

From: C. K. Gunsalus
Sent: Saturday, May 17, 2003 9:56 AM
Subject: Re: Ugli Orange

I've had a number of questions about how I use the Durian variant of the Ugli Orange problem in my class (and why). I've referred everyone who asked to John Barkai's wonderful Samurai article, which has suggestions about using/debriefing the Durian variant of Ugli Orange. The article is "Teaching Negotiation and ADR: The Savvy Samurai Meets the Devil," 75 Nebraska Law Review 704 (1996). The Durian variant simply calls the fruits Durians (a fruit considered a delicacy in Singapore, although to the uninitiated it has an unpleasant odor). In addition to discussing the ugli orange/durian exercise, it also has some nice listening exercise suggestions.

John's article is clearly the place to start in thinking about this. Here are a few more thoughts about that exercise. What I like about the Durian negotiation is its cumulation of elements, that together make a wonderful introduction to the topic of negotiation:

- it's short (so students can read their confidential role information, assimilate it, and do the negotiation in relatively short order: 20 minutes or even less, depending on the group)
- both sides have compelling reasons they NEED the Durians (they are saving lives in different ways)
- the resource they're seeking is scarce (they cannot just go to another source)
- it's set up to be adversarial/competitive (companies have been engaged in industrial espionage against each other, so they are set up not to trust each other)
- it involves a common-sense divisibility (anyone can figure out that fruit can be divided thorns/pulp, if they think for a moment), and
- the two parties are negotiating with each other, not the "owner" of the resource, which provides a nice twist to the debriefing (as well as an opening to talk about "what is negotiation?")

I mostly follow Barkai's general suggestions for running and debriefing the negotiation (especially stopping when only half are done) and use it to make the points about:

- preparation (care, thoroughness, preparing questions, thinking about the interests of the other side)
- cooperation/communication
- being open to integrative solutions
- importance of listening

- negotiation as a conversation
- introducing basic vocabulary (including positions vs. interests concepts)
- follow-up to negotiation (how many anticipated and contracted for how the division would occur, given the lack of trust) etc.

In my experience, it's hugely successful in terms of "resetting" law students (and others, but law students tend to be so extraordinarily competitive, the results are more marked with them) to a different mode of thought about negotiation, and helps keep them open for the lessons that follow.

It also provides a nice opening for talking about adult learning theory and the different components, and the importance of each, thus laying a foundation for what comes next.

Unlike Barkai, I do not wave off people from the reading first: instead, I use it as an opportunity to talk about the importance of preparation... that's also a pretty visceral lesson for some law students. I find it makes them much more attentive to the readings, at least for a while!

In a different context, later in the semester, the arm wrestling exercise has the same kind of quick and direct impact, but few things other than that come close, and I haven't found any that are as great an overview and introduction.

I have attempted several variations to replace the Durian, but none of them have successfully combined all the elements. I have one version involving a piece of land environmentalists want to preserve in pristine condition but a group of parents are seeking access to a rare plant for an extract to save children with a hereditary condition and one involving obsolete/antique computer equipment, but none (so far) work as well as the Durians.

This is probably more than anyone wanted to know, but that's what you get on Saturday morning.

Tina

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