

# Kluwer Mediation Blog

## Hearing Younger Voices

Bill Marsh (Editor) (Bill Marsh Mediator) · Saturday, March 2nd, 2013

Sometimes, I look around at mediation events at a sea of grey hair (mine included!). Where, I wonder, are those to whom we are handing this torch? And more importantly, what do they think?

So as the dust settled on last month's ICC mediation competition in Paris, I took the chance to capture some of its real significance for the student participants in the final, plus one coach, one mediator, and one judge. **All of us immersed in the world of mediation need to listen to their voices.**

I am hugely grateful to the following for sharing their thoughts:

Nupur Upadhyay, student, New Zealand

Jakub Bielarowicz, student, Poland

Greg Bond, mediator, UK/Germany

Marta Warchol, student, Poland

Rosemary Howell, coach, Australia

Tomasz Marek, student, Poland

Kimberley Eccles, student, New Zealand

Adam McDonald, student, New Zealand

Karolina Jackowicz, student, Poland

Maria Kierska, student, Poland

Cezary Rogula, judge, Poland

I find many of their comments thought-provoking and engaging. There isn't room for all of them in this blog, so what follows is a distillation. Frankly, most individual comments provide enough material for a blog in their own right.

So I invite you to:

1. **Read** them; and
2. **Select** one; and
3. **Comment** below on why it is important or what it means to you.

### What did you learn from being in the mediation competition?

I learned:

- ...that mediation is not only a process and a skill, but more importantly it is a specific attitude that changes one's perception of the world around indefinitely. It is a state of mind. There is no way back. It transfers to both professional and personal relations – it affects even the way you would ask somebody out for a drink (Karolina Jackowicz)

- ...a lot about different styles of mediation and the different impact that various approaches can have in terms of progressing the outcome (Nupur Upadhyay)
- ...to not be afraid to ask mediator for assistance! Actually, use him/her as often as possible. After all, you either hired him/her and you are paying for that (Marta Warchol)
- ...to highly appreciate the relevance of the questions phase in mediation. One crucial question might become a perfect incentive to overcome an obstacle (Tomasz Marek)
- ...much more than I had anticipated! I have found myself speaking much more slowly and confidently, and generally communicating better in all areas of my life. In addition, I have learned that I am capable of pushing myself harder and accomplishing more than I had thought I could! And the valuable skill of navigating the Paris metro!) (Kimberley Eccles)
- ...the necessity of an “iron fist, velvet glove” approach to mediation advocacy (Adam McDonald)
- ...that mediation makes potential barriers – economic, legal, historic, cultural and also linguistic ones – ‘overcomeable’ (Jakub Bielamowicz)
- ...that in every dispute, even connected with strong legal issues, or substantial reciprocal financial claims, there is still a place for emotions, empathy, creativity. The ability to ask relevant questions and understand the answers, can be sometimes more difficult than we think (Maria Kierska)
- ...that people can and will work together constructively and productively (Greg Bond)
- ...that dealing with intercultural dimension of business conflicts and encountering different cultures can sometimes be a very sensitive, delicate issue and cannot be omitted, even though one could say ‘business is business’ (Marta Warchol)
- ...about the importance of collegiality and mutual understanding, and with increased confidence in my ability to perform in an international environment (Marta Warchol)
- ...that some mindfulness training and a mindfulness routine for my students during their preparation is a terrific tool for helping students to ‘be present’ in a way that really enhances their experience. This is not about winning or losing – it is about the students developing a heightened awareness of what is happening and why (Rosemary Howell)

#### **The toughest challenge in a mediation was:**

- ... to put myself in a mind frame where a positive outcome for the other party was not necessarily mutually exclusive to a positive outcome for our side (Nupur Upadhyay)
- ...to keep on listening whilst trying to lead a conversation towards the “right” track – from the strategic perspective. To be empathetic whilst trying to achieve own interests and at the same time accommodate the other parties’ goals. The competition is also very challenging physically – it is very demanding and fast-paced, at the latter stages requiring participation in two mediation sessions per day (that does not involve the partying unfortunately, yet the cocktail parties are marvellous and worth attending) (Karolina Jackowicz)
- ...”change”. In order to win the competition (or simply to understand the process of mediation) participants have to change their approach to the dispute. It must be perceived as a chance to create the value between the parties and to enlarge the “pie” of common interests. They must also put aside the “legal instinct” and concentrate on finding the way to meet on the common ground (Tomasz Marek)
- ...to navigate a real battle of wills in a subtle and diplomatic way (Adam McDonald)
- ...as a judge, to combine two major things – being just with being helpful. It was tough and very demanding, but at the same time delightful (Cezary Rogula)
- ...to compete with ‘the partners from across the table’ for scoring the points and remain calm and nice at the same time. Although each case included some legal background and both mediating parties were accompanied by lawyers, the legal matters and arguments had to be put aside, which

seemed truly difficult at times, as they could clearly support your position (Jakub Bielamowicz)

- ...coming home at 10.00 pm after the cocktail party to make the decision about which 2 of my team will compete in the next round. I want them all to have the experience. They are always so unfailingly generous to each other and realise that a choice has to be made but it never gets any easier (Rosemary Howell)
- ...to work hard into the night to prepare for mediation sessions early the next morning, and to mediate opposite a team with a very different paradigm of mediation (Kimberley Eccles)

### **What advice do you have for future competitors (or any one in mediation)?**

- Mediation IS about changing the mindset – putting the court weapons aside and waving the white flag. White flag which is not a symbol of surrender, but rather a *carte blanche*, on which there is a story to be written, the future to be designed, instead of dwelling on the past, which cannot be changed. Business is about money, but every decision is made by the human being, therefore the emotional and personal aspects of the business need to be unveiled (Karolina Jackowicz)
- I have been requiring my students to keep a reflective journal for some years now during their training and during the competition – to sit down at the end of the day to engage in some reflection – what did I learn? what worked? what surprised me? what would I do differently and better next time? My students report that this is a great tool to help them track all that they have learned (and I learn a lot from reading them) (Rosemary Howell)
- Prepare well. And then prepare again. And, notwithstanding all the role plays and rules and points to be gained from the judges, be yourselves – stay authentic (Greg Bond)
- Bring business cards. Everyone else has them, and greatly enjoys handing them out to all and sundry. Find somewhere to stay that has a table for working on. We had a few planning sessions sitting on the floor or beds in a hotel room. We made it work, but it wasn't ideal! (Kimberley Eccles )
- Work hard, but go with the aim of having fun (Adam McDonald)
- Watching other rounds (within the bounds of the rules of the competition) is a useful way to learn about different styles and tactics (Nupur Upadhyay)

### **What was the funniest moment?**

- I will never forget the announcement of the eight-finalists when I came to the Coach of Auckland's Team and said to her: since I saw your team, it would be the final round of my dreams if you could compete against my home university, the Jagiellonians. Two days later, my dream came true (Cezary Rogula)
- When one of the judges (from a very different cultural background) asked if I could spare a tissue. I had dressed in the dark that morning and unbeknownst to me had put into my pocket the 'joke' tissues my son gave me for Christmas printed with very genuine looking USD\$100 bills. I handed one over to the judge without thinking – I think he thought I was offering him a bribe until he opened it up and realised it really was a tissue. He didn't laugh but my students thought it was hilarious! (Rosemary Howell)

### **Were there any “cross-cultural” surprises or learning experiences?**

- We came up against a team with a very different mediation paradigm, which was a challenge to adjust to. They felt that questions we thought were at the very heart of the issue were not relevant to what they were there to talk about, so we had to have a negotiation very early on about the rules of the game (Kimberley Eccles)
- This is one element that you can only prepare for in a limited way. For example, we really had to think on our feet when we came up against a team from Tunisia. Their negotiation style was much different to our own (Adam McDonald)

### Sum up the experience in a single word?

- “Invaluable” (Nupur Upadhyay)
- “Intense” (Adam McDonald)
- “Enlightening” (Cezary Rogula)
- “Listen. Mediation is, above all, about listening.”
- “Can’t possibly – need at least a sentence full of superlatives!” (Rosemary Howell)
- “Exhilarating” (Greg Bond)
- “Like yoga. You need to stretch and to be flexible. Sometimes it is painful, but at the end of a day, it pays off!” (Marta Warchol)
- “Communication” (Kimberley Eccles)
- “Unique and fantastic event” (Tomasz Marek)

So, over to you my fellow blog readers. What comments catch your attention, and why?

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