

Use Your Listening Ears in Mediation

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Using your listening ears (in the form of active and empathic listening) is a powerful component of any successful mediation or negotiation. While particularly effective when a party feels wronged, betrayed, or angry, it is useful in all contexts.

Let me share two stories to demonstrate.

The first example was a mediation involving two companies in an ongoing business relationship. They desperately wanted to resolve the conflict and had spent nearly a year trying – unsuccessfully - to do so.

During that year, each party had proposed a viable concept to resolve the dispute. Each side believed the other party understood the concept and had agreed to it. But execution failed repeatedly.

Why? Because they had not used their listening ears. Each had made assumptions and judgments along the way. Neither truly heard what the other was saying, but instead heard what they wanted them to be saying. As a result, they had not actually agreed on anything. This missed opportunity cost them millions before they sought mediation to find a path to resolution.

The second example is a frequent occurrence in mediations. Particularly early in mediation, one party's demand or offer may be far outside the range of what another party views as reasonable, and the receiving party then reacts negatively.

While their emotional reaction may be understandable, often their emotions cloud their ability to listen for the clues hidden in the information shared or the proposal made. As mediator, I then help parties shift to listening more deeply, so we can explore areas of agreement and signals given. In mediation and any kind of negotiation or conflict resolution, using your listening ears allows you to learn more than just the dollar amount or terms proposed.

Using your listening ears also requires nimble thinking. Sometimes we need to listen for what is meant versus the words said. Other times we need to listen carefully to the actual words said, rather than making assumptions about what is



being said and the intent. So, just like when you were in kindergarten, bring your listening ears to any mediation or negotiation.