

IMPROVISATION IN NEGOTIATION

Outline

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Utah State Bar Convention

St. George

11:30 am -12:30 pm

Saturday March 20, 2010

I. Introduction

- A. Nature of Conflict
- B. Relationship between Negotiation and Improvisation

II. Contexts

- A. Pedestrian Legal Conflicts: Costs and Opportunities
- B. Conflicts of Law: Jurisdictional Arbitrage
- C. Reform Conflicts: Rival and Non-Rival Rights
- D. Dilemmas: Conceptual and Social Strategies
- E. Sectarian Conflicts: Institutional Approaches

III. The Riffs

A. Communication and Social Techniques

- 1. Joint Communication
- 2. Listening and Acknowledgment
- 3. Neutralizing Techniques: Tone, Restatements, Sequencing
- 4. Virtual Equivalence and Recharacterization
- 5. Confidentiality and Changing Messengers

B. Bargaining Strategies

- 1. Performative: Worst Enemy/Best Friend
- 2. Position-Based: Probability and Time
- 3. Interest-Based: Role of Social Inquiry
- 4. Integrated Bargains: 18th Camel
- 5. Relational: Finding New Value

C. Resolving Principles

- 1. Limits of Self-Determination
- 2. Promise of Comparative Harm

IV. Conclusion and Q&A