

Too Much Or Too Little?

Kluwer Mediation Blog

March 2, 2017

Bill Marsh (Editor) (Bill Marsh Mediator)

Please refer tot his post as: Bill Marsh (Editor), 'Too Much Or Too Little?', Kluwer Mediation Blog, March 2 2017, <http://mediationblog.kluwerarbitration.com/2017/03/02/too-much-or-too-little/>

How many of us share the experience I have had – sitting on the last train home, late at night, with a day’s mediating behind me and no settlement? Perhaps even no meaningful progress towards a settlement? Occasionally, no offers even made? And as you do so, perhaps you find that your thoughts veer from:

– Every other half-way decent mediator in the country would have settled this – why am I so useless? What did I do wrong?

to:

– I gave it my all – I can’t think of anything else I could have done today.

via:

– Most points in between.

There is no doubt that we mediators feel a pressure to settle cases. Personally, I think something would be wrong if we didn’t. It’s not just because we feel judged by that standard, and because we want a reputation for being effective. It’s not even just because we depend on the views of others for our income (at least those of us who mediate for a living) though all that is important.

It is because those feelings indicate a level of commitment to the cause, and a concern about the outcome for those involved. This is appropriate and important. If I was hiring a mediator, I would be looking (amongst other things) for commitment, for a willingness to stick with it, to go the extra mile. For someone to whom it all mattered.

The challenge for us, however, is how to balance up our commitment and desire to see the parties find a resolution, with the understanding that ultimately it is *their* problem, not *our* problem.

Care too *little* about the outcome, and it shows. Mediators should be the last to leave, the last to give up on the process, the last to lose hope.

Care too *much* about the outcome, and it affects our judgement calls about what to do in the mediation. It induces a subtle shift in responsibility from the parties to us, which can be fatal to achieving an outcome. It eases us covertly into being part of the problem. It removes from the parties some of the responsibility and hence pressure to make difficult decisions, and turns us into someone “selling” a certain outcome or proposition. This ultimately denudes our effectiveness, and will become an intolerable and ultimately crippling burden.

So retaining for ourselves the appropriate balance of care and detachment is central to our effectiveness.

That’s all very well as a proposition, but what *is* the appropriate balance and how do we find it?

Whilst I suspect the answer may differ for each mediator, I suggest that for all of us the way forward lies in self-reflection. Not the self-flagellation on the late night train I alluded to above (nor the equally mis-guided delusions of grandeur that can sometimes accompany a good day’s work!), but a measured process of thinking about what motivates us, and why we care. So here are a couple of questions to prompt your thinking. They will only be of value if answered with ruthless honesty – and hence probably in private! I also suggest you write down the answers, rather than just thinking them. It’s a helpful way of holding ourselves accountable and it gives us something to go on reflecting on.

1. *Why* do I care about the outcome of a mediation? For example – To gain adulation? To avoid criticism? To gain repeat business? To justify my involvement? To enhance my practice? To change the lives of those involved? TO usher in world peace? And so on – there will be many more.

2. *How* might my motivations – varied as they probably are – impact on the way I mediate?

I would guess that most of us have a mixture of inner motivations – including some we wouldn't want to acknowledge too widely, perhaps! Indeed I would be surprised if it were otherwise. And there is nothing wrong with that – quite the reverse. But what matters is an acute *awareness and understanding* of our motivations, because only that will enable us to assess whether we care about the outcome too much or too little.