Settle for less...?

Or for more! Tips on timing, confidentiality and strategy in (multi-jurisdictional) settlement arrangements

Working Session 5:
Maïte Ottes (Antitrust), Alexander Saucken (Commercial Fraud), Karin Graf (Litigation)
Content of Workshop

09.00 – 09.15 Welcome by Karin Graf «What makes a skillful negotiator»

09.15 – 10.00 Panel Discussions Litigation
1. Timing and Strategy in Settlement Discussions
2. Confidentiality
3. Ethics and Style

10.00 – 10.05 Introduction by Maïte Ottes: settlement with competition authorities

10.05 – 10.25 Speech by Mr. M. Petr, vice-president of the Czech Competition Authority

10.25 – 11.00 Coffee break

11.00 – 11.30 The practical insight: Radovan Kubac, Grégoire Ryelandt

11.30 – 12.00 Panel led by Alexander Saucken «Deals and settlements – the criminal law perspective»
What makes a skillful negotiator?

- Character
- Intellectual skills and know your case
- Seniority
- No self-reference
- The right to say «no»
Character: Communicative skills
Character: Winning personality who can laugh
Intellectual skills and know your case
Intellectual skills: Know your file and your adversary
Seniority: Richard vs. Mr Gere
Seniority: Richard vs. Mr. Gere
Seniority: Angela vs. Federal Chancellor
Seniority: Angela vs. Federal Chancellor
Seniority: Greenhorn becomes personality
No self-reference
The right to say «no»
I am fond of settlements in civil litigation.
I address the issue of settlement options in the first client meeting.
In my experience, it is the client who brings up the issue of settlement.
Settlements make clients happy.
A very aggressive litigation strategy hinders settlement discussions.
Agree or do not agree?

There is a «right moment» for settlement discussions.
Agree or do not agree?

Settlement discussions become more difficult the more the parties know about a case.
I favour private settlement discussions as opposed to settlement negotiations in court.
Agree or do not agree?

I do generally not like to take initiative in settlement discussions but prefer to await the counterparty approaching me.
In my view, judges are putting too much pressure on the parties to settle a case.
Panel 1: Timing and Strategy

- Jean-Rodolphe Fiechter, Kellerhals Attorneys at Law, Switzerland
- Colin Delaney, Smith Gambrell & Russell, USA
- Benjamin Leventhal, Gideon Fisher & Co, Israel
Panel 2: Confidentiality

- Fiona Gillet, Stewarts Law LLP, England
- Ricardo Gama, Veirano Advogados, Brazil
- Michael Pauli, Heuking Kühn Lüer Wojtek, Germany
Panel 3: Ethics and Style

- Janne Nyman, Susiluoto Attorneys at Law, Finland
- Marcus Fruchter, Schopf & Weiss LLP, USA