Can We Call a Truce?

Tips for Negotiating Workplace Conflicts

“Whether two employees are fighting or a disgruntled client is on the verge of leaving, you — yes you — can step in and help solve the problem.”

— Mediator Jeffrey Krivis and author of “Improvisational Negotiation.”

Conflict happens in all areas of business. Disputes can arise between employees, business partners, and between a company and a client. If such issues are not settled, bad things can happen. Good people quit. Profitable relationships dissolve. Great companies go under. This has always been true, but in a global economy the implications of conflict are more profound than ever, according to renowned mediator Jeffrey Krivis.

“Companies can locate anywhere. People can work anywhere. Clients can stay with you or go with a competitor halfway around the globe,” says Krivis, author of Improvisational Negotiation: A Mediator’s Stories of Conflict about Love, Money, Anger — and the Strategies That Resolved Them ($35.00, Jossey-Bass/A Wiley Imprint, ISBN: 0-7879-8038-2). “So whether you manage employees or clients or both, it’s critical to learn the art of bringing harmony out of conflict.”

Krivis serves corporations and individuals from all walks of life, helping them settle disputes before they end up in the courtroom. But what exactly is negotiation? According to Krivis, it involves reframing a situation in order to get people to shift their positions in a way that makes a resolution possible. His formula for negotiation is as follows:

- Instinct + Information = Intuition; and
- Intuition + Knowledge = Improvisation.

In other words, negotiation is part art and part science. But you needn’t become a certified mediator to settle a dispute at work or at home. You just need to understand some basics about human behavior, practice the fine art of paying attention, and offer yourself as a neutral party who wants to resolve the problem. The following are 10 insights that Krivis suggests:

1. Let people tell their story. When a person is deeply upset about something, he or she really needs to get his/her story out. This is a basic principle of mediation that’s important to remember when trying to resolve a conflict with an angry employee, client, or other associate. It’s true that allowing people to speak their minds can temporarily increase the level of conflict. That’s OK. You have to get through the conflict to find the solution. Feeling that he/she has “finally been heard” can dramatically change the outlook of an angry person. In addition, as the individual tells his/her story, new information may come to light that points to a solution.

A story in Krivis’s book illustrates this truth. Dan, a systems analyist who had been downsized after 10 years with his company, was suing his former employer for wrongful termination. When he was finally allowed to tell his story in mediation, everyone was stunned by the raw emotion that came pouring out.

“Dan had lost his parents as a child and had always spent Thanksgiving and Christmas with co-workers,” reveals Krivis. “He saw the company as family — literally — and thus felt hurt and betrayed by the layoff. As it turned out, the company was ultimately able to re-employ Dan as a consultant. He got to start his own business, and his old company got to continue benefiting from his services. But if Dan hadn’t been allowed to tell his story, and tell it in front of his old boss, the answer would never have presented itself.”
2. If someone refuses to budge, take the spotlight off him/her. When mediating a multi-party conflict there is often one person that insists on taking a hard-line approach. He/she refuses to compromise, shooting down every solution that’s presented and holding out for what he/she wants. Krivis’s suggestion? Take the attention off the “last woman (or man) standing” and begin discussions without him (or her.)

“It’s amazing how well the isolation technique works,” he explains. “You’ll find that the holdout starts to anxiously call and send emails, trying to get things going again. When his/her perceived power is neutralized, the individual quickly sees the value of compromise.”

3. When someone seems “locked up,” dig for the emotion behind the stone face. Krivis recently mediated a situation in which a famous television producer was on the verge of being sued for plagiarism. Essentially, the plaintiff claimed that the producer had “stolen” his idea for a successful situation comedy TV show. When anyone talked to him about his case, he gave short, robotic answers and showed no emotion.

When Krivis asked the plaintiff, “What is it you really want to achieve here?” the plaintiff nearly broke down. “He said, ‘I never wanted to bring this case in the first place. I just want to break into television.’ So I returned to the producer and said, ‘Is there any way you can help this guy out?’ And the producer said, ‘Sure, let me talk to him.’ So I got the plaintiff an audience with this respected producer, and the producer ended up offering him a development deal. By tapping into this person’s repressed emotion, we were able to find a solution that made everyone happy.”

4. Provide a reality check when people are making a mountain out of a molehill. In a conflict, the various parties are often so focused on minute details that they lose sight of the big picture. Mediators need to bring people back to reality by getting their attention away from the grain of sand and having them focus on the whole beach. Doing so may quickly bring about a resolution.

“I was mediating a case in which a security officer was raped by a superior,” Krivis recalls. “Everyone was nitpicking the details, saying, ‘Well, we don’t know if we can believe the officer, so-and-so is biased, she’s asking for too much money, etc.’ I had to step in and say, ‘Let me paint the picture the way the jury is going to see it: the horrific crime of rape, a woman in distress, a thriving six-figure career cut short, and so forth. Now you go ahead and tell your story about the sand granule. By then the jury will have made its decision and you’re going to wish you had that moment back.’ Once I gave them the reality check, they came to an agreement right away.”

5. Identify the real obstacle. In every conflict, ask yourself “What is the true motivating factor here?” “What is REALLY keeping this person from agreeing to a solution?” When you identify the obstacle, you can predict how the person will respond to certain ideas and you can shape negotiations accordingly.

“I worked on a case in which a man was suing an entertainment company for wrongful termination and we just could not resolve it,” Krivis states. “Finally, I asked about the man’s family and found out that one of his kids had cerebral palsy. Suddenly, it all made sense. The plaintiff had to win the lawsuit because they didn’t have medical insurance to cover the child’s expensive treatments. So that’s what was really driving the lawsuit. Armed with that knowledge, we got the company to agree to pay the man’s insurance for five years.”

6. Learn to “read minds.” Mind reading is not magic. It is a combination of observation and intuition, which is born of experience.

“You can learn a lot about how each party sees a dispute by paying attention to body language and listening closely — not only to their words but also to the emotional tone behind their words,” Krivis says. “If you give them the opportunity, most people involved in a dispute will gladly talk about themselves, which gives you a chance to ask more questions and gain more information about their perspective. Once you see things from their point of view, you can stay one step ahead of them by anticipating how they
might react and then manage the negotiation accordingly.”

7. Think creatively about ways people can cooperate rather than clash. In every negotiation, there’s tension between the desire to clash and the desire to cooperate. Be on the lookout for signals that support a cooperative environment. That’s where most creative solutions are born.

Another story in *Improvisational Negotiation* centers on Golden State Grocers and its objection to being billed for a three-week “training cruise” taken by its employees of its computer-consulting firm, Apex. Golden State felt ripped off by being charged for what looked like a vacation. Apex insisted that its employees worked intensively on Golden State’s account during the cruise — and besides, “this is how it’s done in consulting.”

Krivis’ solution involved forming a new company, Golden Apex Seminars, which offered training services to other retailers.

“Instead of spending my time divvying up the consulting bill, I spent it building up the relationship between the parties,” he explains. “Suddenly, the money dispute that had started the mediation became secondary to the created value of a new, mutually beneficial business venture.”

8. “Edit the script” to help people see their situation in a different light. “People tend to get ‘stuck’ in their positions because they are telling what happened from a narrow viewpoint and in a negative and hopeless tone,” Krivis explains. “They’ve relayed their story over and over again and their perception has become their reality. They can’t see the situation any other way unless you help them to do so.”

“As the mediator,” he continues, “you can take a larger view that looks not at one party or the other as ‘winning’ but at both parties working toward a mutual goal. One way to help them get to this goal is to edit their script — retell their story about the dispute in a positive fashion. In this way you literally give them the words to see their options in a new light.”

9. Avoid the “winner’s curse” by carefully pacing negotiation. Believe it or not, it is possible to reach a solution too quickly. We all have an inner clock that lets us know how long a negotiation should take. When a deal seems too easy, a kind of buyer’s remorse can set in that leaves people with second thoughts about the outcome. One or both parties may be left with the feeling that if things had moved more slowly, they might have cut a better deal.

According to Krivis, the bottom line is: “*don’t rush the dance or the negotiation will fail.*” “Even when you know you can wrap things up quickly,” he adds, “it’s to everyone’s advantage to keep the negotiation proceeding normally, for a reasonable amount of time, before the inevitable settlement.”

10. Finally, realize that not every conflict can be resolved. What if you’ve tried and tried to help two warring factions find a fair solution and you just can’t get them to settle? It may sound odd coming from a mediator, but Krivis points out that some conflicts just aren’t winnable.

“There are times you just have to accept that both parties are going to leave the table equally unhappy,” he says. “When you’ve mediated enough conflicts, you will know in your gut when that time has arrived. Isolate the participants if possible and just move on.”

**Summary**

Talk like this may seem alien to “just the facts” business types, but Krivis says it’s important for management types to become comfortable with the idea that there are no hard-and-fast rules in negotiation. Negotiations involve going with the flow and seizing opportunities as they arise. Mediators can, and should, familiarize themselves with the necessary tools — but there’s no substitute for jumping right in.

“Improvisational negotiation is kind of like jazz,” he explains. “You have to know your chords, your scales, your patterns, your licks. But ultimately, these are building blocks, not formulas. The chords you use depend on the chords you hear from the other participants, and vice versa. It’s a conversation. There are no limits on what can come out of mediation, and that’s what makes it such a powerful skill.”

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Habits of Highly Effective Conflict Resolvers

1) **Understand the individual’s needs.** Does the person want to vent? Brainstorm solutions? Be coached? Understand what the person wants by asking questions: “How can I be most helpful to you?” “What are you hoping I will do?” “What do you see as my role in this matter?”

2) **Engage in collaborative listening.** Collaborative listening takes active listening one step further by supporting the work of the other person. The speaker’s job is to clearly express his or her thoughts, feelings, and goals. The listener’s job is facilitating clarity; understanding and making the individual feel heard. Examples include: Help the individual explore and be clear about interests and goals. Acknowledge his/her’s perspective. Ask questions that probe for deeper understanding: “When you said x, what did you mean?” “If y happens, what’s significant about that for you?”

3) **Be a good transmitter.** Pick up on positive messages, communicate them carefully, and progress will improve. Act soon after hearing the positive message. Paraphrase accurately so words aren’t distorted. Ask the listener if this is new information, and if it changes his/her stance.

4) **Recognize power.** Who has “power”? How do you as a negotiator balance power? Assumptions about who has “power” are easy to make but sometimes wrong. Skillful negotiators recognize dynamics in conflicts and are mindful about how to manage them.

5) **Be optimistic and resilient.** Agreeing to participate in a negotiation, whatever it is, is an act of courage and hope. Participants are demonstrating their belief in the value of the relationship. They are also expressing an effort to be responsive to, and supportive of, negotiation efforts. But participants may first communicate anger, frustration, regret, and other emotions. The negotiator can inspire them by being optimistic. Resiliency is important, too. Don’t let an argument end prematurely — settling for anything. “Move yourself and the individuals through the different stages of negotiation.” “Help participants visualize their progress.” “Be appreciative of the hard work you are all doing.”

Source: Dina Beach Lynch, former ombudsman for Fleet Bank and current CEO of ADR PracticeBuilder (http://workwelltogether.com), an online conflict management toolkit. Dina can be reached at Dina@workwelltogether.com.