

Kluwer Mediation Blog

Mediation, Football, Perseverance and Gratitude

Bill Marsh (Editor) (Bill Marsh Mediator) · Friday, September 2nd, 2011

For my first blog, here is a note of encouragement for all fellow mediators.

Last week I was invited to a football match (read ‘soccer’ if you are West of the Atlantic). Better still, the invitation was from the former Chairman of the football club, to join him in the Directors’ Box, and doubtless for a good lunch too. Best of all, and somewhat intriguingly, the invitation was presented as a thank-you for “saving the club” – his words.

Before you think that I have any football skills, I met this man 15 years ago in my capacity as a mediator. The club was in serious trouble, and a colleague and I were asked to mediate. Financial difficulties were forcing the club to sell its stadium, a hard core of fans were rioting after each away match in protest at the then owners, a take-over consortium stood in the wings but with no power to force the owners to sell to them, and the football regulators were threatening a variety of heinous consequences. Nine months of extremely intensive discussions followed. A deal was put together (incidentally, that was my first experience of what some now call “deal mediation” although no one called it that at the time), new owners came in and the troubles passed. I got on with my life as a mediator, and the mediation faded into the past.

Central to the dispute were plans for a new stadium. Fifteen years later, that stadium has just been opened, a few miles down the road from where I live. It looks fantastic and is a great testament to the club and its management. I like to see it also as a testament to the power of mediation. Two things strike me as I look at the stadium.

First of all, it reminds me how gruelling mediating can be. This mediation had more ups and downs than most, and certainly its fair share of moments of despair. The whole process lasted nine months, and involved countless meetings. In the midst of tough mediations, parties sometimes ask me incredulously how I cope with the stresses of doing this for a living. It’s a reminder that we mediators do spend a lot of time “in the trenches”. Interestingly, however, it is our willingness to do so, and to remain there as long as necessary, that is so highly valued by many clients. Increasingly I am holding the view that this perseverance is central to the value we deliver. Not a *keep-the-pressure-up-and-settle-at-all-costs* mentality, but more of a resilience, a determination, a capacity to see the next move in the negotiation when others have lost sight, and to keep looking for ways to steer things forward.

Secondly, the stadium reminds me that we rarely get to *see* much of the value we contribute. That’s fine, and of course if you are mediating for gratitude it’s time to do something else. But equally, it is also important not to miss the value in what we do. We live in a world where most things

deemed to be of value are both seen and measured – and hence valued. Not so in mediation, at least much of the time. There are some obvious measurements of mediation – usually settlement – but on its own this is unduly simplistic as a measurement of how well a mediator has performed. However tough the mediation, however fraught and bitter the negotiations, I am fascinated by the things that people (and it's often those most under pressure) notice and appreciate – a gesture or a kind word; the willingness to stick at it when progress is slow, or it's going in reverse; a phone call a few days or weeks later to suggest another way forward; or whatever it is you do, possibly without even knowing it, which helps move things forward. Much of this is the unseen *lubricant* that oils the wheels of the process and keeps it moving. You often won't be thanked for it. But leave it out, and you will suddenly realise how valuable it is.

And there is no telling what value lies in a settlement, or sometimes even in an effective process which does not generate a settlement. These things are rarely measured, if indeed they could be. In the football club mediation, there was no sign of a new stadium for years afterwards. Financing and planning permission took ages. Football seasons came and went. I had almost forgotten about it. But it turns out some seeds were planted in those nine months of mediation which have at last borne visible fruit.

So if, like me, you spend your working life out there at the mediation coal-face, hang in there. However tough the mediation, parties need a mediator who will remain committed, focussed and engaged – leaving aside the various other semi-divine attributes also expected of us! The fact that they didn't notice, or perhaps just didn't comment on, that list of brilliant things you did last week does not obviate their value. Recognise that you may never hear about much of the value you contribute. Then again, maybe a stadium will be built to commemorate your efforts!

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