

Book Review by: Sylwester Pieckowski, Radzikowski, Szubielska & Partners LLP, Warsaw

NEGOTIATION Things Corporate Counsel Need to Know but Were Not Taught by Michael Leathes (Wolters Kluwer 2017)

Michael Leathes takes a closer look at the position, skills, duties and expectations that apply to corporate counsel of the XXI century within the process of negotiation as used in the resolution of corporate disputes and in making business deals.

The Author modestly proclaims in the preface that “*This book is not a user guide to negotiation. (...) Rather, it aims to inspire negotiation ideas and concepts from the standpoint of a lawyer employed by a company or other organization.*”

I respectfully disagree. The book goes far beyond inspiration of negotiation and in my opinion it constitutes a rich source of organized knowledge and practical user guidelines concerning negotiation as applied today by companies and their in-house counsel. As such, it is a precious educational tool and a practical negotiation conduct kit.

The book and its main points are ably summarized by the Author in the Preface:

1. Corporate and other internal counsel should not confine themselves to *docugotiation* and *litigotiation* - negotiating terms in agreements and settlements. Those who diversify as commercial negotiators outside the legal frame become true *general* counsel, empowered to lead, innovate, inspire and increase their value.
2. Cross-cultural negotiations would lead to more effective outcomes if negotiators take more time to listen and truly understand the other party. Even though most people are not entirely stereotypical, understanding cultural framework is essential.
3. Prepare better and faster by using openly available e-tools. Preparation is key, and the preparer is at the center of negotiations.
4. The dynamics of neuroscience may make your eyes glaze over, but understanding the basics of brain science improves negotiation.
5. Using a neutral facilitator to help the parties forge a more effective deal is greatly under-used opportunity. By having a trusted impartial person take charge of the process frees everyone up to negotiate better. It should not be confined to dispute settlement.
6. Legal education needs to include negotiation skills. Negotiation is a hard, not soft, set of skills and can be assessed. Accreditation should be offered to those who pass negotiation skill assessments.
7. It is time for an international initiative, backed by top educators, businesses, professional service firms and professional bodies to set high-level global negotiation knowledge and skills standards, as well as an international code of negotiation ethics to inspire more people to take negotiation courses and improve the quality and effectiveness of negotiation outcomes.

Amen.

Sylwester Pieckowski, a Polish advocate, international arbitrator and mediator, at Radzikowski, Szubielska & Partners LLP, Warsaw. He holds law degrees from University of Warsaw (LL.M. 1973) and University of Michigan (LL.M. 1983). Before going to attorney practice in 1996 he worked for many years as general counsel in Polish and U.S. international trade companies.

Mr. Pieckowski served as President of the Polish Arbitration Association (2006-2018). He initiated and co-founded the Lewiatan Court of Arbitration (2005), chaired the Civic Council on ADR at the Ministry of Justice (2012-2013). Mr. Pieckowski is an arbitrator and mediator for several institutions: ICDR in New York, VIAC in Vienna, Shanghai Arbitration Commission, KIG Arbitration Court in Warsaw, Lewiatan Arbitration Court in Warsaw, Lewiatan Mediation Center, Mediation Institute in Warsaw, International Mediation Center in Warsaw and Czech Court of Arbitration in Prague.

Sylwester Pieckowski frequently speaks and gives lectures on modern dispute resolution methods and on conditions ensuring better access to justice to law students and practitioners. He is the author of *Business Mediation* (2015, Difin) and co-author of seven books on arbitration and ADR; he has also published numerous articles and essays in Poland and abroad (.mediate.com, AAA Arbitration Journal). Mr. Pieckowski served as arbitrator in 50 cases, and as mediator in 80 commercial disputes.

Pieckowski co-chaired the Polish LOC (Local Organizing Committee) in setting up a Global Pound Conference held in Warsaw, March 31, 2017: *Shaping the future of dispute resolution & improving access to justice*.