

Kluwer Mediation Blog

Thinking for ourselves: better decision making at the dispute resolution table

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How good are the decisions you make? Are they free from error? From unconscious bias? Are they consistently the product of careful reasoning?



Before you answer yes, consider the following questions:

1. A bat and a ball cost \$1.10 in total. The bat costs \$1.00 more than the ball. How much does the ball cost? (Alternative version for those who prefer both a different sport and currency: “A cricket bat and a ball cost £1.10 in total. The cricket bat costs £1.00 more than the ball. How much does the ball cost?”)
2. If it takes 5 machines 5 minutes to make 5 widgets, how long would it take 100 machines to make 100 widgets?
3. In a lake, there is a patch of lily pads. Every day, the patch doubles in size. If it takes 48 days for the patch to cover the entire lake, how long would it take for the patch to cover half of the lake?

These three questions constitute the [Cognitive Reflection Test \(CRT\)](#), created by MIT Sloan School of Management professor [Shane Frederick \(PDF\)](#). Each of these three questions is designed to evoke the wrong answer first, the one that comes to us automatically. The correct answers, unlike the wrong ones, are the product not of snap judgment but of careful deliberation which take time for us to reach. I’ll provide you with the answers at the end of this post.

The CRT examines the way we decide – through intuitive or deliberative thought processes. When we use intuitive thought processes we depend upon mental short cuts to make decisions quickly.

Deliberative thought processes, however, demand more time and involve conscious consideration of data and application of appropriate criteria to reach sound conclusions. Of course there are decisions that involve both kinds of thought processes. The question that has intrigued researchers is what kind of thought processes do people rely on to make decisions, and whether and to what extent people can override their intuitive thought processes to make decisions through deliberation. (For a good introduction to the CRT and its role in assessing judicial decision making, I recommend “[Unconscious Influences on Judicial Decision-Making: The Illusion of Objectivity.](#)”)

Making good decisions matters to dispute resolution professionals. Those of us who serve as mediators play midwife to decision making, while parties labor, struggling to make the right choices in difficult circumstances and reach sound decisions based on accurate and complete information. Those of us who arbitrate act as decision makers ourselves, sifting through facts, and applying the relevant laws, rules, and principles to those facts to reach our judgment on the case before us. Although these roles differ significantly, in each case the parties we serve demand and expect that we will conduct ourselves with integrity and act without bias.

As we know from the multitude of research available, bias exists everywhere. It does its greatest damage undetected, beneath the radar of our awareness. Bias can be costly, imposing what researchers have described as a “[stereotype tax](#)“, affecting everything from negotiating to hiring decisions. Unconscious bias can exclude qualified people from jobs or educational opportunities. Of concern for us as dispute resolution practitioners, bias can undermine public confidence in us as professionals, and can compromise procedural fairness for the parties we serve.

I know that you’ve been waiting eagerly for the answers to the questions posed above, so here they are as reward for your patience:

1. The intuitive response is 10 cents. The correct answer is 5 cents (ball = 5 cents; bat = \$1 more, or \$1.05, for a total of \$1.10)
2. The intuitive response is 100 minutes. The correct answer is 5 minutes.
3. The intuitive response is 24 days. The correct answer is 47 days.

Regardless of how well you did, there is room for improvement for everyone. If you’d like to improve the quality of your own decisions, [a wonderful resource on decision making and judgment](#) can be found at a U.S.-based site, the National Center for State Courts, which has gathered together an outstanding collection of links to videos and articles. Will you find it informative? [Click here and decide for yourself.](#)

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