

Got a Difficult Client? Get a Mediator's Help

By Milan Slama

Everyone has had clients who drive them bonkers. They do not listen to instructions. They do not do their work. They do not understand what is being asked of them. They do not trust their attorneys, who work to represent them to the best of their abilities. The situation is not any different than working with difficult people in the office.

One of the solutions is to call a mediator and ask for help. Good mediators know about challenges attorneys face when it comes to client control. Recently I had the case where the client was quite passive. He was very slow in responding to his attorney's request to gather the necessary evidence to support his case. He was asking for compensation related to lost wages yet he did not make any effort to explain how he arrived at the amount he was asking for. His attorney tried very hard to obtain a good explanation for the amount. Only during the mediation did some progress materialize. I can only imagine how much patience the

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attorney had to apply and how much frustration he sustained while dealing with this client. On another occasion, a non-cooperative client did not provide necessary information because he believed that the longer he procrastinated, the better chance his wife would change her mind and stay in the marriage. Then there was the client who deliberately sabotaged the entire legal process, including mediation, because he simply did not trust the system or his attorney.

So what are the challenges and the types of difficult clients attorneys can encounter in their practice?

The first type is the non-cooperative client. This type of client believes that things will happen without his or her participation; that the process and the attorney will take care of everything. He does not have to present himself as a good witness because the facts speak for themselves. He does not have to be persuasive because the jury will see the case through his eyes. There is often a contradiction built into the mind of non-cooperative or passive clients — they do not like to advocate for themselves, yet they want to be vindicated by the justice system and they believe that they deserve compensation for their misfortune.

The second type is the stubborn client. This type of client does not listen to suggestions very well because she has already made up her mind. It does not matter how well intentioned her attorney is and it does not matter how well the attorney explains and justifies the strategy, which is necessary to bring about a favorable outcome. The attorney's suggestions are often disregarded because these clients 'know' they are right, all they need to do is present their story the way they see it.

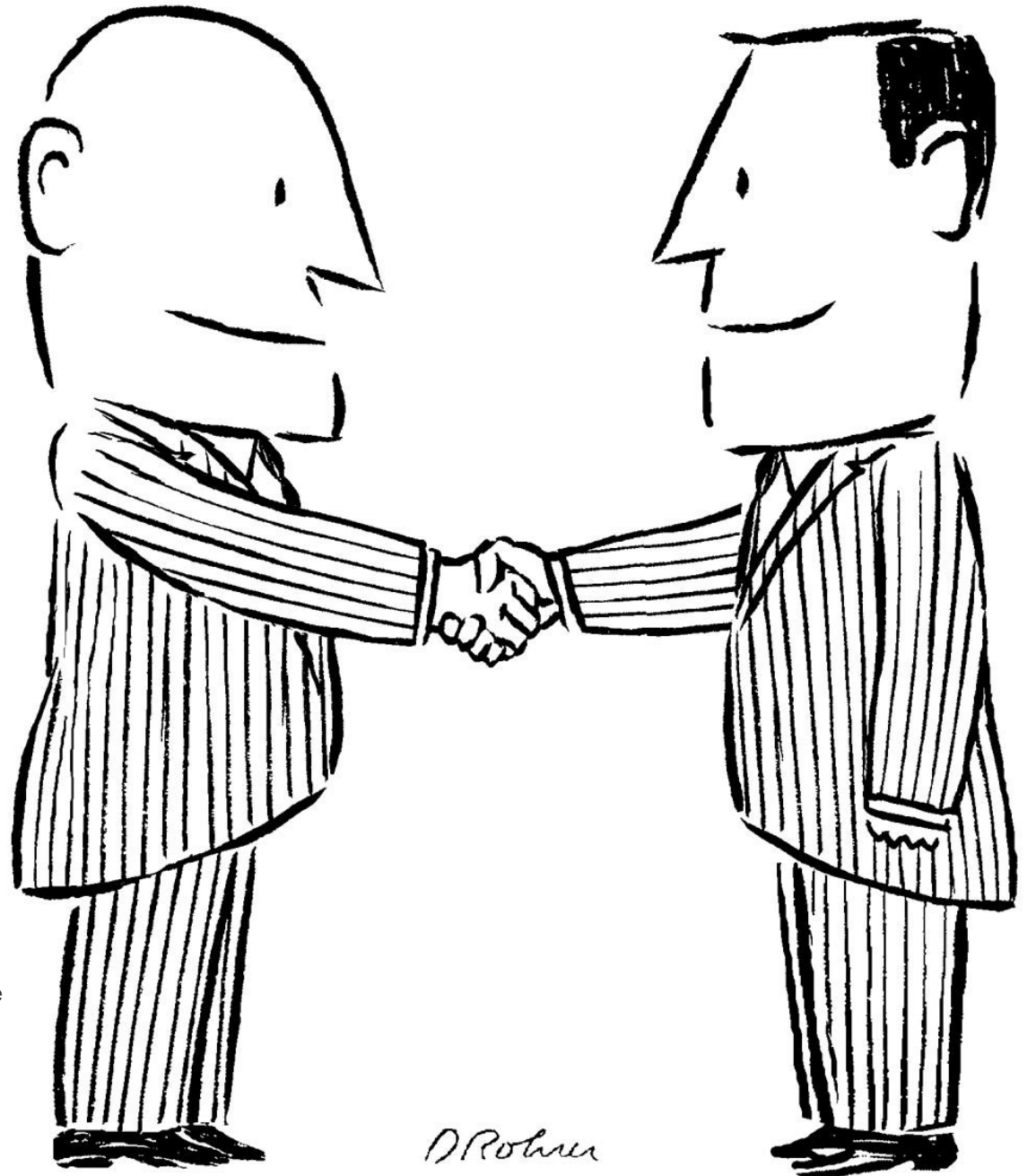
This stubborn type often lacks understanding about the legal process, the professional role of attorneys, and legal concepts in general. The lack of understanding can be based on the lack of sophistication or cultural barriers. The challenge attorneys face is finding a proper language

and being able to translate sometimes complicated legal concepts in fairly simple everyday vocabulary.

Then there are clients who sue because they see themselves as permanent victims; their dignity and their rights are violated all the time. They suffer in the hands of their family, their neighbors, coworkers, people they hire to perform professional services, and often feel victimized by the whole system. Victimhood is quite familiar and comfortable for these individuals and they often use the legal system as the means to reclaim their rights and dignity. Once they learn that it is not an automatic thing to prevail in court, they stop trusting the legal system. These individuals become apprehensive and avoid many requirements, which are expected from them as a party in the lawsuit, a client, and a witness. To be fair, there are occasions when attorneys contribute to such insecurities and distrust — those attorneys must take responsibility to some extent once the issue with client control emerges.

Distrust of attorneys is a complicated matter. First, the legal process is expensive. Second, it is quite cumbersome due to many procedural rules. When it comes to running the court system, budgetary problems and staffing shortages contribute to the clients' unhappiness. It is not a surprise that clients often question the necessity of particular request asked by their attorneys. Often, distrust of the opposing side shifts to distrust of the clients' attorneys and clients can easily lose confidence in the whole system. Confusion and fear are added to the mix and the lack of client control rears its ugly head. Trust or distrust directly correlate with the expectations that clients possess and expectations attorneys unintentionally or intentionally create in their minds. It is then absolutely mandatory that the attorneys manage their clients' expectations well. Mismanagement increases distrust and adds to the chance that the client-attorney relationship will worsen.

So how can a mediator help? First, a good mediator very quickly gains the trust of clients on both sides. He or she can help attorneys bring their clients back to the process by independently reiterating similar information and arguments, which the clients' attorneys have offered in the past. It is this kind of information and arguments that the client had previously accepted reluctantly and with suspicion. A good mediator has



the ability to reframe and rephrase the issues, simplifying them so that, they are understandable to the clients. It is not any different than presenting the case to a jury in commonsensical language. A good mediator can lower the volume of animosity between the parties. And finally, a good mediator can elicit solutions, which represent not only the interests of parties but also the interests of the attorneys.

Final note. On several occasions, I have been told by attorneys with difficult clients, "Now do your magic." I would like to say that mediators are not miracle workers or magicians. They are good at what they do yet they need help, both from the attorneys and their clients. Mediation must be understood as a partnership between the mediator and all participants in mediation. In keeping this in mind, the opportunity to achieve a positive outcome becomes more realistic.



Milan Slama is an award-winning mediator in the Los Angeles area. He mediates a variety of litigated cases for the L.A. County Superior Court, Equal Employment Opportunity Commission, L.A. County Bar Association, and the L.A. city attorney's office. He can be contacted at Milan@focuson-solutions.com or through www.focuson-solutions.com.

Smooth Transition From Judge to Neutral

Continued from page 1

just as effective when he settled my case on the bench as he was when he worked on the case being paid by the parties. That's important."

Born in Los Angeles, Sundvold spent his early years in Orange County, graduating from Sunny Hills High School in Fullerton and later Cal State Fullerton. Early exposure to the profession came from a lawyer who helped his mother and father — a blueprint supervisor for North American Aviation and an airplane assembler for Northrup Grumman Corp., respectively — with a legal dispute. Sundvold credits that experience with inspiring him to think about law for his own future.

He earned his J.D. from the University of San Diego in 1971 and moved to Washington, D.C., for a job at the U.S. Department of Justice.

Upon his return to California two years later, he worked briefly at a defense firm in Long Beach before becoming in-house counsel and managing attorney for insurer Safeco, where he stayed for 15 years.

The former Eagle Scout and longtime Civil War history buff is married with two children and four grandchildren. He jokes that on certain cases he'd rather mediate than take them to Disneyland.

Here are some attorneys who have used Sundvold's mediation or arbitration services:

Kenneth Kasdan, Kasdan Simonds Riley & Vaughan, Irvine; Robert Gilliland, Guralnick & Gilliland, Palm Desert; Robert



Stephen J. Sundvold
JAMS

Age: 63

Location: Southern California

Areas of specialty: Construction defect, business/commercial, civil rights, employment, insurance, personal injury/torts, professional liability, real property

Clausen, Law Offices of Robert Clausen, Newport Beach; Richard Buck, Cooksey Toolen Gage Duffy & Woog, Costa Mesa; Joseph Ferrentino, Newmeyer & Dillon, Newport Beach; Richard Bridgford, Bridgford & Gleason, Aliso Viejo; Bruce Lorber, Lorber Greenfield & Polito, Poway.

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The New York Times Crossword

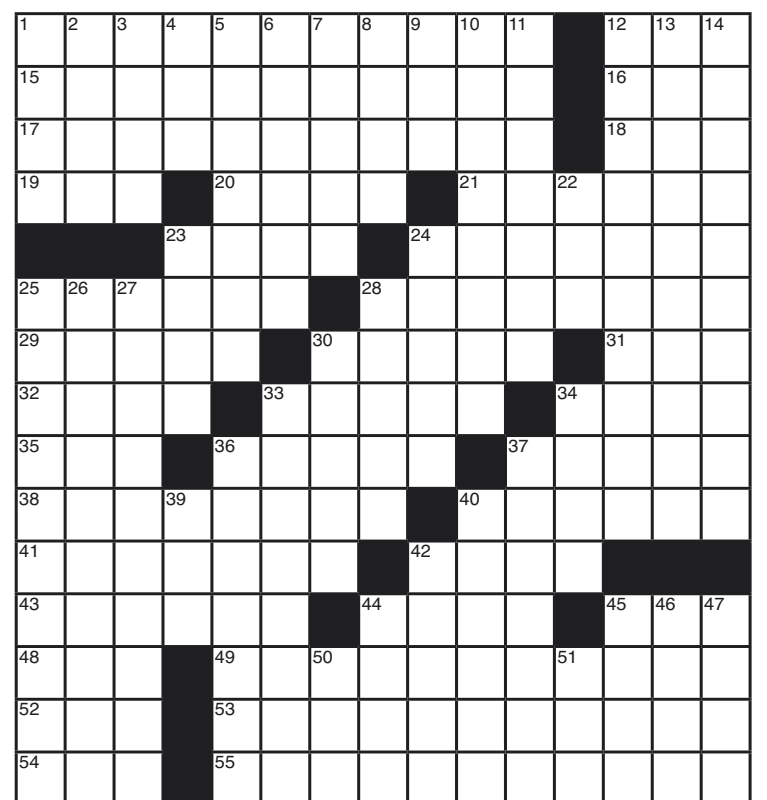
Edited by Will Shortz

No. 0904

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|--|---|---------------------------------------|
| Across | 29 Switch positions | 44 Impotent |
| 1 Fishing gear | 30 "Lost" actress Raymonde | 45 E-2 Marine |
| 12 Hollywood acronym | 31 Liszt's "____ Preludes" | 48 Utter doofus |
| 15 Company mascot introduced in the 1930s that has never been put out to pasture | 32 Hardly traditionalists | 49 Apathetic person's words |
| 16 Group with the '79 double-platinum album "Discovery" | 33 ____ Sisters (daughters of Atlas) | 52 John L. Lewis was its first pres. |
| 17 Stance in a fashion magazine | 34 Popular spectator sport that's not in the Olympics | 53 Laptop tested aboard the Endeavour |
| 18 Up to, informally | 35 Money market currency abbr. | 54 Home of Smallville: Abbr. |
| 19 ____ milk | 36 The Abominable Snowman, for one | 55 Swift retreat? |
| 20 Bench warrant, e.g. | 37 Block | Down |
| 21 Walk to the gate, perhaps | 38 Babe-in-arms alternative? | 1 Adjures |
| 23 Baseball stat | 40 "____ Really Matter" (Janet Jackson song) | 2 Gallic greeting |
| 24 Lamented | 41 John Wayne | 3 "Well!" |
| 25 Zeros, in sports slang | 42 It's hardly a smash hit | 4 Title guy in an animated HBO sitcom |
| 28 One who's smart? | 43 Kindle, say | 5 Aid to King Hrothgar, in literature |
| | | 6 Some driving school practice |
| | | 7 Rock on a stage |
| | | 8 Didn't go stale |
| | | 9 Friendly intro? |
| | | 10 Adds |
| | | 11 Comic strip adoptee |
| | | 12 Course load? |
| | | 13 Like the 1974 rope-a-dope fight |
| | | 14 Kiawah Island, for one |
| | | 22 Hellenic character |
| | | 23 Calls |
| | | 24 Got into port |
| | | 25 Incentive to buy a CD, maybe |
| | | 26 Number of folks? |

ANSWER TO PREVIOUS PUZZLE

I	D	I	D	W	H	A	T	S	P	I	G	O	T
S	A	M	E	H	E	R	E	O	O	L	A	L	A
O	N	A	L	E	A	S	H	B	L	I	N	D	S
B	E	G	E	T	T	E	R	S	K	A	G	G	S
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A	Z	A	R	I	A	M	A	N	O	L	E	T	E
L	E	N	N	O	N	E	N	S	N	A	R	E	S



Puzzle by Mark Diehl

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|----------------------------------|--|--|
| 27 Excuse | 39 "How ____ ..." | 45 Parental term of endearment, in Spain |
| 28 Sing vibrato, say | 40 Phone headquarters | 46 Frequent party planner, for short |
| 30 Hides on a frame | 42 City of 15+ million whose busiest street is Chandni Chowk | 47 Opt to drop |
| 33 Luxurious wrap | 44 Steam engine pioneer | 50 Hosp. units |
| 34 Grope for | | 51 Contents of some books: Abbr. |
| 36 Tekka-maki sushi source | | |
| 37 Promoter of the 13-Down fight | | |

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