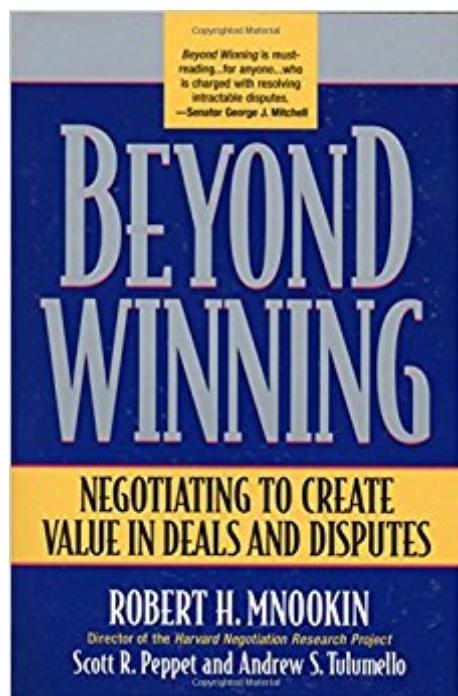


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# Beyond Winning: Negotiating To Create Value In Deals And Disputes



## **Synopsis**

Conflict is inevitable, in both deals and disputes. Yet when clients call in the lawyers to haggle over who gets how much of the pie, traditional hard-bargaining tactics can lead to ruin. Too often, deals blow up, cases don't settle, relationships fall apart, justice is delayed. Beyond Winning charts a way out of our current crisis of confidence in the legal system. It offers a fresh look at negotiation, aimed at helping lawyers turn disputes into deals, and deals into better deals, through practical, tough-minded problem-solving techniques. In this step-by-step guide to conflict resolution, the authors describe the many obstacles that can derail a legal negotiation, both behind the bargaining table with one's own client and across the table with the other side. They offer clear, candid advice about ways lawyers can search for beneficial trades, enlarge the scope of interests, improve communication, minimize transaction costs, and leave both sides better off than before. But lawyers cannot do the job alone. People who hire lawyers must help change the game from conflict to collaboration. The entrepreneur structuring a joint venture, the plaintiff embroiled in a civil suit, the CEO negotiating an employment contract, the real estate developer concerned with environmental hazards, the parent considering a custody battle—clients who understand the pressures and incentives a lawyer faces can work more effectively within the legal system to promote their own best interests. Attorneys exhausted by the trench warfare of cases that drag on for years will find here a positive, proven approach to revitalizing their profession.

## **Book Information**

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## **Customer Reviews**

Observing that today's tough, adversarial legal negotiations preempt mutually beneficial problem

solving between parties, Mnookin (director of the Harvard Negotiation Research Project and a professor at Harvard Law School) and his coauthors urge lawyers to adopt a proactive, optimistic and realistic mindset to transform their practices. Though they are careful to acknowledge the difficulty of changing from the standard gladiatorial stance, Mnookin, Peppet and Tulumello present compelling examples of the advantages that such a change can bring in divorce cases, sales of existing companies, real estate deals and contract negotiations. Their comparison of litigation-gone-bad (e.g., the *Buchwald v. Paramount Pictures* lawsuit that benefited neither party) with more positive approaches (e.g., the problem-solving mode used in the once-nasty Digital Equipment Corp. patent infringement dispute with Intel) argues for serious consideration of their techniques. For those still resistant to giving up their Road Warrior ways, the authors provide tables of strategies with "Limiting Assumptions" contrasted with "More Helpful Assumptions" that dare even the most pigheaded to ignore common sense. Although Mnookin, Peppet and Tulumello have consciously aimed the book at attorneys who want to serve clients' broader needs better as well as to protect their interests, the authors' practical, straightforward and jargon-free style makes this a valuable resource for anybody who is about to hire an attorney, file a lawsuit or sign a contract.

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Mnookin heads the Harvard Negotiation Research Project; both of his coauthors have been project research fellows. Conventional negotiating strategy often requires adversarial positions, but the authors propose viewing negotiating as a problem-solving task. They target lawyers (and, by extension, those who hire lawyers) who "feel sickened by the trench warfare and exhausted by cases that drag on" when opposing battle lines are drawn. They explain that creating value is the key to successful negotiating. The goal should not be to win the biggest piece of the pie but to make the pie bigger! The authors show how negotiation requires balancing three sets of tensions: those between winning and "making the pie bigger," between empathy and assertiveness, and between principals and agents. They suggest that lawyers are uniquely positioned to create value when resolving disputes and making deals. A major portion of the book is devoted to illustrating concrete problem-solving techniques, and the authors conclude with a consideration of the professional and ethical dilemmas posed by legal negotiations. David RouseCopyright © American Library Association. All rights reserved --This text refers to an out of print or unavailable edition of this title.

Written for lawyers but something everyone involved with negotiation should read. Through his

remarkable use of words metaphors and examples, Mr. Mnookin takes a potentially difficult process and humanizes it so that lawyer and layman, alike, can easily digest and employ the content.

This is an excellent modern review and extended application of the principles included in the popular *Getting To Yes*. I am a lawyer, and this is the book we used in the PIL (for Lawyers) at the Program of Negotiation in Harvard. After reading it, I kept it for regular and constant reviews. It is a MUST if you are interested in developing your negotiation knowledge and skills. In my opinion, this is definitively Robert H. Mnookin's best book yet in the negotiation field.

This is one of the best I ever had, Not expensive and it arrives early thank you for this

Wonderful text on negotiation and its role in alternative dispute resolution.

Great

Interesting well written book well laid out and a good instructional text. Can be too detailed but a good read

nice

This is a book that should be read by every lawyer. It offers practical, useful advice for an approach to negotiation that moves above and beyond the game playing and posturing that too often characterizes a negotiation. The book also offers a useful discussion of the issues raised for a lawyer in negotiating on behalf of a client. All in all, this is a must have, must read for any lawyer.

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