Tales of the unexpected

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To mark our 25th anniversary, we asked our mediators to tell us about their most memorable and surprising mediations. From their weird and wonderful responses, it's clear that anything can happen…

Jon Lang kicked off the conversation when he said 'Expect the unexpected!' And it's true. As mediators we never know who or what we're going to find in the mediation room – but it's a challenge we're always prepared for. I don't just mean prepared in terms of paperwork because that's a given. I mean prepared to do whatever we can to make the parties feel comfortable and to give them the best possible environment to work towards settlement.

And that environment shouldn't be a broom cupboard! Yes, a windowless room, little more than a broom cupboard was allocated to the visiting party when they turned up at the host's law firm offices. Realising this wasn't conducive to proceedings, the mediator – who'd been given somewhere decent, with a window(!) – immediately swapped rooms. Of course the right venue isn't a deal breaker but, as Charles Middleton-Smith recalls, it can sometimes be surprisingly effective: 'Day 1 ended in a draw at 2am at a lawyers' office in the north of England with all concerned accepting

exhaustion and hastily booked hotels. Day 2, two weeks later, was held in the upstairs room of a pub in north London and resulted in an easily signed settlement.'

There are no problems, only solutions

We had a great anecdote from Tim Hardy highlighting how mediators, when faced with a potentially problematic situation, are adept at finding solutions. While mediating between parties from Central Europe and South America, Tim was told by the claimant's lawyer that there wasn't any point in his client attending as he was deaf.

'On further enquiry I learnt that the lawyer had never spoken with his client, communicating by email instead,' says Tim. 'On yet further enquiry and a couple of calls to South America, it turned out that the client could lip read so we set up a Skype call on a laptop with the camera trained on my mouth. The first thing I did was introduce the client to his lawyer. We managed a very useful preparatory meeting and later the following day, when the time zones were better aligned, we undertook a detailed negotiation via Skype and lip reading, concluding a settlement that evening.'

Judging the situation

Mediators have to be prepared for every eventuality (and there have been some very strange eventualities in our 25 years). A mediator should know how to read the room, check the temperature and make considered decisions about when to bring people together and when to keep them apart. It's one heck of a responsibility but that's why a good mediator gets it so right because they're able to judge the situation.

It's a particularly useful skill in cases involving family members. 'In one of my mediations, a step-mother and her son were reconciled with the step-children from two previous marriages, despite their resistance (unsuccessful) to a joint session at the beginning of the day,' remembers Beverly-Ann Rogers. 'In another, I brought a long-estranged brother and sister into a room to have a chat and they fell into each

other's arms. I exited fast murmuring "I'm just outside if you need me." They didn't and the dispute was resolved by lunchtime.'

Patience and tenacity

Mediators are nothing if not tenacious. Mark Linnell recalls being told by the director of the claimant company that there was little hope of getting anywhere and that he was leaving to go on holiday at three o' clock that afternoon. 'He did indeed leave at 3pm,' remembers Mark. 'He caught his flight and we were on the phone to him as soon as he arrived at the destination airport. We continued throughout the night and the case settled just after midnight.'

I've seen a mediator subtly block the exit route for a disgruntled party with his chair as he gently entreated the individual to sit down beside him and talk and I know of another who chased someone up the street to persuade him to return to continue the mediation. It's a point of pride for our mediators to explore every avenue to find settlement. Indeed, it's in our DNA (we test for it before they join our panel!)

Mark Shaw QC sums it up nicely: 'Never assume anything, and never give up on a "lost" cause. People's characters, motivations and priorities are full of surprises. Sometimes, what seems straightforward turns into a minefield. More often, apparently yawning chasms can be bridged after all.'

Finding the 'X' factor

Over the past 25 years, IPOS has certainly had its share of surprises. And we've loved the challenge. When you walk into a mediation you really do have to expect the unexpected. You may have an inkling about how things might go, but most of the time you don't have any idea about the characters of the people you'll be spending the day with. It's that human element of what we do that makes our job so exciting and so rewarding.

‘However deep-rooted a point of view, however staunchly a position is defended, views can change and change very quickly,’ says Jon Lang. ‘It’s all about finding that “X” factor. Pressing the right buttons in the correct order. Aligning the stars. Whatever expression one might use, anything is possible!’

I couldn’t have put it better myself. Here’s to the next 25 years of expecting the unexpected…

Mediator
Henrietta Jackson-Stops