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# Kluwer Mediation Blog

## The Big Picture

Rick Weiler (Weiler ADR Inc.) · Thursday, April 24th, 2014

Story telling and humor are among the essential tools in any mediator's kit. Of course, when it comes to humor, mediators learn early in their career that the self-deprecating variety is usually the safest choice. This turns out to be quite good for me since in my life there is no shortage of material to draw on.

In an insurance mediation this week I told a story of a somewhat embarrassing incident in which I had been involved recently. I thought readers of this blog might find the story both interesting and instructive.

I'm a neophyte photographer. I enjoy spending a sunny morning with my digital SLR snapping pictures of the various birds and flowers that grace my backyard. Here's a recent example that I'm kind of proud of and which I now use as my home screen to remind me of Spring's eventual emergence here in the land of the ice and snow.



I decided I wanted to up my game by getting a 500 mm telephoto lens. This would allow me to get up close and personal with some of my backyard songbirds. I started to check out retail prices for the lens I wanted and realized I was looking at spending about \$1,500 if I purchased a new lens. At that point I turned to my old friend, Kijiji. Kijiji, an eBay subsidiary, is an online service for posting classified ads in one's own local community. My search on Ottawa Kijiji immediately revealed exactly the lens I wanted for the to-good-to-be-true price of \$300.

I immediately contacted the vendor to find out if the lens had already been sold. Learning it was still available I arranged to meet with him that very same day. Then came the Great Mediator's™ mini-Waterloo.

I attended at the vendor's home. He was a very pleasant young man in his 30's who explained he was selling it on behalf of his father, who was also present. He told me they had bought it for use at sporting events but it just hadn't been used and now they wanted to sell. He also told me he had originally listed it on Kijiji for \$400 but had received no offers so had reduced the price by \$100.

I carefully inspected the lens. There wasn't a scratch on it. I mounted it on my camera and took a few shots. Everything seemed to be in perfect working order. Satisfied that this was the lens I wanted I then started the negotiation. Knowing the vendor hadn't received any offers I opened, "I'll take it for \$200." It was clear to me that the vendor was a bit taken aback as he responded, "No, I'm firm at \$300. The lens is a steal at that price."

"Look", I said, "I was sort of hoping that we could get into a back and forth and agree to saw off at \$250." All the while thinking, bad move – I'm bidding against myself.

"No", he said. "\$300 is the price. I won't go lower."

A number of thoughts we're going through my mind at this point, the foremost of which was that I still wanted to "win" this negotiation by getting him to come down off the asking price. "OK", I replied. "This is my final offer. \$275. I have the cash with me."

"I'm sorry", replied the vendor. "The price is \$300."

"That's really too bad", I replied, rising to go. In my mind I'm thinking, surely he'll stop me. Surely he won't lose the sale over \$25. I get to the door. I get my shoes on. I put my hand on the door knob, all the while waiting for him to flinch. No flinch. I go to my car and look up at the front porch expecting the vendor to be waiving me back. No waiving vendor. I drove away, but not before circling back in front of the vendor's home expecting him to be in the street looking for me. Fat chance. I drove home.

It didn't take me long to repent. Here I'd missed the chance to get the lens I wanted at roughly a fifth of the price of new. What had I been thinking?

Still, I hadn't fully learned my lesson. First thing next morning I sent the vendor an email apologizing if he had taken offense at my haggling the previous day but explaining that this, in my experience (as a buyer and seller) was how things worked on Kijiji. I concluded by asking if he would be willing to split the remaining difference and sell for \$288.

His response didn't take long and rather than paraphrase, here it is:

***"Hi Rick,***

***I understand your perspective on the expected nature of Kijiji – its a buy and sell service and its fast and liquid. In addition, I was sympathetic that you made a trip out to the east end for nothing, however I was in no rush to sell.***

***I admit, I was briefly caught off guard by your initial offer. My experience is that the buyer negotiates price prior to having visited me. I have sold many items on Kijiji – some where I have even charged a delivery service – but I have never moved on price since I strongly believe that the price I have already offered is a bargain itself.***

***Immediately you left, I did some more digging on the value of this lens. The cheapest for an exact same used lens on-line (ebay) was \$369+shipping before it was sold, and it goes up sharply. I also learned that the user can use an adapter to fit any camera. Thus, I readjusted my listing price to \$350 and added a non-negotiable term with new added information.***

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*All in all, since I initially offered the lens to you for \$300 and given my new price, the lowest I will go is now a firm \$320.*

*I hope you have a great day.”*

My reply, after about 10 seconds reflection: *“I hereby accept your offer to sell for \$320. May I come now to pay and take delivery?”*

Now, the reason I told this story in my mediation is because not only did it serve to lighten the mood (with no disrespect to anyone but me) at a time when the parties sensed that settlement might be slipping away, but also because it tends to remind everyone of some important points about negotiation.

I’ve witnessed on many occasions negotiators working themselves into a corner with their bids and counter-bids. They get caught up in the need to “win” the negotiation and lose sight of both the real value of the thing being negotiated over and the full range of their interests in the negotiation.

In mediation I often harken back to the barriers to settlement identified by Professor Robert Mnookin in his work, [Barriers to Conflict Resolution](#). On reflection it seems to me that each of the three key recurring barriers to settlement he cites were present in this situation:

- Tactical and strategic behaviors – In this story, my need to win caused me to lose sight of my real interests.
- Psychological barriers – including reactive devaluation – In this situation I assumed that because he offered to sell at \$300, of course he would come lower.
- Structural barriers. – I should have been conscious of the fact that the son might be less flexible with his father sitting right there in the room with us.

I’d like to think my little self-effacing story helped the parties to recognize those barriers in their negotiation that day. In any event we were signing the settlement agreement just before 4 pm.

What about the telephoto lens, you ask? As you see it’s helping me get the “big picture”.



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