

# The Attorney as Negotiator: *Sitting Down Before the Battle*



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## The King Who Sits Down First

“Or if a king is setting out to join battle with another king, does he not first sit down and deliberate, whether with his army of ten thousand he can meet the onset of one who has twenty thousand?” (Luke 14:31, Knox Bible)

In my column “The Lawyer as Prudent Warrior,” I also explored this passage. Good lawyers, like wise kings, prepare before they act. Today I want to show you a specific method of preparation: the Black Swan approach to negotiation, developed by former FBI hostage negotiator Chris Voss.

It starts with sitting down and thinking. That’s what the king does. That’s what good lawyers do.

### Negotiating with Clients: Listening First

The Black Swan method begins not with arguments but with listening. My first negotiation is always with my own client. I need to understand what they truly need, not just what they say they want.

Here’s how that works: tactical empathy means showing—not just having—understanding of the client’s feelings. I use labels, simple phrases that name emotions. “It seems like this situation is weighing on you.” “It sounds like you’re worried about cost.” Naming the emotion defuses it.

I also ask calibrated questions—open-ended “what” and “how” questions. “What are we really trying to accomplish?” “How does this affect your family?” These questions help the client think clearly about priorities.

Then there’s the accusation audit. I anticipate the client’s fears and name them up front. “You’re probably worried this will cost too much.” “You’re going to think that I’m not hearing you.” This builds trust.

Before every client meeting, I fill out a negotiation sheet. I write down the goal. I summarize the facts. I prepare labels and calibrated questions. This is an act of service. Truly hearing my client is the first step in helping them.

### Negotiating with Opposing Counsel: Strength Through Empathy

The same tools apply when I face opposing counsel. But the goal shifts. With a client, I seek understanding. With opposing counsel, I seek resolution while protecting my client.

Calibrated questions work here too. “What are we up against?” “How does this fit what both sides need?” These questions get the other side talking. The more they talk, the more they reveal—without hostility.

Chris Voss teaches: “If you’re explaining, you’re losing.” So I listen. I use focused comparisons: I notice when the other side says one thing and does another. “You said X, and you also said Y—how do those add up?” I stay there until I get clarity.

The negotiation sheet is my battle prep. Just as the king in Luke 14 deliberates before battle, I fill out the negotiation sheet before every negotiation. I define the goal. I anticipate objections. I prepare questions.

Empathy is not weakness. It’s the sharpest tool in the warrior’s kit.

### Practical Tips

- You can use these tools in your own conflicts—at work, at home, at the parish:
- Write down your goal before any important conversation.
- Start by naming the other person’s concerns before stating your own (the accusation audit).
- Replace demands with calibrated questions: “How can we solve this?”
- Listen more than you talk—the person listening has control.
- Prepare: “You don’t rise to the occasion, you fall to your highest level of preparation” (Chris Voss).

### Service Above Self

The whole point of these skills is to be of maximum service to God and others. Whether I’m with clients or opposing counsel, my job is the same: sit down, deliberate, and then act (however imperfectly) with both wisdom and charity.

Prepare. Listen. Then act. That’s how we serve.



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