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The Myth of Neutral Territory – “Nice” Negotiation

By: Jeff Abrams

The gunfight at OK-Corral was fought on neutral territory. Laborious negotiation sessions to end the Vietnam War were held in Paris. Middle East peace talks in Madrid resulted in failure. And in the world of mediation, many still prefer “neutral ground” for negotiation. It is time to explode the myth of neutral territory and expand concepts of graciousness and consideration in the negotiation arena. We can learn from practices of ancient cultures that survive to this day.

Several years ago I mediated a complicated IP case involving two CEO’s who had previously worked together. The level of animosity was so great that neither would agree to mediate in the other’s *home state*. We traipsed around the country for ten days, at considerable expense, before finally resolving the dispute in mediation. The clear message that each was sending was “we don’t trust you – we won’t accommodate you – we will make life difficult for you.” It was a perfect example of a situation where insisting on a neutral site served to accentuate the adversarial stance. “I will invite my *friends* to my home but not my *enemies*.” Regrettably, the world is replete with conflicts where the original problem has long been forgotten; only the bitterness and personal animus remains.

A significant advantage is *lost* when the attorneys do not jump at the opportunity to sponsor the settlement talks. In eighteen years of mediation, I have seen no difference in the settlement rate when the mediation is held at a “neutral” site. What is lost in the process is the opportunity to extend an invaluable commodity – something that can be offered at little or no cost but promises great rewards in the negotiation process.

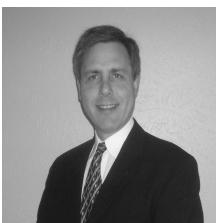
Being a gracious host scores subtle points. The world’s leading negotiators understand that setting the tone for productive negotiations takes care and precision. They welcome the other into their home (office). Their advantage is gained by acting with kindness towards the other while doggedly pursuing their desired solution. By extending consideration to the other, you demonstrate that negotiation does not to be uncivil. Moreover, you are more likely to get what you want. No one says that you cannot be tough and cordial at the same time.

We know that bartering cultures focus on the relationship aspect of negotiation. In many places of the world, it is customary to drink coffee or tea, share a meal, and spend time talking about other matters (family, interests, dreams) *before* getting down to the business of negotiation. The fundamental truth is that making the other comfortable furthers the business of negotiation. The greater the degree of civility extended to the other, the more formidable the negotiator's skills. No one is backing down by being "nice."

As every great director knows, the scene must lend itself to the action. The setting must move the parties in a certain direction. Will the ambiance of the negotiation site increase or decrease the tension? Where is the real gain? What can be given (offered) at little or no cost? Good old-fashioned values like consideration and respect are remarkable tools in the hands of an accomplished negotiator.

So the goal of the advocate/negotiator is to create an atmosphere conducive to productive negotiation. Serving food and drink throughout the day, offering secretarial services, making internet available, even providing a ride from the airport all contribute to the sense of comfort and concern. Extending a deadline to focus on settlement talks is considerate. Treating the other as a fellow human being deserving of respect (even if you don't really feel it) will make the process move more rapidly and help you achieve your objectives.

In the long run, you sacrifice nothing by extending your consideration. Rather than looking for a neutral site, each side should be willing to go the extra step to accommodate the other side and make them feel at home. A "neutral site" may be a polarizing factor in which the adversarial nature of the relationship consumes the parties. Sometimes it may be the only option but it should not be the first. Introducing civility in the world of negotiation is not only good form; it enhances the opportunities for achieving your goals and objectives. Take it from those who have been doing this from the beginning of time. Would you like a scone with your coffee?



Jeff Abrams has been an attorney for over twenty-two years, and an active mediator since 1986. Jeff has successfully mediated for thousands of parties and specializes in securities cases, commercial litigation, employment and business matters. He is a NASD arbitrator (chair) and is familiar with the psychology of people and markets. He was a pioneer in the mediation field, serving on the legislative task force that drafted the landmark Texas ADR law. He has been training attorneys, judges and executives in communication and negotiation, conflict management, mediation skills, and dispute systems design since 1986. Before becoming a mediator, he worked as a trial lawyer handling complex business litigation. He served as founding Editor of the ADR Report. Jeff is a frequent and popular speaker on ADR and workplace issues. He is a member of the Oregon and Texas Bars. Jeff was also President and CEO of a national fitness/ trucking company. His substantial expertise in both business and law enhances his mediation skill set and enables him to resolve even the most difficult and challenging cases. www.abramsmediation.com

For a complete CV on Jeff Abrams, or general information about Abrams Mediation and Negotiation, Inc., please visit our website at www.abramsmediation.com.