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August 27, 2020

# Let's Make a Deal...or Not

# Risk Management

- How do you define Risk Management?
- Dispute avoidance Risk Management
- My universe/definition of Risk Management

# What is the Philosophy?

- Presentation is not about “risk management”
- What is the philosophy being applied?
  - Risk Adverse/Avoidance
  - Settle First
  - Economic Analysis/Calculation



# Considerations & Goals

- What are the available options?
- Cost – monetary and time?
- Publicity
- Effect on Corporate Culture
- Reputation



# “Everybody has a plan until...”

- Early stages
- Plan
- Litigation Considerations
- Selection of mediator



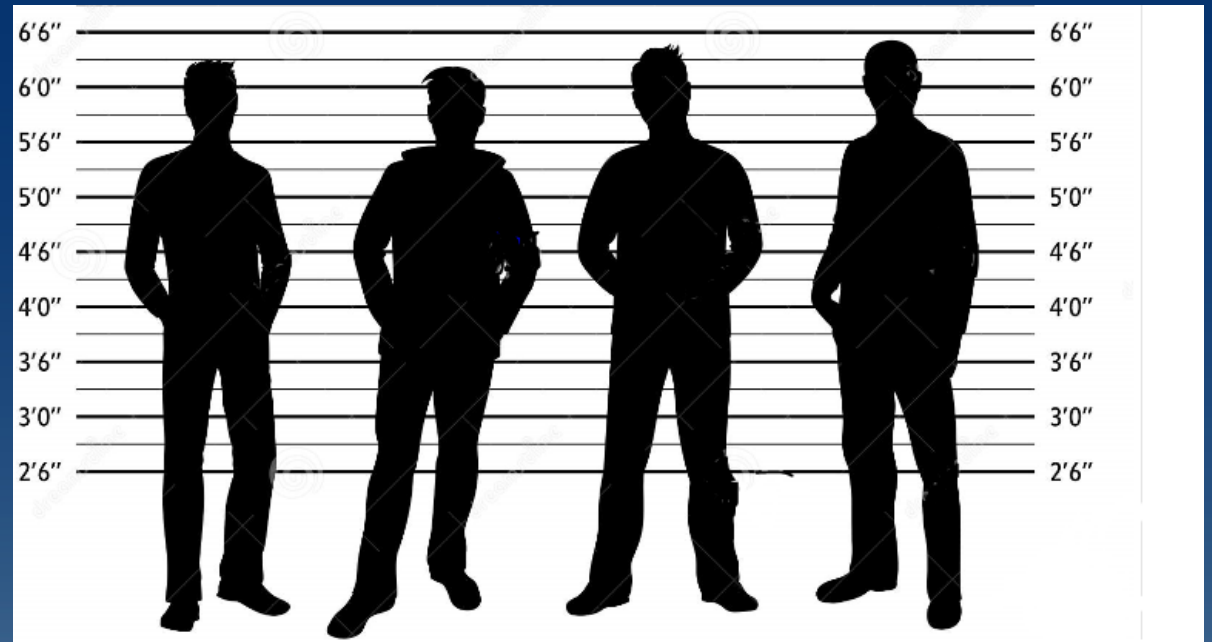
# Resolution Strategies

- Best Alternative to a Negotiated Agreement (BATNA)



# Finding the Right Mediator

- Timetable/Scheduling
- Word of mouth
- Published bios
- Industry groups
- Particular expertise
- Cost
- Location
- Mediation Agreement
- Disputes over mediators



# Mediation Scheduling and Briefing

- When in the life of the claim?
  - Pre-Suit?
  - Pre-Trial?
- Submission
  - Detail Level?
  - Confidentiality?





# Mediation Process

- Telephonic Appearance
- Opening
- Joint Discussion
- Visitation



# Subjective Case Value vs. Settlement Value

- Subjective
- Creating a Range
- Broader Considerations
- Entirety of Interests Involved



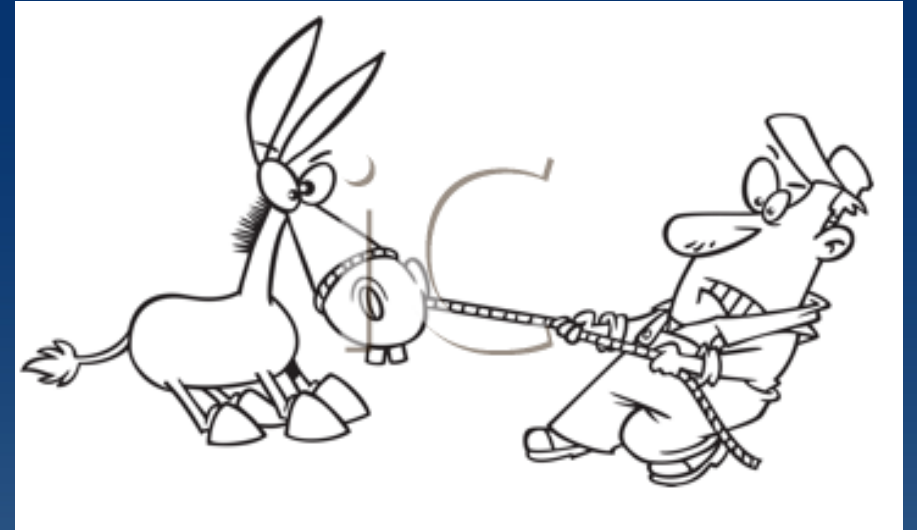
# Reading the Other Side

- Opening demand/offer
- Use of Anchoring
- Use of Mirroring in Negotiations
- Identifying signals
- Sending signals



# Other Motivating Factors for Claimant / Plaintiff

- Being heard
- Getting an explanation
- Vindication
- Teaching defendant a lesson
- Punishment
- Ending the process / getting paid



# Contact

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