

The Psychology of Greed:

Applying a New Paradigm to Overcome Mediation Impasse

When it comes to money, mediation success or failure is often an “inside job,” determined by what’s between our ears and inside our hearts than what’s on the outside. This presentation will give mediators tools to discuss, examine and overcome impasses due to “greed.”

Dr. James Gottfurcht, Scott Van Soye, Esq. & Terri Lubaroff, Esq.

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Panelist Biographies



James Gottfurcht, Ph. D., is an internationally recognized clinical psychologist and money coach in Brentwood specializing in challenges with money, relationships, anxiety, depression and life transitions. He is President of Psychology of Money Consultants and has developed *The Psychology of Money Profile*. It is a standard in the industry and is used with individuals, couples and families to assess and strengthen seven psychological money skills associated with attaining financial success. He is a keynote speaker and has been a spokesperson for MasterCard.

He is a popular media guest who has appeared on *Good Morning America*, *CNN*, *Anderson Cooper*, *BBC*, *CNBC* and in *Time*, *Newsweek*, *BusinessWeek*, *Fortune*, *Forbes*, etc.

He is on the faculty of *UCLA Extension* where he conducts experiential workshops in his original work on Psychology of Money and Empathy Training. He is also on the faculty for the College of Executive Coaching.

He lives and practices as a clinical psychologist in Brentwood with his wife, Zoreh, who is a money, business and life coach. His daughter, Chelsea, is a clinical psychologist who has her private practice in the same building on San Vicente Blvd.

For an abundant amount of complimentary interviews, articles and blogs on psychology of money and empathy, please visit www.PsychologyofMoney.com.



Scott Van Soye, Esq., LLM is a panel mediator with the Agency for Dispute Resolution in Beverly Hills, and a member of the California and Federal bars, whose career spans over twenty-five years. Scott has successfully mediated hundreds of private real estate, personal injury, disability, and business disputes. He is also the Editor-in-Chief of *Settlement Insights*, a newsletter focused on corporate ADR, and Managing Editor of the *ADR Times*, an online ADR news and information resource. He serves on the faculty of the Negotiation Nexus training program.

Mr. Van Soye holds a Master of Laws from Pepperdine University's Straus Institute for Dispute Resolution, a law degree from UCLA, and two Bachelor of Arts degrees from UC Irvine. He benefits from more than 1,000 hours of conflict resolution training. In addition to his

professional efforts, Scott has mediated *pro bono* for the Equal Employment Opportunity Commission, the San Bernardino County Superior Court, and the Fourth District Court of Appeal, Division Two. His *pro bono* efforts have been recognized by California's Chief Justice.

Mr. Van Soye previously litigated disability rights, public law, and employment law cases. He spent eight years as a staff attorney the San Bernardino County Superior Court, where he served as a judge *pro tem*. He often speaks on dispute resolution, disability rights, and emotional decision-making. He also has been a guest lecturer on the overlap between the Americans with Disabilities Act and workers' compensation at the John Greenleaf Whittier School of Law.

Mr. Van Soye also served as an adjunct professor of law at Pepperdine University, teaching Alternative Dispute Resolution. He is the author of almost 30 published academic and popular articles, including "The True Cost of Unresolved Litigation," "Mediating Accommodation Issues in Disability Rights Disputes," "The Price of Beauty in the Game of Trust" (with Max Factor III), "Responding to the Nibble in a Wage and Hour Context" (with Max Factor III), "Illusory Ethics: Legal Barriers to an Ombudsman's Compliance with Accepted Ethical Standards," in the *Dispute Resolution Law Journal* and a four-part series on the impact of emotion in negotiation in the *ADR Times*. His work has frequently been cited in other books and articles on ADR. He welcomes invitations to speak and write on dispute resolution, disability rights, and the psychology of decision-making.



Terri Lubaroff, Esq. is a mediator, arbitrator and facilitator who specializes in resolving high-conflict disputes in the legal, business, family and entertainment communities.

She began her entertainment career at the talent agency International Creative Management (ICM), then she ran an independent film production company and a new media content company before joining the TV literary agency The Kaplan-Stahler-Gumer Agency. Her work there caught the eye of a successful actor who hired Terri to run his production company, Humble Journey Films, which became a productive six-year partnership resulting in an overall production deal at CBS/Paramount Studios.

In 2009, Terri Lubaroff combined her background as a lawyer with the diplomacy and negotiating skills honed in entertainment to work full-time as a commercial mediator, arbitrator and facilitator. In addition to prior intensive studies in both mediation and negotiation at The University of Florida Levin College of Law, where she received her Juris Doctorate, Terri completed the Mediating the Litigated Case course at the Straus Institute for Dispute Resolution at Pepperdine University's School of Law. Terri also has a B.A. in Fine Arts from the University of Florida.

Terri is a member of the Hollywood Radio & Television Society and Women in Film. She has been a guest in numerous radio broadcasts, classes and seminars regarding the entertainment industry, including speaking engagements at Screenwriter's Expo, various Los Angeles film schools and San Diego Comic-Con. Terri was interviewed and quoted in the book *Small Screen, Big Picture* (Three Rivers Press) about television development, and has sold over nine television pilots to major networks.

As a frequent speaker on the topics of entertainment mediation, preventing employee litigation and preparing heirs to receive their wealth, Terri travels to various bar associations and industry events for presentations and webinars. She has published several articles about mediation, including a "Best Practices" whitepaper. A member of both the California Bar and the Florida Bar, Terri is also affiliated with The Southern California Mediation Association, the Beverly Hills Bar Association's Dispute Resolution, Litigation and Entertainment Law Sections, and the American Bar Association's Dispute Resolution Section. She sat on the Los Angeles Superior Court Random Select and Party Pay Panels, and currently sits on the Arts Arbitration and Mediation Services Panel at California Lawyers for the Arts. Terri chairs the Entertainment Mediation and Arbitration practice panel at The Agency for Dispute Resolution. Please visit www.LubaroffMediation.com or www.TerriLubaroff@AgencyDr.com for more information.



FAMILY COMMUNICATION GUIDELINES FOR RESOLVING CONFLICT

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- 1) Developing a safe atmosphere with high levels of trust provides the foundation for successful family communication and relationships. Depending upon the circumstances, sometimes I will meet with each family member once privately before meeting with the entire family while other times I will meet with each family member privately after the initial family meeting.
- 2) In the family meetings, each family member will check-in with a brief summary of their goals for themselves and for the family for that appointment. We all need to have realistic expectations for what we can accomplish in this one meeting given any prior disagreements, miscommunication, unresolved feelings, and/or time limits.
- 3) I will restate or summarize each person's check-in, and he or she will clarify until I understand it.
- 4) I will ask if everyone understands it. If everyone does not, either the person who checked-in or I will clarify further until it is understood.
- 5) Family members will try their best not to interrupt. I will interrupt if I think it is essential for clarification or for managing our time more productively.
- 6) At any time, if I believe it is in the best interests of a family member to see a licensed psychotherapist, I will recommend he or she do that and inform the family that I am doing so. However, it is the responsibility of that family member to seek the licensed therapist.
- 7) I strongly encourage each family member to listen closely to what everyone else is saying and to take notes about what is important.
- 8) Our work will be much more successful if you do NOT yell, blame, criticize, embarrass, shame, or ridicule each other. If I notice one of these behaviors, be prepared for me to interrupt and point it out. If one of you feels mistreated by a family member or by me, it is important for you to bring it up during the session.
- 9) It is important for us to establish goals that each family member highly values.
- 10) As needed, I will provide training in skills like psychology of money, empathy, assertion and respectful and caring high impact communication.

The Psychology of Greed:

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The American Psychological Association's annual surveys reveal that since 2008, money has been the number one stressor for Americans! Let's keep that in mind throughout the mediation process. Our goal today is to help you to mediate more successfully by discussing the psychology of money and greed, by discerning the difference between full empathy and partial empathy and by sharing many of the tools we use to help clients overcome their psychological blocks to reaching a financial settlement.

What is Psychology of Money?

The psychology of money is how our mindset toward money (i.e. perceptions, attitudes, beliefs, expectations, feelings, etc.) influences our financial behavior. This means that mediation success and disappointment are an “inside job.” They are more determined by what's between our ears and inside our hearts than what's on the outside.

True as the Beatles sang, “Money Can't Buy Me Love,” or genuine friendship for that matter—but money **can** buy just about everything else. Money has become a symbol of security, freedom, comfort, self-esteem, power, control, ego, acceptance/rejection, etc. No wonder our clients fight over it so intensely and require skilled mediators to resolve their conflicts.

Our clients' early upbringing can create strong emotions and **irrational** behavior with money. In areas where they experienced recurring stress or mistreatment during childhood, they will have a high likelihood to **repeat** or **rebel** against the way they were raised. That's why, despite the size of their portfolio, nest egg, or income, they may behave irrationally and sabotage a settlement.

What is Prosperity Thinking and Poverty Thinking?

When we talk about irrational behavior as it relates to money we need to focus on what I call “Prosperity Thinking” and “Poverty Thinking.” Prosperity Thinking happens when our clients' align their beliefs, expectations, feelings and goals with **realistic** levels of abundance, optimism or confidence. It includes much more than financial success. It's about helping them to believe in their ability to manifest positive outcomes such as feeling good about the mediation process, resolving angry or hurt feelings, gaining greater freedom, increasing peace of mind, etc. In contrast, Poverty Thinking is the mirror image: when our clients align their beliefs, expectations, feelings and goals with **unrealistic** levels of scarcity, pessimism or fear.

Psychology of Greed

Psychologically speaking, greed develops in people who are raised with one or both of two major developmental conditions:

- 1) An insufficiency of core needs being fulfilled--love, attention, empathy, guidance, appropriate boundaries, etc. It's not getting enough of what you need, or TOO LITTLE GOOD.
- 2) An abundance of shame, neglect, anxiety, fear or physical, emotional or verbal abuse. It means getting too much of something toxic, or TOO MUCH BAD.

Keep in mind that your clients will not be able to fulfill an internal void or pain with something external.

To show the pervasiveness of greed in our society, at the beginning of the millennium, Roper/Starch and Fast Company Magazine did a survey of over 1,000 college graduates. One of the things they investigated was how much spending on consumer items could satisfy American adults. The bottom line of their results was that "enough is never enough." It seems like the "high" of purchasing something new only lasts temporarily, and then people seek a new purchase.

I did an exercise 25 years ago (when my daughter was in the 4th grade at an upper middle class public school) that came to the same conclusion. I brought some Monopoly money to her class as part of my talk on Psychology of Money. I asked who would like a \$10 bill and gave the bill to a girl. I asked how she felt and she said, "Good." Next I gave a \$50 bill to a boy and asked how he felt. He said "Good." Then, I asked the girl once again how she felt, and she said, "Bad." Then I gave a \$100 bill to another girl and asked how she felt. She said "Really good." Next, I returned to the boy who I gave the \$50 to and asked how he felt. What do you think he said?... "Bad." Finally, I asked the \$10 girl and the \$50 boy why they went from feeling good to feeling bad even though the amount of money I originally gave them made them feel good originally. They both said because someone got more money than they did. They continued the conversation and the class had a lively discussion about jealousy, fairness and greed. This exercise shows at what a young age we make comparisons with money and how much it influences our state of mind.

In a 2004 book, *Mind Wide Open*, by Steven Johnson, the author reports on new research about dopamine, a neurotransmitter that makes you feel good or bad depending upon how your outcomes compare to your expectations. If you buy a luxury car or expensive designer clothing, you initially feel excited and receive your hit of dopamine. However, after a period of time, your brain adapts to your new purchase and expects every day to be filled with these powerful feelings. But dopamine is released based upon expectations. You only get a hit of dopamine if something happens that is better than what you expected. Once you adapt to your new purchase, you don't receive an increase in dopamine. So, your decrease in appreciation doesn't automatically mean you are spoiled or jaded. It is also physiological. Blame dopamine.

What is Full Empathy?

Although there are many definitions of empathy, I like to use the one I give in my Empathy Training workshops for UCLA Extension. It involves 4 aspects:

- Authentically paying attention to a person's words and nonverbal messages
- Understanding the feelings and meanings
- Mirroring back their essence accurately
- So the person feels "seen, heard, felt and/or understood."

Empathy has been proven to be the most important interpersonal skill in helping clients to feel better. Psychotherapy research shows that clients of professional therapists who are high in empathy get better consistently. Clients of therapists who are low in empathy tend *not* to get better. Many actually get worse. As the great poet, Maya Angelou said, "I've learned that people will forget what you said, people will forget what you did, but people will never forget how you made them feel."

Full empathy can be taught or trained in as little as six hours by providing key information and experiential role playing exercises with accurate feedback.

The Benefits of Giving Clients Full Empathy are:

- They feel safer with you
- They trust you more quickly
- They become more transparent and more vulnerable with you
- They share more personal information with you
- They are able to tolerate more stress with you
- They are more receptive to your guidance and suggestions

Discerning the Difference between Full Empathy and Partial Empathy

There are four major types of partial empathy which can distance clients rather than bring them closer:

- **Sympathy** - When we feel for a client's situation, but don't necessarily feel her feelings. We may feel sorrow or compassion about a client's pain, but we do not really experience any painful feelings ourselves. A clue we may be doing this is when we feel some emotional detachment or less involvement.

- **Mechanical mirroring** - When we say back or parrot the client's words almost identically. It resembles using empathy as a technique without truly connecting to what the client is experiencing. A clue we may be doing this can come from within ourselves if we notice we feel disconnected, dull or "in our head" or from our client if she says our words sound hollow or patronizing.
- **Over-identification** – When a client's feelings and thoughts resonate so deeply within us that we emphasize the similarities and minimize the differences between her thoughts and feelings and our own. We may lose ourselves into the client's world and confuse our experience with the client's experience. This can be hurtful to both the client and to ourselves. A clue we may be doing this is when we get so emotionally involved in listening to a client that we feel upset, anxious, drained, exhausted, or burned out during or after we connect with the client.
- **Projection** – When we are unaware of our own unpleasant feelings or thoughts and unconsciously transfer them onto our client. We unconsciously confuse our own stuff with the speaker's stuff so it turns out to be about us instead of being about our client. This is the most difficult form of partial empathy to detect in ourselves because we are usually unconscious when we are doing it. A clue we may be projecting is when our client tells us she does not connect to what we are saying or when she reacts defensively or gets angry with us.

What Tools Can Mediators Employ to Help Clients Who Ask for Too Much or Offer Too Little?

Increase Prosperity Thinking and/or Decrease Poverty Thinking – Any tools that help clients and ourselves to enter mediations with a more positive state of mind and with less fear, worry and anxiety are very beneficial. Here are some of the tools we will provide examples of during the panel:

1. Discover how to tell the difference between Partial and Full Empathy and Offer a Full Empathy response. During our panel presentation, I will give an example of each type of a Partial Empathy response vs. a Full Empathy response to a specific scenario. One of the best ways to learn full empathy is to ask someone to express her thoughts and feelings in the moment, and then mirror back what she said. Ask her for specific feedback regarding what felt empathic, what did not and why not. UCLA Extension offers a quicker way to learn empathy in one day with an intensive experiential six hour empathy training workshop once a year in February.
2. Emotional Reframing – Helping a client to reinterpret a negative experience into more a genuinely positive one.

3. Overcoming feelings of helplessness – Exploring why a client feels helpless, stuck or paralyzed, responding with empathy, providing a realistic scenario of hope and suggesting small action steps to help client to re-gain confidence and build momentum.

4. Anchoring – Relying too heavily on the first piece of information offered when assessing the value of something. The first settlement number in a mediation has a major influence upon a client's expectations. If the first number is unrealistic, we have to re-anchor the client's expectations with a new, more realistic number.

HANDOUT – The Effect of Various Emotions on Negotiations

Emotions are social as well as personal. Each emotion we experience has distinct effects on us, and on those we encounter. The table below summarizes some of those effects:

	EFFECT ON NEGOTIATOR	EFFECT ON COUNTERPART
ANGER	The angry negotiator is overconfident, risk-tolerant, and over-eager to act. He or she feels in control. Anger shifts a negotiator’s focus from resolution to “winning.”	An angry negotiator is seen as tough and competent. But anger breeds competition, negativity, and a reduced willingness to negotiate in the future.
FEAR or WORRY	The fearful negotiator is pessimistic, risk avoidant, and feels out of control. He or she sees the situation as high risk, and is motivated to change conditions.	The fearful negotiator is seen as incompetent and low-powered. However, displays of fear or worry can lead to lowered demands or increased offers to assist a needy party.
SADNESS	The sad negotiator is eager to change the situation, even to their loss. Sad negotiators are less likely to trust, and more likely to be analytical. Their willingness to spend rises.	Sad negotiators are seen as weak and incompetent. But like fearful negotiators, they are needy, often leading counterparts to moderate their positions.
GUILT	Guilty negotiators punish themselves. They are cooperative, increasing concessions and decreasing demands, even against self-interest.	Opponents take advantage of guilt-induced generosity, unless the guilty one is also “needy,” so that demands are moderated.
HAPPINESS	Happy negotiators concede more than others. In a competitive setting, they recover less. In a cooperative setting, joint gains are maximized.	Opponents concede less to happy negotiators, who are seen as content with the <i>status quo</i> . Happy negotiators are perceived as weak, with low settlement limits.

Great Expectations: A Case Study

How Unrealistic Expectations Can Derail Settlement Negotiations & How to Re-Anchor Expectations in Mediation

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Donald shuffled into the conference room with difficulty. He looked like what he was -- a nice, working class man in his retirement years. But the gray pall he carried told me his health wasn't going to let him do a whole lot of fishing on his beloved Lake Havasu any time soon.

Donald slipped in a puddle of water at the hospital where he was receiving therapy for an unrelated condition. The fall was horrendous... so bad that he heard his hip and shoulder snap. His hip required immediate surgery. The shoulder would be an ongoing problem. Although the hospital admitted that Donald fell in their hallway, their staff was adamant that large "Caution, Wet Floor" signs were present. They refused to pay for his medical bills and he sued.

The first mediation ended with both parties agreeing that further discovery and an independent medical examination were needed to determine the nature and extent of Donald's injuries. The second mediation happened several months later, when both parties were finally ready to negotiate.

One of my biggest hurdles as a mediator is to overcome each party's expectations about what might happen in mediation. The types of expectations that a mediator must overcome include issues of liability, causation and damages, as well as possible defenses and possible accusations. However, the most interesting and challenging mediations come with expectations based on *history*. And Donald came with a lot of history.

In the 1980's, Donald was injured in an accident and sued a well-known manufacturer for product liability. The product defect had injured over 65 people, and the first case that went to trial resulted in a six-figure verdict for the plaintiff. Donald's case was in trial at the time, and the manufacturer settled with him before the jury came back from deliberations for a low six-figure sum. That case set his expectations for future litigation. Donald believed that if he got low six-figures for an injury that wasn't very severe and healed quickly, he should get a lot more for this current injury, which was much worse and would never fully heal. With pure optimism, he told me he wanted enough settlement money to take care of his kids when he died, buy a new truck and a buy a quaint cabin in the mountains.

The lawyers for the hospital had a "history" they wanted me to know about, too. Not only was the hospital denying full liability because their witnesses testified that warning signs were present, they had an entire file of Donald's history that reflected negatively on his case. This file included a doctor's recommendation for a surgery Donald was trying to attribute to the fall a full *six months* prior to the accident. The file also contained a history of Donald's other falls. In fact, he had fallen on 13 separate occasions prior to this one, *including one the day before at the same facility*. Finally, Donald was in the facility because of a prescription drug dependency. The

hospital was prepared to negotiate, but at a small fraction of the number at which Donald and his lawyer had set as their goal.

I quickly discovered that Donald was not being honest with his lawyers about his history and the reason for his high expectations. It was time for an intervention. I spoke to Donald's lawyer privately. I explained the defense's position. I asked the lawyer what she thought of the case. She privately informed me that she had been concerned about Donald's expectations to begin with; the new information provided by the defense just solidified her resolve to settle the case in mediation. She was concerned that his expectations would be the obstacle to resolution, and said that it was going to be my job was to educate her client about his case in the "real world."

The next six hours were spent talking to Donald and negotiating within the framework of his expectations as we slowly adjusted them downward. His lawyer knew that Donald wanted to feel like he got a "fair" deal, and that he needed to fight for it. Every 30 minutes or so, I'd ask him for a demand and communicate that to the defense, knowing that until we got below a certain number, the defense was just being patiently compliant with my request that they stay and negotiate in good faith and let me do as much as I could with the plaintiff before they gave up.

Donald and I discussed his family, his hobbies, and his injuries. We built a rapport and established a high level of trust. We spoke about his hopes and dreams for the money, we discussed the idea of "fair" and what that meant to him and what that might mean to someone coming from a different perspective. We quantified how much a new truck would cost, how much a cabin in the mountains would cost. We analyzed how much Donald's medical bills were in comparison, and discussed what that meant in the context of general damages, until Donald slowly began to realize that his expectations were not in line with reality.

Finally, after many hours, Donald understood the hospital wasn't going to bankroll his lifestyle, only compensate him for the injuries he legitimately received from the fall. The settlement he agreed upon was six-figures less than he originally expected, but Donald still left feeling like he got a fair deal.

As a mediator, it is important to recognize that a client's unrealistic expectations can often be the one and only obstacle to resolution. A neutral mediator can help a client work through their expectations so all parties can determine whether those expectations are in line with the legal case or outside the scope of the injuries claimed.

The mediator's biggest challenge in this context is that he or she must remain neutral throughout the process, taking great care to ensure that each party's interests and positions are fully examined and addressed.

In this case, I worked to re-anchor Donald's expectations by helping him examine the nature and reasons for them. As we did so, we tried to quantify both his financial and emotional expectations by using real-world examples and keeping a running tally of what we discovered. We used role play to enhance Donald's understanding of the defendant's mindset, and we went through his medical history and current injuries one by one, allowing him to be the one to discount previously existing conditions. Although I was certainly guiding the conversation,

Donald was able to reach his own conclusions, eventually coming to the realization that he was asking for too much. Being able to come to this conclusion himself was key; he felt the settlement was “fair.”

In this mediation, the plaintiff’s lawyer gave the mediator strict marching orders that the mediator was to help adjust her client’s expectations. Mediators might rightly ask, “Whose interests must the mediator serve? Which party is the mediator’s client: the attorney who hired the mediator or the attorney’s client?” These are valid ethical questions that should be addressed. After all, a mediator must be careful not to brow-beat a client into accepting an unsatisfactory settlement offer. The client must feel comfortable with whatever decision they make, even a decision with which their own lawyer disagrees.

In commercial mediation, especially when a plaintiff’s lawyer works on contingency (as in this case), I believe the mediator’s job is to help facilitate *both* the lawyer’s and the client’s positions, their *mutual* understanding of the strengths and weaknesses of their case and their *individual* underlying interests. In this example, the lawyer had spent a considerable amount of time and money on the case; however, upon learning that opposing counsel had a strong defense, her interests switched from wanting to obtain a huge settlement or jury verdict for her client to a desire to recoup her costs and time, and hopefully still turn a profit. The client’s interests were more complicated and revolved around his history and expectations (as discussed above). We discussed these interests together so both the client and the lawyer could have a mutual understanding of their needs and desires.

From an ethical perspective, there are many ways to arrive at the “right” outcome. One mediator might practice simple shuttle diplomacy and communicate demands and offers until both parties reach impasse or settlement. Another mediator might be more evaluative, discussing only the strengths and weaknesses of each element of the case. Yet another mediator might dig at everyone’s underlying interests, asking all parties to analyze and quantify those interests, literally helping the parties put a price on their own “happiness.” This mediation was complicated enough to require all three methods.

Commercial mediators use finesse, nuanced communication skills and careful attention to process, especially when dealing with high expectations or client control issues. Lawyers and their clients need to come to mediation prepared to discuss the strengths and weaknesses of their case, as well as settlement demands and offers. But they must also be ready and willing to discuss more difficult issues: what is driving them emotionally, personally and financially? Examining these underlying interests helps align expectations. Often, the expectations at the end of mediation are vastly different from those at the beginning. A skilled mediator can help all parties understand and overcome great expectations, achieving resolution in cases that might have unnecessarily gone to trial otherwise.

RULE OF 72:

A Tool for the Mediator's Toolbox

Definition of the Rule of 72:

To find the number of years required to double your money at a given interest rate, you just divide the interest rate into 72.

For example, if you want to know how long it will take to double your money at eight percent interest, divide 8 into 72 and get 9 years. At twelve percent interest, divide 12 into 72: It will take 6 years to double your money.

When discussing the value of money with annual compounding interest, below is a link to a helpful calculation tool that lets you determine the number of years it will take to double your money. There is also a calculator that lets you calculate how much interest you need to earn if you want to double your money in a set amount of years.

The online calculator can be found at:

<http://www.moneychimp.com/features/rule72.htm>

The Ultimatum Game: Exploring Fairness and Self-Interest¹

In a behavioral economics experiment called “the Ultimatum Game,” two subjects divide a sum of money provided by the experimenter, usually \$10. The first-moving “player,” called the *proposer*, gets to decide how much of the \$10 to give the second, called the *responder*. The responder decides only whether to accept or reject the offer. If the responder accepts, the players split the money as proposed. Otherwise, neither player gets any money. The players don’t communicate before acting.

Originally, experimenters believed that proposers would offer as little as possible, maximizing their income. They also hypothesized that responders would accept even the lowest offer, since \$1 is more than they had before, and refusing the offer meant they would get \$0, like this:

The proposer will act in her self-interest by offering a \$9 / \$1 split. The responder will accept the offer because he knows that he is better off with \$1 than with \$0. The proposer can make the \$9/\$1 offer confidently because she expects the responder to maximize his well-being by accepting \$1 rather than rejecting the offer and receiving nothing.

Surprising Results

Although the above scenario embodies pure economic rationality, and theoretically should predict the experimental results, this isn’t what usually happens. Proposers generally offer more than the minimum, and responders frequently reject low offers, choosing to receive nothing rather than feeling “unfairly” treated. Hundreds of ultimatum games conducted by scores of researchers have produced the following results:

- The mean split is 60% / 40%
- The most common offer is a 50%-50% split.
- Approximately 20% of low offers are rejected.

The results, especially the rejection of low offers by responders, challenge the idea that people are always economically rational and selfish. Instead, they suggest that responders’ needs for fairness and self-esteem, and their related emotions, affect economic decision-making. They also suggest that proposers *know* economic rationality isn’t the whole picture. A proposer who fears that the responder will not act in his self-interest and accept any offer over \$0 will make a more generous offer. And this is what often happens. This serves the proposer’s self-interest by increasing the chance that the offer will be accepted.

The Ultimatum Game gives mediators a tool to illustrate the truth -- settlement often isn’t “all about the money.” Psychology, emotion, and fairness play a huge part in the success or failure of any proposed deal.

¹ Adapted from “The Ultimatum Game,” copyright by the Foundation for Teaching Economics, www.fte.org/capitalism/activities/ultimatum/index.html, last visited 09/08/2014.