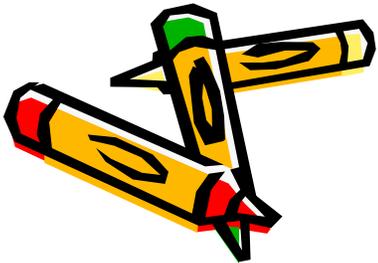
- Engaging (who)
 - Friend/Foe
 - Easy/Hard
- Framing (what)
 - Me/You (ego battle?)
 - Outside Objective (throw problem on other side of table)
- Norming (how)
 - Serve/Volley
 - Principled Negotiation



Creating Value

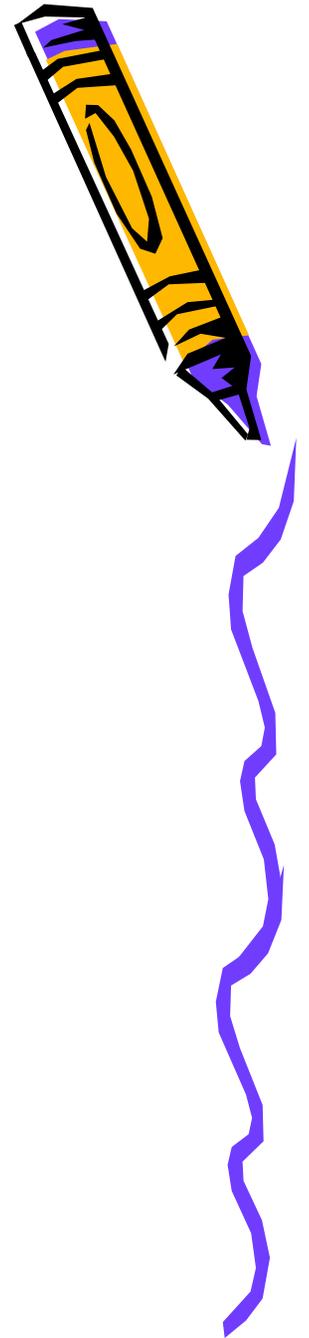
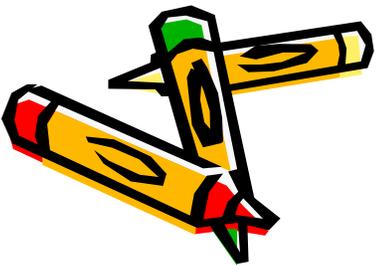
- Different resources
- Different valuations
- Different forecasts
- Different risks pref.
- Different time pref.

- Win-win trade
- Win-win trade
- Contingent agreements
- Insurance contracts
- Installment contracts



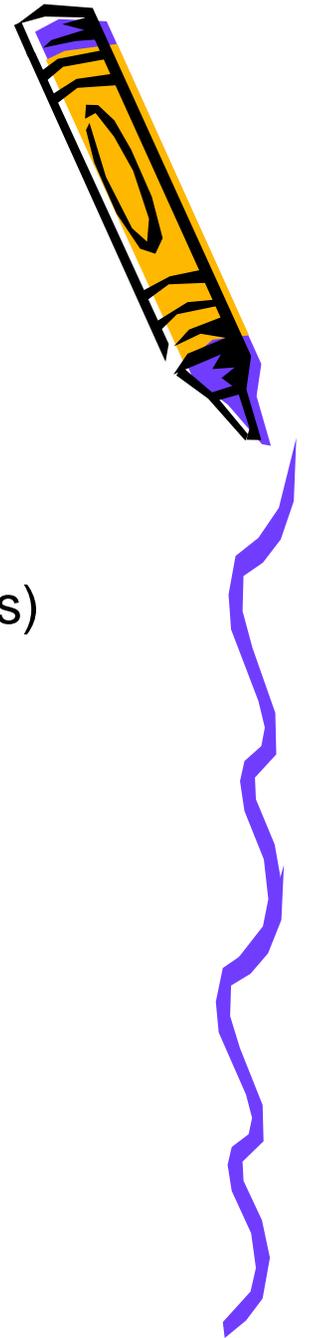
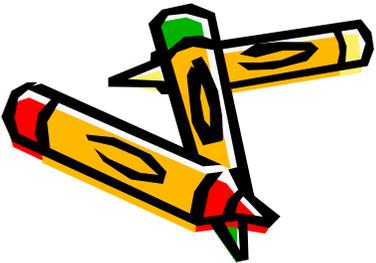
Lead

- Listen and observe
 - First reaction
 - Opposition's most important concerns
 - Developing trust
 - Creating complications to spark creativity



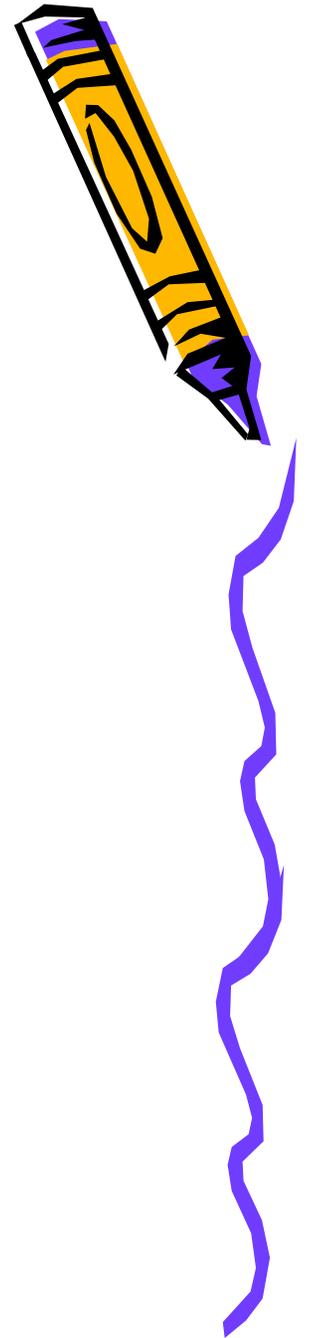
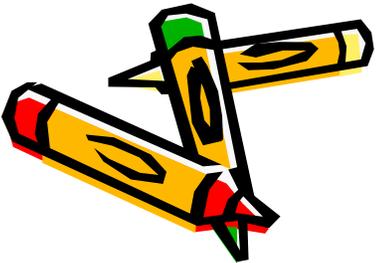
Lead

- Build relationships/trust
 - Understand structure of game (other side's interests)
 - Think interactively (how will they react)
 - Be trustworthy . . . Not naïve
 - Separate from your client



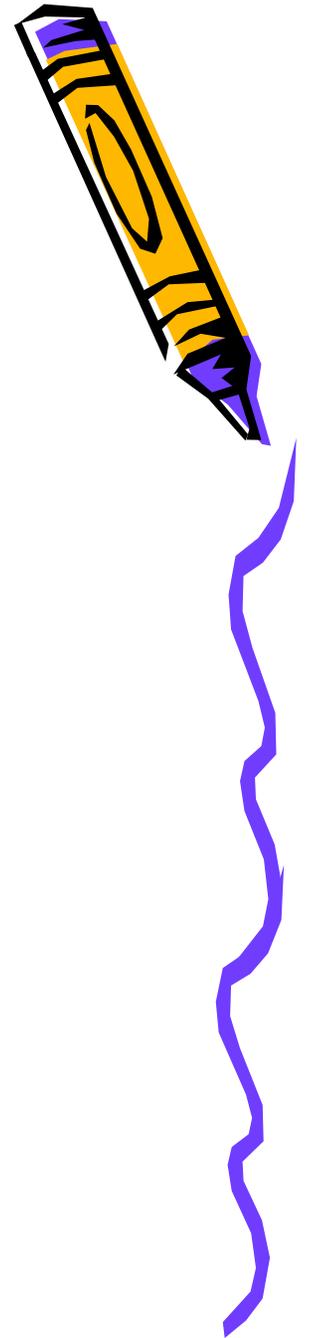
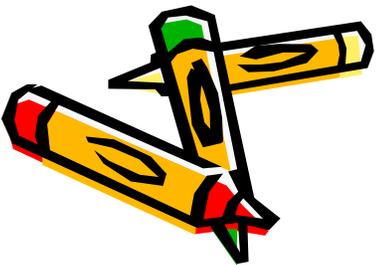
Lead

- Suspend judgment
 - Explore interests of both sides
 - Invent without committing
 - Generate options
 - Use neutrals/mediators



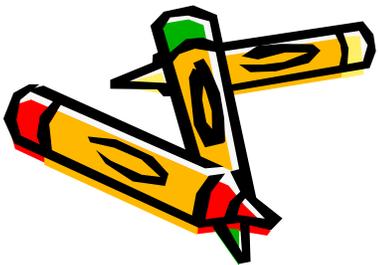
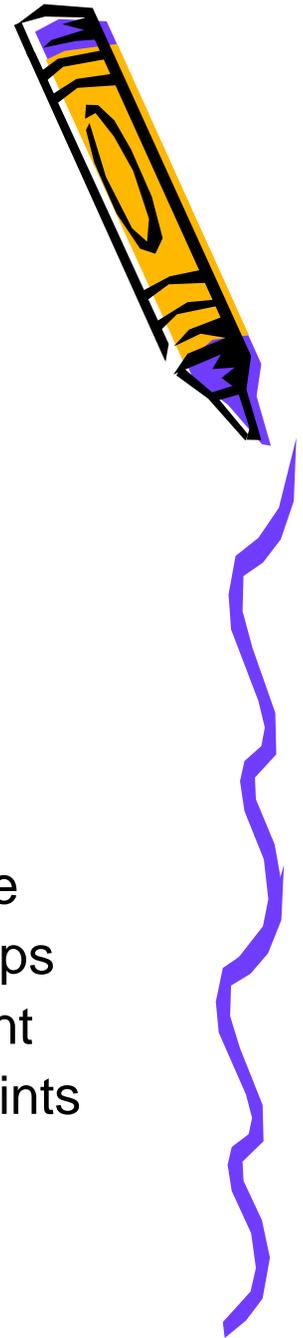
Lead

- Principled negotiations
 - Find points of agreement
 - Negotiating from points of agreement
 - Think in the present & future



Conclusion

- Key Elements
 - Understand
 - Build trust
 - Create value
- Key Concepts
 - BATNA
 - Reservation Price
 - ZOPA
- Dilemma
 - Claiming Value
 - Creating Value
 - Hard vs. Soft
- Lead
 - Listen & observe
 - Build relationships
 - Focus on present
 - Find building points



The Art of Negotiation: **a learn-by-doing opportunity**

The goals for this program are:

- Have fun!
- Learn-by-doing (“jump in” “push the envelope” “leave fear at the door”)
- Meet someone new or share an experience with friends you know

You will be put into a group of two, three, or four and will be given a role simulation problem with different instructions for each side of the negotiation. A faculty/coach will observe. You will use the power of your stories to negotiate. The coach may offer some observations to the two, three, or four person group. And then we will have a wrap-up with all of the groups. Coaches and participants will share lessons-learned.

To get anything out of this program, you must completely immerse yourself and push yourself beyond your comfort zone. Embarrass yourself and leave fear of failure at the door. We’re here to have some fun, meet new people, and learn something along the way.

The role simulations come from the Harvard Program on Negotiation which has devoted much thinking on the nature, science, and art of negotiation and has developed a number of engaging scholarly works as well as role simulations to facilitate thinking and experimentation in dispute resolution. www.pon.harvard.edu

A prime product of these efforts has been conceptual models for negotiations. One such model is BATNA – best alternative to a negotiated agreement. This mental construct provides a checklist of considerations, including evaluating each side’s interests, building trust, and creating value. It requires a critical assessment of each of the parties’ “reservation price” – the point at which the parties should walk away or choose another course of action. And an analysis of whether there is no overlap (NOPA – no opportunity for potential agreement) or a potential overlap (ZOPA – zone of potential agreement) between each side’s “reservation price.”

At its heart, negotiation is about story. Each party enters the negotiation with a story in their head that dictates what they believe and see. The stories create expectations about what each side wants, who they can trust, and the relative value of the items traded in the negotiation. People in conflict have different stories in their heads. They see what they believe and have difficulty other perspectives until they step out of their own story for a moment and step into the story in the other’s head. Good negotiators – like good stories – hear and speak to us where we are and then take us to new places and new perspectives that allow us to look back on our prior story with new eyes. Great negotiators – like great stories – capture our hearts, make us care about another, and inspire us to look beyond our own story and become a part of a larger common story with an ending that make sense and feels right for all.

Our common story: this is a safe place to be a fool. Leave fear and embarrassment at the door. SMILE! HAVE FUN! MAKE NEW FRIENDS! LEARN SOMETHING NEW!