
Kluwer Mediation Blog

It only takes a few moments.....

John Sturrock (Core Solutions Group) · Tuesday, July 29th, 2014

It was just a few moments. “You can’t play on our course without proper golf shoes.” “But we played here two days ago in these shoes.” “My colleague must have made a mistake”. “But it was you who let us play...”. “It’s in our rules.” “Where?” “Here.” “No it’s not. There is nothing about soft spikes. Only shirts with collars...”

Those few moments remain seared on my brain. Out of the window went respect and courtesy. The trigger had been triggered. After a futile exchange, we grudgingly accepted the starter’s offer of golf shoes to wear, free of charge. And then there was the “you must have a bag each” rule. On a hotel 9-hole course? Forgive me but.....

My first drive was OK. Scrambled a par. On the par 3 second hole, my drive was short and the chip long, pumped with adrenalin. My drive at the third fairly bulleted towards the trees, where a passing youngster helpfully picked up my ball and came towards me, offering it to me with a smile.

Why do I mention all of this? Because those few moments determined the fate of my round of golf. Ruined it in fact. And the starter at the clubhouse.....just doing his best with yet another visiting tourist pushing his weight around. As we came off the final green, he did not greet us. Turned his back. My apology to him was more grudging than it had been conceived to be. “It’s all part of the game,” he said.

In reflecting, I understand all of this. I know how it happens. Kahneman, thinking fast and slow. The reptilian brain. Fight or flight. Learn to pause. Think. Don’t (over) react. Separate the people from the problem. And yet....


In mediation, it only takes a few moments. A slightly wrong tack in an initial meeting. A word out of place. One party saying something to the other, not coming out quite right. Just like the initial trigger which often sets off a conflict in the first place, little things make a very big difference. And later in the day, when we are tiring and, we suppose, one lawyer is playing silly games, our guard slips, just a little. It happened to me the other day. “It’s your client’s choice, not yours,” I had said....perhaps it was my tone rather than the words but a correction was required quickly: “I am sorry, it’s not my place to...” (Actually, my words were:” Sorry, I misspoke...”). How often do we spoil a day of careful rapport building, gaining the complete trust of people in vulnerable positions, by undermining it with our exasperation as the deal we have so carefully coaxed teeters on the brink...?

What about the client, or the lawyer, who loses it just momentarily at the beginning? How much does that impact on their performance as the day unfolds, just as it did for me on the golf course? Does the awkward memory linger so that, when a metaphorical birdie putt opens up, unwelcome thoughts intrude, and the putt slides past the hole?

It is such a finely balanced thing. Our job, as mediators, is to hold the balance, temper the excesses, restore the equilibrium, empathise with the wounded, make sure the putt can be sunk. And, for us too, our job is somehow to avoid being provoked, not reacting to the officious, giving space to the frustrated, deflecting the anger, not taking personally the asides about lack of progress or the wasting of a day.

My performance, that day at the golf course, was inept. And a great lesson. It is so easy to lose it for a moment.....It may all be part of the game but, as mediators, our calling is to find the humility and discipline to rise above it so that the game played is truly exceptional.

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