

PERSONAL INJURY NEGOTIATION
General Information

OBJECTIVE: To prepare for a negotiation as thoroughly as possible with the facts given. During your preparation, give particular attention to the issues of identifying underlying interests and the alternatives you may have (both positive and negative) to a negotiated settlement. You should make every effort to settle, but in the event you are unable to do so, be prepared to give specific reasons for the failure. If you choose to "fill in the gaps" with "facts" that are not presented below, those "facts" must be consistent with the known information and should be stipulated to at the outset of the negotiation.

At approximately 11:30 p.m. on a rainy and dark Friday evening last November, accountant James Bonde was driving his Mazerratti north on Twelfth Street in downtown San Diego. He had just completed a long and acrimonious dinner meeting with a difficult, but important, client. Although he had consumed three or four martinis (shaken, not stirred) during the course of his lengthy discussions, he felt in complete control of his faculties when he concluded the meeting.

As a result of the emergency session with his client, Bonde was forced to miss a prestigious social event that his wife had been eagerly anticipating. He realized she was very angry over the situation, and he was in a great hurry to return home to assuage her feelings. As Bonde was heading up the street, he swerved toward the middle of the road to avoid a double-parked car, and he drove precariously close to a stopped trolley from which Ramona Helmsley had just exited.

Bonde's mind was on both the problems with his client and his wife's ire, and he did not see Helmsley, who was clumsily crossing the street in front of him. Helmsley slipped on the wet pavement into the path of Bonde's automobile, and she was directly struck before ^{Bonde} ~~Borsky~~ could even apply his brakes.

Helmsley suffered a broken back resulting in paralysis from the waist down. She was 40 years old at the time of the mishap. Helmsley, who was a successful patent attorney at the time of the accident with Bonde, has adapted herself well to her present condition and she is currently able to conduct her business as effectively as ever. However, one month ago, her husband instituted marital dissolution proceedings. She contends that this was brought on by her paralyzed condition.

Helmsley has sued Bonde for \$5,000,000. Her medical expenses and lost earnings total about \$200,000. The State of California is a comparative negligence jurisdiction. Any settlement figure agreed upon must be paid to Helmsley immediately.