Transcript: Introduction to Negotiations

**Jay Lyman:** Well, let's go ahead and get started. My name is Jay Lyman. Welcome from the Seattle Public Library. I'm a librarian who runs the Library to Business program. I'm super excited about this first of a series of programs that we're doing here.

Soon you're going to hear more from Professor Umphress and Alyssa, who will tell you more about the negotiation trainings but to kick things off, I want to speak to anybody who's an entrepreneur and working on either starting a business or growing a business. If you are an entrepreneur and looking to research your market, that's where librarians like me come in. I have a team of librarians will help you research your market for free so don't miss out on that because you can save thousands of dollars in market data research. You can learn more and email us at L2B@spl.org. All right, Alyssa, you can take it away.

**Alyssa:** Great, thanks, Jay. Hi everyone, and thanks for being here. My name is Alyssa, and I am a second-year law student at the University of Washington. I'm currently interning for the Entrepreneurial Law Clinic at UW. These sessions are part of a joint initiative between UW’s Foster School of Business and the UW School of Law. Our initiative is called “Helping BIPOC, LGBTQ+, and Women-Owned Small Businesses Survive and Thrive Post-COVID-19.” These sessions will be led by Dr. Elizabeth Umphress and they will be continuing through the next several weeks, every other Wednesday.

Dr. Umphress is a Full Professor and the Evert McCabe Endowed Fellow at the University of Washington. Dr. Umphress teaches *Dynamics of Negotiations* and *Ethical Leadership* to executive and MBAs at the University of Washington. She received the *Hybrid MBA Excellence in Teaching Award* (2020), *Professor of the Year* for Masters of Science in Entrepreneurship (2019), and the Evening MBA (2014) programs.

She has extensive consulting and executive education experience. She has worked with companies such as NASA, Citigroup, and Lockheed Martin. Under the rubric of social justice research, Dr. Umphress pursues three primary branches of inquiry: ethics, organizational justice, and diversity. To date, in collaboration with co-authors, she has published twenty-eight peer-reviewed research articles.

I also have a few resources I want to talk about. I would love to encourage you all to reach out to the University of Washington's Entrepreneurial Law Clinic at the end of the session if you have any remaining questions on business formation, trademark, or patent issues. We are currently accepting applications for fall quarter clients and will select clients by the first week of September. So, get your applications in and learn more here. We help with legal advice and business formation issues. We don't help with litigation, but I would love to answer more questions and you can email us at elcinfo@uw.edu. Finally, I want to remind you that we will be hosting pro bono legal consults throughout the next several months as a part of this initiative. You can sign up for those and learn more here. And with that, I'm done talking and I'll turn it over to Professor Umphress.

**Professor Umphress:** Thank you so much, Alyssa, and thank you, Jay, for offering these sessions. I'm really excited to be a part of them. So today we're going to be talking about
introductions to negotiations; I've been teaching negotiations for about 17 years now. Every
time I teach it, I get really excited because I know I have the opportunity to learn from everyone
else who is here and that you are ready to learn from me. So, my goal for today is for me to
teach you a little bit and also through your questions and through our interactions, I hope that I
get to learn a little bit about you as well.

Right, so let's get started with our agenda for today. First, we're going to do an outline for the
sessions, because as Alyssa noted, we're going to be doing a few of these. We're going to be
doing five different sessions, today is the first one. Then I'm going to talk about some common
pitfalls in negotiation; these are some common errors that people tend to make when they
negotiate. Then I'm going to teach you and talk about some strategies for planning for your
negotiations. There are research proven ways that we can prepare for all of our negotiations to
ensure that we're going to do better in those negotiations than if we're not prepared. And then
we're going to talk about some COVID considerations. This includes things related to COVID
specifically that we need to consider before we start negotiating.

Here's our session framework: we're going to start off at the base with the introduction to
negotiations. Then our next session in two weeks is going to be focused on distributive
bargaining, or single-issue negotiations, so that's when we just have one thing to negotiate.
Maybe our rent, for example. Then we move on to integrative bargaining; these are going to be
multi-issue negotiations. This is when we have more than one issue to negotiate, which is
typical. Then we're going to talk about group negotiations, so we're getting more and more
complex as we go up the pyramid. And then finally, we're going to end with some influence
tactics.

We are all negotiators. Whether you know it or not, you're probably negotiating every single
day. If you have a supervisor, if you have employees, if you have a significant other, if you have
parents, if you have children, then you're probably negotiating every day. So, what is a
negotiation? This is going to be our definition that we're going to be using for negotiations. It's
a process. What I'm going to be talking about for the next five sessions is going to be a process
that is research determined. So rather than talking about a strategy that's worked one time for
one situation, I'm going to be talking about our research proven strategy, which means that it's
worked across hundreds, if not thousands, of situations with people in different situations.
We're going to talk about this process and it's a process to get the best outcomes that you can.
Now, I wish that I could just wave my magic wand and you could get all the outcomes you want
if you just follow this process. I will say that you're more likely to get the outcomes that you
want if you follow this process than if you don't follow this process, but sometimes those
outcomes just aren't possible.

Negotiation's a process with two or more parties. In our negotiations, we're negotiating with
least one other party. You might also be negotiating with 100 other people. As we add more
people to the negotiation table, it becomes significantly more complex, and that's why we're
going to be talking in a few weeks about group negotiations or multiparty negotiations, because
it becomes a lot more complex as we have more individuals at the table. We're also talking
about agreeing about how to allocate scarce resources. We're talking about resources that are
important to you. If this was something that wasn't important to you, then you wouldn't be
negotiating about it. Again, we're only negotiating over things that are scarce or are things that we care about. This is our definition.

We're not going to be talking about haggling. Haggling is something that you do when you go to a flea market or when you go and buy a car. Haggling strategies are going to be different than negotiation strategies. In a negotiation you care about the other party and you also care about your own interests. In negotiation you're looking for the best optimal solution to where you can satisfy both parties’ interests at the same time. We're going to be self-interested as well as other-interested at the same time.

Alright, so let's first talk about this choice to negotiate. I'm going to encourage you when you're put in a situation about something that's matters to you, to negotiate every single time. I think that this example will illustrate why: at a top tier MBA school, research was showing that, unfortunately, women were earning less at their starting salary than men. This institution wanted to find out why, so they delved a little bit deeper. They asked, “What are the percentage of men who negotiated?” 57% of men negotiated. 57% of men negotiated their final salary for their first job out of getting an MBA. Now for me, this number is absolutely unacceptable. This number should be 100%. The reason why is because it is extremely unlikely for an employer to know exactly what will make one person more productive than another person. The only person who knows what's going to make you more productive is that individual employee. If that individual employee is not negotiating, there are many different things that are included in a job, including salary. If that individual employee’s not negotiating the things that are important to them, then they're probably not going to be as satisfied and they're not going to be as productive. This number needs to be 100% not because we're greedy, but so that we are motivated to perform as high as possible. In order to do so, we have to share interest with the other party, which is going to be our potential employer. So, this should be 100%.

Now let's get to the percentage of women who negotiated; this keeps me up at night. 7% of women negotiated, which is incredibly disappointing. Again, I was not happy with the 57%, I think you can guess how I feel about 7%. We should have 100% of people negotiating, so this is pretty disappointing. This is what motivates me to teach sessions like this and why I will do this for as long as I'm able.

The average salary increase that results from a negotiation was 7.4%. Some of this difference is due to discrimination in starting salaries, but a lot of it is going to be due to not negotiating. Now I want to acknowledge that, again, there are many things to negotiate other than pay and we should be negotiating the things that are important to us. As I go through this example, I want you to think about whatever is important to you. Is it pay or is it that you get to work on that special project that really matters to you? If it's working on that special project, then you're going to be more motivated and probably perform at a higher level if you work on that special project. Or maybe it's flex time. Maybe you have some work-life challenges and you want to have a more flexible environment, which is going to make you more productive. Again, if you are able to have that flex time, then that's going to make it such that you're more productive in the workplace, which is going to yield higher benefits for you moving forward.
All right, so what is this one-time cost of not negotiating? Let's say you start off with the salary of $100,000, so that one-time cost of not negotiating is going to be $7,600 over one year. Over ten years, it's going to be over $100,000. By age 65, that one-time cost of not negotiating is over $700,000. Let's say you negotiate, or don't negotiate, and you get a raise—a really bad raise by the way—of .5% annually. Now we're at the ten-year cost of not negotiating of almost $150,000. By age 65 we're at $1.9 million. Let's say that you have a 1% raise, which again is not a great raise, and I would hope that you negotiate that as well, but let's say it's only 1%. The one-time cost of not negotiating over ten years is $190,000 and by age 65 that's going to equal $3.2 million.

What I'm trying to illustrate here is not that you should just be negotiating pay, but that you should be negotiating what is important to you. What's going to make you more productive in your job in your organization, what's going to make your organization more productive? Because that becomes exponential. Each year you don't have what's going to make you more productive and what that means is that you're going to be less productive and you're also probably less likely to get a raise. So, these negotiations instances are really important. But that also doesn't mean that I'm in my dean's office negotiating for higher pay every day. That would be weird, and I probably wouldn't have this job because I would already be fired. Instead, I'm going to negotiate when it's appropriate to do so. When it's appropriate to do so might be your annual review, but it's definitely when you get that first job. That's a really good time to negotiate.

Negotiation is absolutely an essential leadership skill. Our great leaders are individuals who tend to be good negotiators or better than average negotiators. But I have some bad news: most people are not good negotiators. This can be illustrated by the fact that over 80% of top executives are leaving money on the table. When I say leaving money on the table, what I mean is that nobody gets access to this money. I don't get access to it and neither does the other party. These are resources that are lost by both parties, because we're not good negotiators.

Why are most people not good negotiators? Well, the answer is really simple. I don't expect to walk out on a tennis court and become a really good tennis player the moment I pick up a racket. I don't play tennis; I've never taken a lesson. I'm not a good tennis player and my expectation is not that I will be a good tennis player. Unfortunately, people think that without training and without learning about negotiation, that they will just be good negotiators, that it's some innate skill that you're given. The truth, and what research shows, is that's not the case, which is kind of exciting. That means that whatever negotiation level you think you're at right now, everyone has the opportunity to go multiple steps higher; we can always get better at our negotiation ability. That's how I feel about my negotiation ability. Even though I think a lot about this topic, and I talk a lot about this topic, and I learned a lot about it, I know that my negotiation skills are still in progress. I still have the opportunity to get better. That's how I'd like you to view your negotiation skills.

The other reason that we tend to not be very good negotiators, and why experience doesn't necessarily make us a better negotiator in the working world, is because we don't get diagnostic feedback from others. Our boss doesn't come and tell us, for example, "I would have given you $5,000 extra a year, but you didn't ask for it so you're not going to get it." Why? First
of all, it's just inappropriate to provide that information. Your boss isn't going to say that. Or investors, for example. An investor is not going to say, "I would have given you $1.2 million but you only asked for $1.1 million and so that's what you're going to get." It's socially inappropriate to provide that developmental feedback, so you don't get that information.

We also don't hear feedback from our suppliers. "You know what, you are sometimes unreliable when I deal with you. Sometimes, you're rude and because you're rude, you have to pay a little bit more." We don't hear that. There is something called the jerk tax where some of us are paying a little bit more because we might be unreliable or because we might be rude and being rude increases transaction costs. We don't get this information from the other party, so we don't learn from our negotiations and we don't become better negotiators. That's why it's so vital for you to be here today and why I'm excited that you're here today because just by hearing this information, asking questions, attending, you are going to increase your negotiation ability. You made a good choice being here today.

Sometimes we choose not to negotiate. As I already mentioned, most of the time that's not a good idea. We should be negotiating when something is important to us and when it's appropriate to do so. I would say that the COVID situation has made things so uncertain that I think it is appropriate to negotiate if you perceive that something important is going on in your company's life or your life. Now would probably be a good time to negotiate, but we think it's not an option and we choose not to negotiate. If you need permission to negotiate, I'm here today to give you permission. Now is a good time for you to be negotiating something if something important is happening right now in your company's life, in your life. Now is probably that time to negotiate.

We also don't negotiate because we feel uncomfortable negotiating. I grew up in a small town in Texas, and I was told, and I didn't listen very well clearly, that it was inappropriate for me to negotiate, that I should just be grateful for what I was given. Now, after years of thinking about this advice I recognize that it's really important to be grateful and being grateful for something is a gift that you give yourself and others. I agree that it's really important to feel grateful. It's also really important to negotiate. The odds of the other party knowing your interests are not very good. The other party probably doesn't know your wishes, your fears, your exact personal situation, unless you share that with the other party. That's why it's so important to negotiate because our supervisors, our investors, our suppliers, they are not mind readers. They don't know what's going to make you more productive, and that's why we need to negotiate.

There is research, by the way, about when people do negotiate in a respectful and positive way. That's going to be the way that I suggest, we're not going to haggle. Instead, we're going to be positive and respectful towards the other party; we're going to share our interests and ask the other party what their interests are. In doing so, we're going to create a situation that's very positive and where the other party has a better evaluation of us than before we even negotiated. That's what the research shows, is that you can increase trust, you can increase cooperation, you can increase evaluations of you and you'll have a stronger reputation after you negotiate than before. I know that you might have a fear of negotiating. "Is it appropriate, is the other party going to think I'm not grateful?" Instead, what happens is that the other party has more positive evaluations of you.
We also don't negotiate because we fear that we're not going to get what we want. I will say this, that if you don't negotiate, you're likely not going to get what you want. The idea is to try and to be positive and respectful towards the other party. I want to share an example. I've been teaching negotiations, as I said, for 17 years and so that means that I've had thousands of people in my classroom and every single year, every single quarter that I teach, I have a final assignment where I have people go out into the world and negotiate something that's important to them. I teach this content to them and we do fake negotiations that are simulations and then I ask them to try to apply these concepts in the real world to something that's important to them; that's their final project. When I first assigned this, sometimes I would read these final papers where people describe the situation and they would tell me they got what they wanted or they didn't get what they wanted. Then, if they didn't get what they wanted, sometimes I would get an email about six months later, or a year later saying, “You know what? I asked for X. My supervisor, my organization, my supplier, wasn't able to do it at that time but then they came back to me a year later, and they said, ‘Yeah, I can give you that deal.’ I can have this, my supervisor did make that available to me, I could go to this other training, whereas at first, my supervisor told me I couldn't.”

If you don't ask, you're certainly not going to get it. If you don't ask, you might also not get it in the future when it becomes possible. By negotiating in a positive way, you make it such that you put it in the other party's head that this is a possibility. When it is possible for them to give you that outcome, you create a situation where you make that a reality. If you don't try, you're not going to get the outcomes you want. My advice to you is that even if you think there's zero probability of you getting what you want, I still encourage you to ask. Do it positively because if you don't, you're not going to get it.

We're going to go through these four common mistakes that people make when they negotiate. The first mistake, we've already gone over, which is the biggest, is they choose not to negotiate in the first place. But now, hopefully I've convinced you that it's important to negotiate and you will be negotiating. Now we're going to go over these four common pitfalls and then we're going to get to your questions.

The first situation is going to be a lose-lose. This is a situation where both of us would do better if we would have shared more information. If I would have shared more information about my interest, then you would have done better. If the other party would have shared more information about their interests, then they would have done better. An example of this would be a supplier. Let's say Alyssa and I are negotiating, and she wants to sell supply A and I want to buy supply A. I don't share information about what I need in a supply and she doesn't share information about her supplies, so I go and buy supply A and that seems pretty good. Well, unfortunately, supply B would have done a lot better for me but because Alyssa didn't share information about supply B and her other supplies and because I didn't share information about what I needed, then that was a lost outcome for both of us. I would have bought more of supply B too, because it met my interest better but because of failing to share information about our interests, it didn't happen.

The second pitfall is the winner's curse. Have you ever been in a negotiation in which your first offer was immediately accepted? I would say that most of us have been in this situation. This
might not be all the time, but most of the time in that situation, you could have done better. Don’t you feel like you could have done better in that situation? Well, what we’re suffering from is called the winner’s curse. This is when our first offer is immediately accepted, and we could have probably done better in that negotiation. The reason why this happens is because we didn't set difficult enough goals in our negotiation and what we’re going to find out is that’s a really important part of our negotiation planning, that we need to set specific difficult goals in our negotiation.

Alright, the next pitfall is hubris. So again, I'm in a negotiation with Alyssa, and this time she is thinking about buying my car. I put the price of my car at $16,500, but really market value says the car is only worth $15,000. I say my car is worth $16,500 because my car is super special. I drove my kids around the beautiful city of Seattle in this car, both of my kids when they first came back from the hospital were in this car. But Alyssa doesn’t care at all about how much I've driven around in this car, or that my kids came home from the hospital in it. Honestly, it might be a little bit weird if I started to tell her the stories about my car, she doesn’t care. Market value for this car is $15,000 and that's what she’s willing to pay. This is what's called hubris. Alyssa is willing to pay me $15,000 but I want more, because I think my car is more valuable, my car is special. So, I walk away from the table when I shouldn't. I should take Alyssa’s deal, but I don’t.

This is called the endowment effect. It happens when you own something. You think it's worth more than it actually is. If you're an entrepreneur and you've put your blood, sweat, and tears into a product and it's your baby, then you think that product is priceless. However, when you look out into the world and when people are wanting to buy your product, they want to pay market value. We need to determine market value and we need to determine what really is the price of this car or this product. If I don't have another buyer who's willing to pay me more than $15,000, then I need to come to that deal with Alyssa. So, I made a mistake.

The last pitfall is agreement bias. This is when I settle for something that is worse than what my current situation is. This happens because I think I should come to an agreement every single time I negotiate. That is a problem and that's not true. Sometimes the best situation is to walk away from the negotiation or not come to an agreement with the other party. Before any negotiation, we need to know the value of what we have and then determine whether or not this deal that's being offered to me is better than my alternative or worse than my alternative.

Unfortunately, people aren’t prepared for negotiations, so they don’t know the value of what they already have, and they settle for deals that are actually worse than what they have currently.

Alright, so these are my four pitfalls in negotiation. All of these happened because of lack of communication and because of lack of preparation. My lose-lose situation happens because I don't share information with Alyssa about my interest, which means that I didn't do my homework and I didn't find out what my interests were. The winner’s curse happens because I don't set a difficult enough target or goal for my negotiation. I didn't do my homework on that one either. Hubris happens because I walk away from the table with a deal that was really good for me because I don't know the market value of what I have. An agreement bias happens because I don't know the value of what I have and instead, I walk away with something worse.
Alright, so let's get to some questions. I'm excited about hearing from you.

**Alyssa:** Great. We have a few questions. First, we have someone who left a job and then their employer said that they would have provided them with more desirable tasks if they had stuck around. This person was unable to determine if the employer really meant what they said or if they were just saying that to make them regret leaving. So, how do you try to figure out if the other person is trying to trick you or if they mean when they say?

**Professor Umphress:** This is tough. If that other person is acting in good faith and generally acts in good faith, then the assumption would be that they're acting in good faith now. If something is ambiguous about your negotiation, then that's a problem and that's a reason to come back to the table and try to better articulate what the agreement was that you came to. If you're left with any questions at all after a negotiation, I would encourage you to send an email and to have that discussion again. After every negotiation, I send an email in which I ask specific questions. I highlight, “This is what I think we agreed to. Then I asked if you have any questions about this. Do you agree? Should we have another discussion?” It sounds like there needs to be some follow up potentially.

**Alyssa:** Great. If the employer gets upset when you try to negotiate what should you do?

**Professor Umphress:** Okay, unfortunately people sometimes react in negotiations with real negative emotions and also fake negative emotions. When a person haggles, that's a tactic that people use, and they walk away upset as a tactic. Instead we should be negotiating and if that other person is expressing disappointment or they are upset, then I would ask that person more questions about their interest. I would try to delve into why that person is experiencing that emotion and let them know that it's certainly not your intention to be disrespectful. That negative emotion could have happened because maybe you ask for something that was inappropriate, or it could have happened because that person has learned that being upset is something that's a good tactic to use when they negotiate. Unfortunately, it's really hard to know. Instead, you need to follow up with more questions and be respectful when you are following up with more questions. Make it clear that your intention was a good intention.

**Alyssa:** Great. Someone asked, “I support women who are getting their first software engineering roles and they often ask me for advice on negotiating. How do you support someone who is negotiating when you're not directly involved? What are good things I should encourage them to think about and ask?”

**Professor Umphress:** I love this question. I’m asked a lot about advice for negotiating job offers so often that I have two videos that I’m going to be sharing with you. Those videos will be posted in the FAQ section of the Entrepreneurial Law Clinic’s negotiation website. The videos are about how to negotiate a job offer. There are two three-minute videos that are professionally designed by our Foster Hybrid Management Team that will help you.

Alright, let’s do some quick information that you must know before you negotiate. In any negotiation, what determines your success, or your lack of success, is going to be your preparation. I encourage you to plan before every single negotiation. There are going to be three really important pieces of your planning that I want to encourage you to include in your pre-negotiation plan.
The first is going to be your BATNA which is the Best Alternative To a Negotiated Agreement.
This is what you would do if the negotiation doesn't work out. You need to know what your
BATNA is, your Best Alternative To a Negotiated Agreement. Let's say in my negotiation with
Alyssa I have another deal from someone else who made an offer on my car for $14,500 so I
know that if I don't make a deal with Alyssa that I have another deal, or BATNA, for $14,500.
Now, I'm not going to tell Alyssa that I have another deal for $14,500 because if I do, then
technically she would just need to offer me $14,500 and one cent and then I would make a deal
with her. So, we're going to determine what our BATNA is, but we're not going to tell the other
party what our BATNA is. We're going to keep it a secret. I might say that I have an attractive
offer for my car, but I'm not going to tell Alyssa exactly what the offer is.

We're also not going to lie about it. Let's say I decide to lie about it, and I tell Alyssa that I have
a deal for $15,500 for my car, but she's only willing to pay $15,000 for my car. What I just did
was make it such that Alyssa is going to walk away, and I could have gotten a better deal with
Alyssa than my BATNA, but I lied about my BATNA and I made it so she walked away. Now, at
that moment, I either have to admit that I lied, which now Alyssa is not going to want to deal
with me, or I just let her walk away. So, we're removing potential really good deals by lying
about our alternative, or our BATNA.

If you don't like your BATNA then try to improve upon it. So constant improvement is really key.
We want to always try to get a better BATNA. What are my alternatives? We talked about a
salary negotiation but let me go down to supplier relationships. Let's say with my supplier
relationships I'm looking to develop or get a better price for the supply. My BATNA could be my
status quo deal with my current supplier, it could be the best deal that I already negotiated
with another supplier, or it could be that I changed to where I decided that I'm going to make
this supply myself. You can have multiple alternatives, but you only have one BATNA. You need
to choose your best alternative. And that's going to be your BATNA. In this situation, I'm going
to choose this best deal from another supplier, that is going to be my BATNA. My reservation
point is going to be the numeric value associated with the best deal from another supplier.

I'm going to bring us over to this specific example. Remember my BATNA is my Best Alternative
to a Negotiated Agreement, it's what I would do if the negotiation doesn't work out. Then
there is my reservation point, which is the numeric value associated with that BATNA. Here, we
have a seller who knows that he or she can sell this product for $90 to another buyer. $90 per
unit is the reservation point for the seller. And then we also have a buyer and the buyer knows
that he or she can buy this product from another seller for $100 so the buyer's reservation
point here is $100.

Now we're going to talk about the target. Our target is when we can do dream time. Our BATNA
and reservation point are both fixed, both of those things are based on reality. It's what I
literally can do, not what somebody else can do; it's what I know I can do if this negotiation
doesn't work out. Now my reservation point is the numeric value associated with my BATNA.
Target is more dream time. Our target is our goal in the negotiation. The research that's been
done about targets shows that if you have a specific difficult target, you're going to yield a
higher level of performance in your negotiation than if you say, “I'm just going to do my best.”
Now unfortunately, what people do when they negotiate is, they say to themselves, “I'll just do
my best in this negotiation.” Well, what you're really telling yourself is that I'm not going to do very well at all. Also, what people tend to do, if they do set a specific target, they tend to set it too low, they tend to set it in the middle.

Let's say for example, I'm talking about a salary and someone like me in an organization like this gets paid between $100,000 to $150,000 a year. Now your target should be $150,000. However, what people tend to do is they set a medium goal. They say $125,000 and that harms you in your negotiation every single time. Our targets need to be as high as possible. They need to be specific and difficult and I know that you're going to yield a higher level of performance if you have specific difficult goal versus a “do your best” goal or an easy or medium goal.

Alright, so we need to do research when we're setting our target, we need to go out there in the world. Luckily, there is a big world out there and we can access a lot of information via our social networks and via the Internet. We need to set very specific goals; a specific number needs to be our goal. It turns out that human beings like to think about one number at a time.

If we are thinking about that one number during our negotiations, we're going to achieve a higher level than if we are not thinking about a number at all and just say, “Do your best.”

Now we want to set aggressive goals or difficult goals, but we're never going to act aggressively during our negotiations. We're going to keep positive during negotiations and keep respectful during our negotiations. This is for the other side. A lot of research shows if the other side is in a positive mood, they're more likely to give us the things that we want than if they're in a neutral or negative mood. We want the other side to feel positively, we want them to perceive that they are respected. The easiest way to do that is to treat them respectfully and be positive.

We're also not going to start negotiating with ourselves. If we start our target at $125,000, we've already negotiated ourselves down $25,000. Instead, I'm not going to negotiate with myself. Someone like me in an organization like this is paid $150,000 so I should have $150,000 as my target. I'll be ready to negotiate though and make compromises, but not when it comes to assessing my target and not before I start negotiating.

Going off our earlier example, we have targets. Now the buyer’s target, the buyer knows that someone has bought this product for $70 somewhere out there in the world and the seller knows that someone has sold this product for $120 somewhere out there in the world. The Zone of Potential Agreements is the area of overlap, where we know we should come to an agreement. These individuals should come to an agreement and that agreement should be somewhere between $90 and $100 so the Zone of Potential Agreement, also called ZOPA, is $90 to $100.

Alright, so what did we learn so far? I think you've learned a lot. First, we're going to negotiate when things are important to us and when it's appropriate to do so. The other thing we know is that a good deal is going to be something that's better than what we already have or better than our BATNA or Best Alternative To a Negotiated Agreement. It's going to be something that's going to be above our reservation point which is a numeric value associated with our BATNA. Ideally, it's going to be as close to our target as we can possibly get.

Alright, so we have time for some more questions.
Alyssa: We have a question from Natasha who would like you to elaborate a little bit more on what signaling means and signaling that there is a BATNA but not telling the other party what it is.

Professor Umphress: I think that's a great question. Let's say the other party starts to question your alternatives. For example, a recruiter, and they ask if you have any other job offers. You might say something like, “Yes, I do have attractive job offers.” But that's all you're going to say about it. You're not going to say that you have a job offer from company X and here's the salary and here's the time off. They might ask you questions about that, which is not a great strategy and I encourage you not to do that. They might ask you those questions, but you just say, “It's an attractive option. What I'd like to start talking about is me working with you.” So, direct it back to your negotiation with the other party.

Alyssa: Great. Robert was wondering if these slides will be available for participants. Yes, they will be posted on the Entrepreneurial Law Clinic website under the negotiations tab.

Professor Umphress: Yes, I'm also going to provide additional videos. I'm going to have one on BATNA, reservation point, and target. Just three-minute, quick videos that were professionally developed so that anytime you need to come back to this, you can just go to those quick videos at the negotiations link and you can see those explanations.

Alyssa: We have a question regarding signaling your BATNA and other job offers. In the case where even if your other competing offer is higher, do you still not want to reveal specifically what your BATNA is?

Professor Umphress: No, you're not going to reveal the specifics associated with that. And the reason why is that you can't get any higher than that if you do reveal it. You could just say, “It's an attractive offer. I would like to get...” and then state a little bit above your target. We're going to get to how much above your target in the next session, we're going to talk about how to actually do this negotiation process in the next session. Of course, in a negotiation you don't want to start off at your target because then you're not going to get your target. But again, I would not reveal that information because you would just get one cent technically above that.

Alyssa: Okay, great. Someone asked, if there isn't a BATNA and you shouldn't lie about not having a BATNA, how do you try to negotiate that and avoid telling the other party that you don't have a BATNA?

Professor Umphress: Okay, so you always have a BATNA, even if your BATNA really is bad. Let's take for example when I was a first graduating or attempting to get my PhD and graduate. My possible BATNAs if I did not get a job were to stay in graduate school for a sixth year, I could move home with my parents, or I could be an Industrial Organizational Psychologist for the city of New Orleans. I had various potential BATNAs. My best alternative was to be a graduate student for a sixth year. That was my best alternative and being a graduate student, you barely get paid anything if you get paid at all and it was hard. That was not a great BATNA, but it was a BATNA.

These are really great questions about what is my BATNA, what is my reservation point and we will delve deeper the next time we have our session, which is in two weeks.
All right, I wanted to address in the time that we have left for today, which isn't a lot, COVID and uncertainty. I want to say that right now is a really, really hard time. I want to say also that our BATNAs are not very good right now. Many of us have really terrible BATNAs. For that reason, I think that now is a really good time to negotiate, because we know that all of us are facing this uncertainty.

I wanted to provide to you some information about what we know about uncertainty from a research perspective. We know that when you feel uncertain, and likely the other party's feeling uncertain, that it's very important to feel respected and heard. So even if you can't grant the other party what they're negotiating, it's really important for the other party to feel respected and heard. What does that mean? I think that what it means is that now, and every time, but especially now, we want to ask before we start to negotiate: “Is now still a good time?” We want to schedule our negotiations and a time that's good for the other party and us and we also want to ask that question, “Is now a good time?” This has saved many of my negotiations, just asking this question because let's say the other party just found out really devastating news about a significant other, or their job. If now's not a good time, you do not want to be negotiating right now, so just ask this question.

Try to minimize your distractions. That helps show the other party that they are respected. Don't interrupt the other party. I know that it's harder now because we're using technology in order to engage and you can't quite see all the cues that you normally could see. If you do interrupt the other party apologize, but try not to interrupt the other party. You want to ask more questions than you think you should about the other party's interests. Even if you're not interested in the other party's perspective, you need to act as though you are interested in the other party's perspective because you're not going to get what you want unless you do. You want to paraphrase what the other party says, and you want to take notes. I generally take notes for all of my negotiations, that way when I go back and negotiate with that person again, I have notes from the last time. I know what their interests are before and I could say, “Last time we talked about X, Y, and Z. Are these still your interests? Are those changed?”

The other thing is that we're going to assume that everything is going to be negotiable right now because everything is pretty much up in the air. I think that almost everything right now, except your values of course, is going to be negotiable. Changes are going to be likely in your negotiating agreements. Flexibility is going to be king right now. If you're flexible with the other party, they're likely to be flexible with you. I'm only going to encourage flexibility for you for the things that don't matter as much to you. Something that doesn't matter as much to you, try to be flexible about that issue so that the other party can reciprocate that and then be flexible with you with something that matters a lot for you.

We want to be more creative. We want to think outside the box. Our employment relationships, our landlord relationships, we want to think a little bit differently. Maybe capitalize on this uncertainty and make more creative deals than we would traditionally because circumstances are so strange right now.

I also want to acknowledge that before COVID I would say you want to have your negotiations in person. The reason why is because you get to see the other person's facial expressions. Facial
expressions tell you a lot more about what the other person is saying than their words. So, seeing their facial expressions, seeing their body language is really key for you to understand what the other person is saying. We should not be having our negotiations via email and we should not be having, if we can help it, our negotiations via the phone however then you still have tone of voice.

Now we have safety considerations for in-person so we're not going to be having our negotiations in person. Also, if you're in person, you have to wear a mask so we're blocking some of those facial expressions that are so important. I want to encourage you to have your negotiations, if you can, via Zoom, via FaceTime, or Google Meet, or whatever app that you want such that you can see the other party's expression. If you can't, then phone is going to be your next best option. In-person, I would say, is not the best option for you now because the other party might be stressed because you are in-person. Please don't have negotiations via email. I know some organizations only negotiate via email; they're really only doing themselves a disservice in doing so. Try to get people on the phone. No one should be texting negotiations; we should not be negotiating via text.

Okay, so I know that we're out of time. Here are some books that I recommend. I think that my number one book is “Getting to Yes.” I would encourage all of us to try to get the audio book. You can get it from the library. “Getting to Yes” is an excellent book and it's research based and it's been updated over the years. It's just a favorite. I'll talk more about these books next time.

Thank you everyone for joining us.