

MAPS NEGOTIATION SEMINAR

Negotiation /Communication

- **Negotiation:** Communication to influence another person's decision. A discussion using reasoned arguments to resolve a dispute or consummate a transaction.
- **Communication:** An interchange of thoughts and ideas to gain or translate information.
- Communication is only as good as is received.
- Are we sending the message we intend?

© Copyright 2009 Mediation Arbitration Professional Systems, Inc.  **maps** ...the leader in resolution Professional Systems, Inc.

Parties/Listeners:

- Evaluate the messenger before the message.
- **Evaluate** the source before the substance.
- **Perception Issues:**
 - Vividness
 - Winner's curse
 - Social proofs

Mediation Arbitration Professional Systems, Inc.  **maps** ...the leader in resolution Professional Systems, Inc.

Thompson Negotiation Myths

- Great negotiators are born.
- Experience is a great teacher.
- Good negotiators routinely take risks.
- Good negotiators rely on their intuitions.

Mediation Arbitration Professional Systems, Inc.  **maps** ...the leader in resolution Professional Systems, Inc.

MAPS NEGOTIATION SEMINAR

Making First Offers

- **Fears:**
 - Uncertainty: What are they looking for? Will they be disgusted and walk away?
 - Misleading Information: Target numbers obscured by misleading info to gain advantage.
- **Waiting:**
 - Gain info about the opponent's bargaining position.
 - Get clues about deal range.
 - Does not take into account powerful effect of relevant first offers or the way people perceive the potential outcome.



Research

- More often than not, negotiators who make the first offer come out ahead.
- Why Anchors?
 - How we view an offer's value is influenced by relevant numbers that enter the negotiation environment.
 - Such numbers pull judgments towards themselves called **ANCHORS**.
 - In positions of uncertainty and ambiguity, first offers have strong anchoring effects.



- **Real Estate Study:** All agents influenced in home valuations by the suggested list price citing features that justify amounts, but denied taking list price into account. (Northcraft & Neale)
- **Mercedes:** 2,800 DM v. 5,000 DM. Estimated value of car 1,000DM higher when given higher list price on used car (Univ. of Wurzburg).
- Every item, matter or case has positive/negative qualities.
- High Anchors focuses attention on positive attributes and low anchors on flaws: New roof, big rooms v. small yard, old furnace
- **WHEN SELLER MAKES FIRST OFFER, FINAL PRICE HIGHER THAN WHEN BUYER MAKES FIRST OFFER.**



MAPS NEGOTIATION SEMINAR

When to Make First Offer?

- Confidence, sense of control or want it.
- If lack power, less inclined.
- Wait when lack info.
- **Amount:**
 - More aggressive, better outcomes. But, aggressive v. absurd.
 - Negotiator satisfaction related to number and size of concessions.
 - Target price v. BATNA
- **First Offer Protection:**
 - Make your first offer in same way.
 - Always demand concessions.
 - Scott's nightmare.



Party Bias – Emotion Based

- **Overconfidence**
 - Characterized by asymmetric data.
 - Mock trial study: Note surprise by litigators-dismay at opponent's strength!
 - Study: Parties fail to consider important guidance – even when encouraged to do so – “Not a problem”.
 - Study: Parties reject positive offers even if it meets needs when emotions overlay.



Shadow Negotiations

- Whether parties are discussing price or performance, they're also negotiating their relationship.
- **Moves:** Techniques for challenging legitimacy.
- **Turns:** Responses to counter moves.



MAPS NEGOTIATION SEMINAR

Moves

- Challenging competence or expertise
 - “Your fees are way out of line...”
- Demeaning ideas
 - “You can’t be serious about...”
- Criticizing style
 - “Calm down” or “That offer is unreasonable”
- Making threats
 - “See you in court.”
- Flattering or appeal for sympathy
 - “I know I can count on your integrity and skill to do the right thing in this case.”



Turns

- **Interruption:** Take a break, pause. Never exactly the same position after a pause.
- **Naming:** “You and I both know that creates more work for you.”
- **Questioning:** “If you were in my position, I wonder how you would respond to the offer you just made?”
- **Correcting:** Use criteria in case law.
- **Diverting:** “I’d like to explore some other options with you.”
- **Restorative participation for both**
 - If both testing, use naming and correcting turns.
 - If later stages, use questioning and diverting turns.



Framing...Positioning for Acceptance

- We see the world from the bell tower of our own village.
- Naïve realism
 - False consensus
 - Biased perceptions
 - De-biasing...The “imagine” study
 - Unequal evaluation of evidence



MAPS NEGOTIATION SEMINAR

Re-Active Devaluation

- Source before substance
- Offered or non-offered
- After being offered vs. before offered

AFFECTS CHOICE



The Decision Trap

- Stage setting
- Anchoring
- Affects focal point

“The more you buy...”



React or Create

- Options
 - Surrender
 - Play game better
 - Quit-leave
 - Change the game



MAPS NEGOTIATION SEMINAR

Change the Game

- Play your game
- Reframe
- Name the game
- Change players

Mediation Arbitration
maps ...dr. leader
in resolution
Pro-Residual Systems, Inc.

**Confrontation or
Communication?**

- Questions
- Threats
- Mixed Messages

Mediation Arbitration
maps ...dr. leader
in resolution
Pro-Residual Systems, Inc.

**Two of the most powerful
and effective of all human
fears are the fear of failure
and the fear of success.**

Mediation Arbitration
maps ...dr. leader
in resolution
Pro-Residual Systems, Inc.

MAPS NEGOTIATION SEMINAR

**Two of the most powerful
and effective of all human
fears are the fear of failure
and the fear of success.**

Mediation Arbitration
maps ...dr. leader
in resolution
Professional Systems, Inc.

THE CONSTRUAL PROCESS

“There are no impartial facts. Data do not have a logic of their own that results in the same perception and cognitions for all people. Data are perceived and interpreted in terms of the individual perceiver’s own needs, own connotations, own personality, own previously formed cognitive patterns.”

KRECH & CRUTCHFIELD (1948)

Mediation Arbitration
maps ...dr. leader
in resolution
Professional Systems, Inc.

Assertions from Ross & Ward- Stanford

- Differences in subjective interpretation or construal matter - they have a profound impact in the conduct of every day social affairs.
- Social perceivers characteristically make insufficient allowance for such impact in the inferences and predictions they make about others.

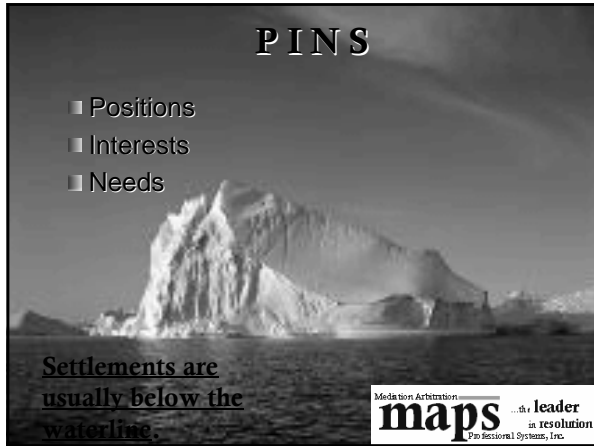
Mediation Arbitration
maps ...dr. leader
in resolution
Professional Systems, Inc.

MAPS NEGOTIATION SEMINAR

PINS

- Positions
- Interests
- Needs


Settlements are usually below the waterline.



Mediation Arbitration
maps ...dr leader
in resolution
Professional Systems, Inc.

Communicating

- Use parties' own analysis
- Their views of dispute
- "Third alternative"
- Hypotheticals
- Emotional Issues



Mediation Arbitration
maps ...dr leader
in resolution
Professional Systems, Inc.

Communicating

- Listening, giving, value, re-stating, summarizing, & testing
- Narrow Focus:
 - Outcome/Alternatives
 - Emotions/Analysis
- Issue Fractionalization
- Linking
- Positioning/Re-framing
- Identify Resources



Mediation Arbitration
maps ...dr leader
in resolution
Professional Systems, Inc.

Perception

“Each of us sees the world from the bell tower of our own village”.



How we control our lives with our perceptions... shapes how we make decisions...



“Confidence Theory”
People make the best decisions available based on resources.
But, people typically make bad decisions!



MAPS NEGOTIATION SEMINAR

Decisions

How do they perceive the problem?

<p><u>Optimal</u></p> <ul style="list-style-type: none"> •Define problem •Define perspective •Define resources •Define options •Define risks •Define Choice-----The Decision 	<p><u>Typical</u></p> <ul style="list-style-type: none"> •Emotional Attachment •Problem magnification •Personal intentions •Positional bias •Expectation magnification •Limited alternatives
--	--

Mediation Arbitration
maps ...dr leader
in resolution
Professional Systems, Inc.

Right Outcome Becomes Benchmarks

π

\$120,000 ↓

}

Perceived
Loss

Δ

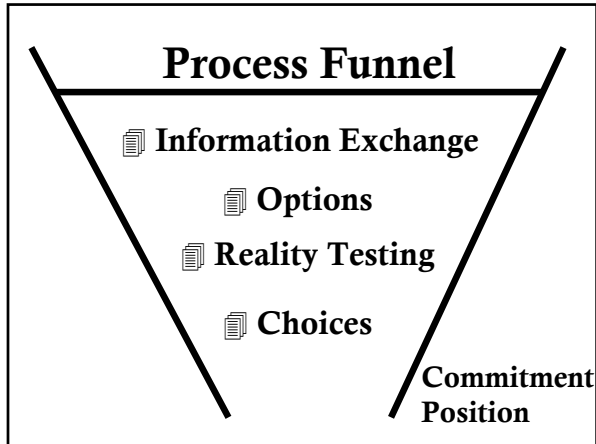
\$80,000 ↑

Process- Moves Benchmarks
 Changes Choice
 Avoids "Perceived loss"

Process- Moves Benchmarks
 Changes Choice
 Avoids "Perceived loss"

Mediation Arbitration
maps ...dr leader
in resolution
Professional Systems, Inc.

MAPS NEGOTIATION SEMINAR



Positions to INTERESTS
Positions to CRITERIA
Positions to OPTIONS

Mediation Arbitration
mapsdr. **leader**
in resolution
Professional Systems, Inc.

Emotional Impact:

- Emotions drive most decisions
 - Blame/punishment
 - Experience
 - Expectations
 - Fears
 - Hopes
 - Security
 - Identity threats on edification

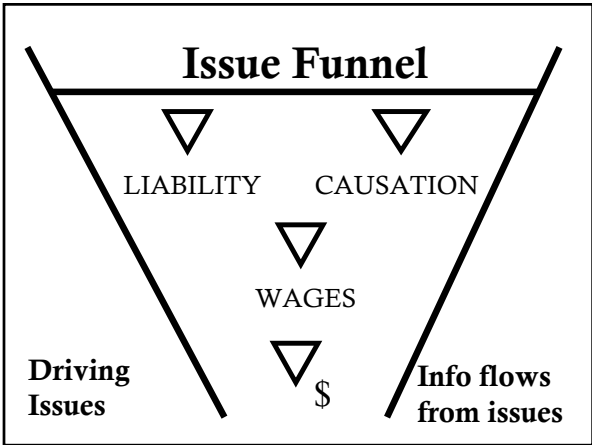
Mediation Arbitration
mapsdr. **leader**
in resolution
Professional Systems, Inc.

MAPS NEGOTIATION SEMINAR

Focus the Negotiations

- Summarizing & testing
- What is at issue?
- Hones arguments
- “Dull Axe”

Mediation Arbitration **maps** ... a leader in resolution
Professional Systems, Inc.



Blame v. Contribution

FAULT ➡ PUNISHMENT
 OR
 PARTIES' CONTRIBUTIONS ➡ IMPROVE SOLUTIONS/ CHOICE

- External costs of ignoring
 - Lack of communication - “Dial you out”
- Internal costs of ignoring
 - Emotion leaks out, translate feelings to attributes, loud covers soft

MAPS NEGOTIATION SEMINAR

Emotional Synthesis

Unravel what happened - communicate empathy	Find constructive ways to address feelings
Find and handle identity issues	Refine along the way - <u>Metaframe</u> - "What does that say for you?"

Mediation Arbitration
maps ...a leader
in resolution
Professional Systems, Inc.
