

Mediator Insights
Click Clack Moo: Balancing Competing Interests in Mediation

By: Sylvia Mayer

In simple terms, litigation is a conflict arising from competing interests. Party A sues Party B. Party A wants money. Party B does not want to pay. Party A wants a contract modified or terminated. Party B does not. There are a myriad of dynamics in litigation that boil down to competing interests. Through mediation, we seek to balance those competing interests to find a path to resolution.

To illustrate the balancing of competing interests, consider Doreen Cronin's *Click Clack Moo: Cows That Type*. In this story, Farmer Brown has a farm with dairy cows, chickens, pigs, and ducks. One day, he hears mooing and the sound of typing (the click, clack, moo) coming from the barn. The cows had found his old typewriter and typed him a note.

The note says: "The barn is very cold at night. We'd like some electric blankets. Sincerely, The Cows."

Farmer Brown is upset. He responds "No way. No electric blankets."

More click, clack, moo is heard from the barn, then a second note appears: "Sorry. We're closed. No milk today." The cows are on strike.

Farmer Brown is even more upset. Then a third note appears: "The hens are cold too. They'd like electric blankets."

Farmer Brown is apoplectic. He writes back: "There will be no electric blankets. You are cows and hens. I demand milk and eggs."

In mediator speak, the parties have reached an impasse.

Duck steps in to act as a neutral. With Duck's assistance, an agreement is reached. The cows and hens will exchange the typewriter for electric blankets and resume providing milk and eggs.

How did Duck break the impasse? Let's examine what happened. Three things happened:

- Each had a need or interest. The cows and hens were cold. Their interest was in being warm. Farmer Brown needed milk and eggs. His interest was running his farming business.
- Each side was upset and unable to understand the other's views.
- Each side had leverage. The cows and hens needed a comfortable place to live, which only Farmer Brown could provide. Farmer Brown needed the milk and eggs, which only the cows and hens could provide.

Duck helped them find a compromise that balanced their competing interests and allowed them to move forward. (Note: There is a plot twist at the end, but that is for another day.)

Particularly in situations where parties have an ongoing relationship, really listening and hearing the other side's needs or interests may open the door to creative solutions that pave the path to resolution.

Author's Note: As a mediator, I am a "forever student" always seeking new ways to help people find a path to resolution in mediation. As a parent, I have spent a gajillion hours reading books to my children. Oftentimes, these books teach me new ways to approach conflict resolution. In this case, Doreen Cronin's "Click Clack Moo: Cows That Type" inspired this post.