

# Kluwer Mediation Blog

## A Mediator tries out his negotiation skills.....

John Sturrock (Core Solutions Group) · Sunday, November 29th, 2015

Negotiating in Istanbul's Grand Bazaar is an experience to relish. I've recently returned from three days in that wonderful city, helping lawyers, judges and mediators to expand the use of mediation in commercial disputes, inspired by the excellent work there led by Asiyan Suleymanoglu and her colleagues. Working with one of the pioneers of mediation in the US, Bruce Edwards, and Sohret Gok from Germany, we found an engaged and enthusiastic audience and much interest in the issues which we have all faced – and continue to face – in many jurisdictions.

However, I suspect that my unexpected transactions in the Grand Bazaar will live longest in the memory. My wife and I had just resolved not to buy anything we did not absolutely need, and simply to enjoy strolling among the thousands of covered stalls, when we were approached by a gentleman who wished to sell us a carpet. I protested that we were simply looking at his wares in the window and had no wish to purchase. Rather sternly it seemed, he put his hand up and said, in near-perfect English: "Let me do my job, I will show you my friend's excellent carpets." Reluctantly, and against my better judgment, we were being drawn in.

Next thing we knew, we were in a small shop surrounded by beautiful rugs, being welcomed by a very articulate man who soon demonstrated real knowledge of his subject. Within minutes, several rugs were being laid out in front of us and we were commenting on those we liked. A multiplicity of choice, drawing us further in. We pointed to one hanging on a wall. "Ah," our host commented, "that one is more expensive. It's a much finer weave. You will be better with one of these." A clever move. Emphasise scarcity. And prime our expectations.

We were invited to exclude those rugs we didn't like. Thus, we began a process of "selection", drawing us ever closer to the commencement of negotiations for a purchase. My wife had already suggested that the rugs would be too small for our room at home, but we began to rationalise how nevertheless we could make one work for us, a classic "cognitive trap". Then, the fatal boundary was crossed. Not by him, but by me, introducing the subject of price. "Just as a matter of interest, how much are these?" I asked. I got an answer and was soon doing a quick Turkish lira to Sterling calculation. Indeed, I even got my phone out and used a currency converter. Having now anchored our negotiations with a figure, our host was charming. "If we are going to be talking about money, you must each have an apple tea". My wife immediately accepted but I commented loudly that I didn't need apple tea when we would not be purchasing anyway. The apple tea arrived shortly after and it was delicious. We really felt at home.

"Again, just out of interest, what is the price of the one on the wall?" I asked. Somewhat

reluctantly, as if protecting us from bad news, our host slowly turned over the rug and, shaking his head, told us that it was more than 50% more expensive. “But it would work so well,” I could hear my wife saying. Then, I had a brainwave. I had photographs on my camera showing the room at home. We looked at them and could see that the rug would in fact be too small and we already had a rug there which was probably just fine. “Ah, but look how well this rug would go with the curtains”, my wife observed. Drawn back in, I heard myself saying, “Leave it to me, I’ll play hard ball”. I looked at the rug, shaking my head as if not sure that we would be able to go ahead.

For the first time, our host’s face darkened. “Give me your best price,” he demanded. Then he lightened up: “We should negotiate. Maybe your friends will see the carpet and come and buy more from me. It is good for you and me to make a sale.” Aha, mutual interest bargaining. “It’s too much,” I said, “but you give me your best offer. I don’t want to be unfair to you.” Somehow I thought that I was in the driving seat and that a gesture of magnanimity would be appropriate. He moved down about 10%. I shook my head. “Maybe we’ll have to buy one of the cheaper ones.” Slam. Commitment to purchase made. It was now only a matter of price. By now, of course, I had forgotten our pledge about only buying on the basis of need and my reluctance to purchase. It was game on. He reduced the cheaper rug price by about 10%. I pulled up my phone currency converter app and pretended to take a long time making some calculations.

I got my second wind. We didn’t need a rug. We had a strong BATNA therefore. We could simply walk away. But, if we were going to purchase, we’d want the more expensive one. It now seemed really ideal. I decided I could afford to play it tough. “I’m really sorry, we can’t pay your prices.” A strong move, I thought. “Ok, give me your best price,” my adversary responded. I had a figure in mind, about 50% of the initial price for the more expensive rug and indeed lower than the cheaper rugs. “No,” I boldly said. “You give me yours”. In that moment, I’d missed the opportunity to lower his expectations drastically. However, he came back in with a considerably reduced figure, now pricing the more expensive rug at the same price level on which he’d started with the other ones. I was taken aback. How well I was doing. I had him now. Forgetting my own price objective, I suggested a further 10% off. His hand shot out. “It’s a deal!” I found myself shaking his hand. “You will pay with MasterCard?” He was already heading for his book of invoices and the credit card machine.

So, we got a really nice rug at a price substantially lower than that at which our seller had started. He had sold us one of hundreds of similar looking rugs at a price just below his starting price for all but one of them. Who emerged from the negotiation with the better result? I don’t want to think too deeply about that but it was great learning about the dynamics of negotiation – and how easy it is to forget what we know in the excitement of the moment and to default back to more primitive behaviour. If only I had paused...or made a movement towards the door....

On the other hand, we now possess a rather attractive memento of a memorable trip. And, truthfully, we think that, to us, it may be worth what we eventually paid for it.

Oh, and ten minutes later, I purchased a really nice “leather” satchel for my laptop and iPad. Just what I was wanting....well, not quite, but it looked so professional and, maintaining eye contact firmly with the stall-holder throughout, I negotiated the price down to nearly the level I was actually prepared to pay, making a smallish concession at the end as he seemed to be struggling to reach my price. The seller looked genuinely upset as we finalised the deal. I think.

John Sturrock

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The graphic features a black background with white text and a circular icon. The icon depicts a group of five stylized human figures, with a magnifying glass positioned over the central figure. The background is accented with horizontal lines in blue and green.

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