

Mediator Insights:
Don't Let the Pigeon Drive the Bus in Mediation

By: Sylvia Mayer

While it may require time, patience, perseverance, and creativity, as a mediator, I truly believe that most disputes can be settled. But just because most disputes can one day be settled, does not mean that all disputes can be settled at any given time.

To illustrate, let's consider Mo Willems' classic children's story "Don't Let the Pigeon Drive the Bus." The story involves a pigeon and us (the reader and the reader's audience). At the start of the story, the bus driver asks us to watch his bus and instructs us not to let the pigeon drive it. But the pigeon desperately wants to drive the bus. The pigeon tries every tactic you can think of – asking nicely, befriending us, telling a story, visualizing it, bribing us, guilting us, crying, begging, and bullying us. But we, the readers and audience, stand firm. We say no.

Why did we say no? The pigeon's ask was unrealistic. And inflexible. And utterly failed to consider our interests and needs or even public safety. The pigeon was focused solely on getting what the pigeon wanted without regard for anything else.

How does this translate to mediation? Generally, I see pigeon-like parties in cases that come to mediation too soon or too late. Their views are unrealistic and inflexible. They are unable to consider the other side's interests or needs or recognize any weaknesses in their position. They are only able to focus on their demand. And unwilling to accept anything less.

In these situations, time is often the answer. Sometimes, the time needed is the day-long mediation. By the end of the day, even the pigeon-like party may have become receptive to resolution. But not always. If the parties have come to mediation too early, then we may need to adjourn mediation and reconvene weeks or months later. This gives the parties time to conduct discovery and do legal research, which may broaden their perspective on the case. If the parties have come to mediation too late, then we may need to adjourn mediation and reconvene during a break in the court proceedings, which may give them insights into the judge's views of the case.



In the end, the key is don't let the pigeon drive the bus in mediation. If one party is pigeon-like – intransigent, inflexible, and incapable of making progress – then you may need to just say no at that time. This does not mean that the dispute cannot be settled, but it does mean that the dispute cannot be settled right then.

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 gazillion hours reading books to my children. Oftentimes, these books teach me new ways to approach conflict resolution. In this case, Mo Willems' "Don't Let the Pigeon Drive the Bus!" inspired this post.