



# Mediation: Conflict, Negotiation and Dispute Resolution for Lawyers

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# Getting to Yes

## *Four Main Principles:*

1. People: *Separate the people (relationship problem) from the (substantive or legal) problem*
2. Interests: *Focus on the parties' interests, not their positions*
3. Options: *Generate a variety of possibilities before deciding what to do*
4. Criteria: *Insist that the result be based on some objective and valid criteria*

# GTY: Focus on the parties' interests and concerns, not their positions

Focus on the Interests so as to recognize:

- The dispute is not about the Ps' positions
- Interests define the problem: the conflict is about needs, concerns, desires and fears that underlie the stated positions
- Needs, fears, concerns and desires motivate the Ps and incite their conflict

**GTY: Focus on the parties' interests and concerns, not their positions**

**How to WORK WITH the Parties' interests:**

- 1. Find multiple positions or arrangements to satisfy each interest*
- 2. Identify shared needs & concerns, shared fears & desires*
- 3. Identify differing or opposing interests*

**GTY: Focus on the parties' interests and concerns, not their positions**

**How to IDENTIFY the Parties' interests:**

- A) *Look behind the position to understand the unexpressed or intangible interest*
- B) *Ask "WHY" that position: What purpose does it serve? What is significant about that position?*
- C) *Ask "WHY NOT" - Why won't the Ps consider these settlement terms? What interest is not being met by the proposed options?*

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## 5 Basic Human Needs:

1. Security
2. Economic Well-Being
3. A Sense of Belonging
4. Recognition
5. Control Over One's Life

Key: Identify these from the Ps' statements & body language. Identify these for the mediator's agenda.



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