

The Right Questions Asked the Right Way

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To communicate well is an important skill set you can develop with a little effort. Last month, in the article “The Right Words to Get the Conversation Started and Keep it Going” we covered how to be an effective listener. This month we take up the subject of effective questioning techniques in “The Right Questions Asked the Right Way”.

Mastery of effective questioning techniques increases the likelihood you will achieve an outstanding result for your client. The ability to ask good questions in a negotiation takes practice, but the results are worth it. However, in our training as attorneys, our focus is usually on leading the conversation through argument of our side’s position - but, outstanding negotiators more often lead by questioning. It’s just a different kind of advocacy.

Effective questioning allows you to gain insight into your counterpart’s interests in a relatively low risk setting. Asking follow-up questions allows you time to think about the impact of the information on your case and to generate options. Also, effective questioning techniques allow you to reframe pure argument into something neutral, which acknowledges the position, but still redirects the conversation back toward interests. Finally, effective questioning gives you the opportunity to assess the character of your counterpart; for example, does he answer tough questions carefully, but truthfully. This rapport can be crucial when it comes time for the facilitated negotiation: Mediation.

Question Types and Examples:

Application Questions:

These questions ask your counterpart to apply knowledge in context.

For example:

How could you apply / distinguish this new Supreme Court case to / from this case?

Help me understand how will you establish _____ in light of the ruling in the _____ case?

Analytical Questions:

These questions ask your counterpart to analyze information, concepts, themes, and processes.

For example:

How are the facts of these cases alike?

How are they different?

What is an analogous situation?

How would you classify these claims?

What distinguishes the categories of claimants?

How do the damages differ?

Synthesis Questions:

These questions ask your counterpart to formulate a theory, make inferences, or create a scenario.

For example:

What do you think is the cause of this area of damage to the vehicle?

How do you think this fire happened?

What do you infer from the witness' statements about _____?

What do you think your expert might say about _____?

What were alternative designs?

What do you estimate will be the costs for preparing this case and going through trial?

How is the best way start to talk about settlement and when?

Interpretive Questions:

These are open-ended questions that ask your counterpart to formulate opinions in response to the ideas you present.

For example:

What does it do to your case that the guard was removed from the machine after it left the factory?

What about the fact that the driver had THC in his system?

What if we learned _____?

Do you think your client understands where I am coming from on this?

Would you be willing to recommend _____, if not, what could you recommend?

Evaluative Questions:

These questions ask your counterpart to justify judgments and criticisms based upon clearly articulated criteria.

For example:

Why did your client choose to do _____ when _____ was an option for him instead?

What were some of the things your client could have done to mitigate these damages?

How do you think _____ will look to a jury?

I understand your damages, but I don't see how you get to liability - you tell me?

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