



**MICHAEL R. DILIBERTO, ESQ.**



## **Understand Cultural Authority**

Negotiations are more effective when parties with settlement authority appear in person. So how would you react in a cross-cultural negotiation if you were told that the other party will not be represented by someone with substantial settlement authority? Instead, the other party will be represented by a team of people who will make decisions by consensus.

Rather than viewing this behavior as bad faith negotiating, understand that some cultures do not bestow decision making authority to a particular individual, as in individualistic societies. In collective societies, such as Japan, decisions may be made by group consensus. Professor Harold I. Abramson (Touro Law Center) suggests that to make a deal, you need to accommodate their interests in consensus decision making while meeting your need to negotiate with parties who have actual settlement authority. Have the other side commit to bringing all the people who must concur, or at least ensure that any absent people are available by telephone. You can accommodate their consensus approach by giving members of the negotiating team time to meet privately as the negotiation progresses.

While U.S. lawyers usually insist on agreements that contain many details and contingencies, some cultures prefer a written agreement with a general statement about the ongoing business relationship. Instead of viewing their behavior as an attempt to evade key issues, understand that from a cultural perspective, the other side may not be concerned about the details of a written agreement. Enlist the mediator's assistance to uncover why they are disinclined to put details in writing. Discussing and respecting the reasons for the different practices cultivates trust, which may lead to a compromise, or a written settlement that covers key obligations instead of every conceivable contingency.