



MICHAEL R. DILIBERTO, ESQ.



Adjust For Confidence Distortion

“The trouble with people is not that they don't know, but that they know so much that ain't so.”

Josh Billings, 19th century American humorist

Being confident is a good thing, right? It shows that we have faith in our skills and abilities. However, for reasons that appear to be rooted in our biology, we tend to be more confident in our judgments and knowledge than objective facts would support. Studies typically show that 67 to 96 percent of people rate their own skills as better than those of their peers. In bargaining situations, people tend to overweigh views that favor themselves, are overly optimistic about what outcomes are achievable, and are overly-confident that they will attain them. By contrast, people tend to attribute failures to uncooperative and unethical practices by the opponent, not to themselves.

Social scientists believe that overconfidence is an adaptive trait that has become an integral part of the human psyche, resulting in a bias of “positive illusions.” Bringing that bias to the negotiation table may enhance one’s performance and negotiation results. Positive illusions suppress thoughts or feelings that would interrupt progress towards a goal, thus increasing the likelihood of success through strengthened resolve. An exaggerated self-assessment may also enhance one’s probability of winning via deception of the opponent, because confident behavior increases the chance of bluffing opponents into believing they are unlikely to win.

However, overconfident bargainers with poorly developed goals can get into trouble. A classic example of this occurred in the early 1960s when Brian Epstein, the manager of the Beatles, attempted to negotiate the band’s share of their first movie, “A Hard Day’s Night,” with the film’s producer, Walter Shenson. Epstein, who knew how to negotiate music contracts, was not familiar with film-industry deal points. Confident that he was making a hardball demand, he asked for 7.5% of profits. The producer did not hesitate to agree. It turns out that he had been prepared to offer the Beatles up to 25% of profits. After the film became a big success, the producer, possibly having a guilty conscience, offered to increase the Beatles’ profit participation to 20%.

Remember that people in general are overconfident, which can result in a distorted view of their bargaining position. Part of your preparation for settlement negotiations includes adjusting for that distortion.