

The "R.P.S." Solution to a Protracted Conflict (Part I)

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Experienced mediators often forget that the mediation process is not about them, but rather the parties. This extends to the manner of "how" a resolution is reached, as well as when a resolution is reached. Mediators, tend to facilitate the process where they feel that they should be in so much control of the process, that they guide the parties towards, "how", the parties should reach resolution. Mediators can keep control of the process yet yield to the parties' creativity, and when appropriate, allow the parties to come up with their own way of resolving their conflict. The following is one such case, where I, the mediator, facilitated the process while the parties reached resolution in a manner unique to their interpersonal styles. I call it the R.P.S. solution to a protracted conflict.

The divorce mediation commenced with the usual tension in the room between the parties. Both sides were unrepresented so the tension appeared more evident. They were uncomfortable; unable to look directly at one another; but slipped glances from time to time in varying directions, all while trying not to look interested in what the other was doing. Anyway, I smiled and ushered the two parties into the room. I gave my opening statement, stressing that this is their process, and that I am simply the custodian of the process, and this is their opportunity to reach a resolution that best fits their lives and situations. The next 2 hours were spent fiercely negotiating. I was in and out of caucus sessions while utilizing a hybrid of

mediation styles and techniques. With every step forward, a simple word or suggested language change (to the agreement), took them three steps back. Everything and anything was another battle. Once an issue seemed to be resolved, one of the parties, being skeptical as to why the other agreed, changed their conditions and made reaching an agreement more difficult. The parties did not trust each other, and did not want to feel taken advantage of, so we could not move forward.

Well, after several caucus sessions, I reconvened the parties in a final joint session and announced to them that it appeared that we were at an impasse. I reiterated to them that the mediation process is their process but I will report an impasse if they truly feel the judge should rule on *all* of their issues. They both agreed that they did not want to spend any more time in court and that they could not afford attorneys. Hearing this statement I made one last effort and stated, "This being your process, it would benefit you if you thought carefully about how and what you want resolution to look like. Maybe there is a way to reach resolution on some of the lesser issues in a manner that you both respect and trust, where you would not feel suspicious of each other. You were both married for a long time, and as you stated, it was only the last few years that things became too difficult to be together. With such a long history, there must have been a way that worked in the past when you were

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faced with disagreements. If you can recall that time, that makes sense to the both of you to agree on the smaller issues, then the larger issues might be easier to manage..." The husband stood up, leaned over with his hands pressed to the table, and looked at his wife and said, "Like, the man just said, we need to resolve all of our issues in a way we respect." She stood up. Then I stood up, nervous as to what was about to happen. She said, "Fine.". They both balled up their fist, and in unison they said, "Rock, Paper Scissors, Shoot.". "I win." Stated the Husband, "I will decide where the kids go to school and I get them the first half of Christmas." The wife said, "Ok. Next. Rock, Paper, Scissor, Shoot! Ok, I win. So, I will pay for one of them to go to soccer and you pay for the other activity they want... I knew you would pick Rock again" The Husband said, "Fine." I looked at both of them stunned as they began to address most of their issues in the same manner. I simply started to jot down what the agreement would look like and within the hour, we had a complete settlement.

They both were more pleasant towards each other and smiled occasionally during the drafting of the agreement. And they stated they had never knew they could settle major issues with Rock, Paper Scissors. I said, "Me, too. But it is your process, and mediation is creative and flexible. So, as long as you reached resolution in your own way, all is fine."

The Take Away: Sometimes the parties of a dispute know exactly how to settle their case. It

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is the mediator's challenge to allow for them to reach that "how" when they are ready. The parties found a system of resolution they trusted, and it worked for them. The mediator needs to know to keep their ego out of the process and allow the mediation to be a "process" and not an event.

For more regarding techniques applied in this case please read "Part II: Advanced Mediation Techniques, Problem Solving and Human Systemic Approaches to Conflict Resolution".