Mediation and Negotiation Outline
AG CLE 2021
Presenter – Eric Dirth

I. Introduction
   A. Introduction
   B. CLE Hypothetical
   C. Negotiation – soft skills everybody already knows
      1. Practice does not make perfect
      2. Chief Justice Burger’s admonishment
   D. Path of Hour
      1. Tour through mediation
      2. Stop in negotiation
      3. Focus on Dialogue
   E. Goal – Dusting off another tool in the toolbox

II. Mediation and Negotiation
   A. When Mediation
      1. After dispute and initial negotiations comes mediation
      2. Iowa Code Chapter 679C: Uniform Mediation Act
      3. Iowa Code section 679C.102: What is mediation
      4. Benefits of mediation
   B. Types of Mediation
      1. Messenger
      2. Trial
      3. Conference
      4. Transformative
      5. Caucus
      6. Collaborative
   C. When Negotiation
      1. Settlement; drafting contracts; disputing contracts; talking with our clients
      2. 17 Camels Hypothetical
      3. Reply, cross-examination, and rebuttal = one solution

III. Dialogue
   A. How to Win at Dialogue
   B. Dialogic Framework
1. Voicing the truth of one’s own authority
   a) Iowa R. of Prof’l Conduct 32:3.3
   b) Iowa R. of Prof’l Conduct Rule 32:4.1
   c) Iowa R. of Prof’l Conduct Rule 32:8.4(c)

2. Listening without resistance or imposition

3. Respecting the integrity of the other
   a) Hansen v. Anderson, Wilmarth & Van Der Maaten

4. Suspending one’s assumptions, judgments and certainty

C. To the Balcony
1. Negotiating on a stage, your mind goes to the balcony
2. Mediators use the balcony
3. Good negotiators can use the balcony
   a) Consider whether dialogue is possible
   b) View your communication
   c) View the other party’s communication
   d) View the problem itself

IV. Conclusion
   A. Prisoner’s Dilemma
   B. CLE Credit?