

TABLE OF CONTENTS

PREFACE	i
CHAPTER ONE: INTRODUCTION	1
WHY SETTLEMENT IS IMPORTANT	2
It Creates the Right Outcomes	2
The Destructive Power of Disputes	3
BARRIERS TO SETTLEMENTS	4
Fear of Perceived Weakness	4
Fear of Inspiring More Complaints	5
Lack of Knowledge	6
CHAPTER TWO: DEFINING THE INTERESTS	9
POSITION-BASED NEGOTIATING.....	9
Limited Means and Options	9
No Concerns for Future Relationships.....	10
Interests Are Not Mutual or Interdependent	10
Both Sides Recognize and Accept a Zero-Sum Game	10
INTEREST-BASED NEGOTIATING	10
STEPS IN INTEREST-BASED NEGOTIATIONS	12
Defining the Interests	14
Finding the Employee's Interests	16
Case 1: The Apology.....	18
Case 2: Mrs. EEO.....	21
Case 3: The Molester	24
Management's Interests	25
Case 1: The Apology.....	27
Case 2: Mrs. EEO.....	28
Case 3: The Molester	29
CHAPTER THREE: CREATING OPTIONS	33
BRAINSTORMING.....	33
The Walls to Imagination	33
Mis-Legal Thinking	33
Misguided Justice	35
Attempted One-Way Resolutions	36
Closed Minds.....	37
CREATING OPTIONS.....	38
How to Create Options	38
Case 1: The Apology.....	39
Case 2: Mrs. EEO.....	43
Case 3: The Molester	46
CHAPTER FOUR: FINALIZING THE AGREEMENT: WRITING IT DOWN....	49

CRITERIA FOR SETTLEMENTS	49
What May Management Give	50
Personal to the Employee.....	50
Specificity	51
Avoid Intangibles.....	52
Define Your Terms.....	54
Use Specific Evaluation Criteria	54
Give Time Frames.....	55
CHAPTER FIVE: COMMON SETTLEMENT OPTIONS.....	57
DISCIPLINARY ACTIONS	57
Mitigation of the Penalty	58
Last Chance Agreement.....	59
When to Use an LCA.....	59
When Not to Use an LCA	60
Conditional Reinstatement After Removal	62
Reinstatement Without Back Pay and Benefits	63
Demotion in Lieu of Removal.....	63
Resignation in Lieu of Removal	64
Neutral References	65
“Clean Paper”	65
Dropping One of Multiple Charges.....	66
Changing the Wording of a Charge	66
Letter of Recommendation.....	66
Attorney Fees	67
NONSELECTIONS.....	67
Formal Training.....	67
Training Agreement.....	67
Temporary Detail to Another Position	68
Recurring Detail to Another Position	68
Adding Higher Level Responsibilities to the Current Position	68
Create a Collateral Responsibility and Give It a Title.....	69
Changing the Position Title.....	69
Reassignment	69
Opportunity to Travel.....	69
Opportunity to Work Overtime	69
Changing Future Selection Policies or Practices	70
Temporary Promotion.....	70
Upgrading the Position	70
Priority Consideration	70