# Insights Into Difficult Conversations

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## Part 1: Is this a conversation you can have?

toxic person abusive person

insufficient connection

# Part 2: Do the internal work to prepare

What's your motive and purpose?

- 1. Preacher
- 2. Prosecutor
- 3. Politician

"Two of the most powerful and effective of human fears are the fear of failure and the fear of success."

### Psychological Traps

anchoring

selective perception confirmation bias

## Understand structure of difficult conversations

what happened

feelings

identity

### Bias in the practice of law

I'm ethical and you're not!

Illustration: Virus

Part 3:
Navigating
difficult
conversations

Know where you are and try to steer



### Keep track of communication meaning and content





• It can be the right thing to stop and walk away



• Try the call-in approach



• Is an apology part of the conversation?



• Consider the best conditions

## Sin 10

### Practice

### Conclusions



Mixed results

### Bibliography

### Books:

Stone, D., Patton, B., & Heen, S. (2010). Difficult conversations: how to discuss what matters most. Penguin. Folberg, J. and Reynolds, J. (2022). Lawyer Negotiation: Theory, Practice, and Law, Fourth Edition. Aspen.

### Law review articles:

Hinshaw, A. & Alberts, J. (2011). Doing the Right Thing: An Empirical Study of Attorney Negotiation Ethics, 16 Harv. Negot. L. Rev. 95. Guthrie, C. & Orr, D. (2006). Anchoring, Information, Expertise, and Negotiation: New Insights from Meta-Analysis, 21 Ohio St. J. on Disp. Res. 597. Robbennolt, J. (2003). Apologies and Legal Settlement: An Empirical Examination, 102 Mich. L. Rev. 460.

### **Podcasts:**

Ted Radio Hour broadcast, 12/2/2021, "Changing Our Minds"