

MINIMIZING RISK

AVOIDING THE MOST COMMON
MISTAKES IN A NEGOTIATION



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- ❑ Consider the best means to facilitate the negotiation
- ❑ Understand the interest and goals of both parties
- ❑ Prepare your client for compromise
- ❑ Consider the parties' relationship (ongoing or at an end)
- ❑ Are there creative solutions to the dispute?
- ❑ Determine your client's bottom line, i.e. when to end negotiations

FAILURE TO PREPARE



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- ❑ Establish trust, respect and rapport with the opposing counsel/party
- ❑ Underscore your client's position with supportive facts/evidence
- ❑ Frame proposals as a success for both parties, i.e. a "win-win situation"
- ❑ Manage emotions to ensure that your judgment and that of your client is not clouded by anger or anxiety

FAILURE TO COMMUNICATE
PERSUASIVELY



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- ❑ **Actively listen to the other party, i.e. articulate your understanding of their position and clarify any misunderstandings**
- ❑ **Be mindful of verbal and non-verbal cues to assess motivation and identify potential areas of compromise**
- ❑ **Do not rush towards resolution, but allow the parties to work through the process**

FAILURE TO LISTEN AND OBSERVE



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- ❑ Ensure all elements of the settlement/resolution are clear and there is mutual agreement to terms
- ❑ Agree to clear timelines for completion of outstanding items
- ❑ Prepare a written agreement outlining each party's obligations

FAILURE TO CLOSE THE DEAL



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