

Mediator Insights: Don't Overlook the Obvious

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While very often the path to resolution of a dispute is circuitous, sometimes it is obvious and direct. But all too often, those involved in the litigation cannot see it. This is one way that a neutral can help.

To illustrate how this arises outside of the dispute resolution context, let's consider Jim Averbeck and Yasmeen Ismail's *One Word from Sophia*.

Sophia's birthday is coming up. She wants one thing for her birthday – a pet giraffe. But she has four problems: her mother (a judge), her father (a businessman), her uncle (a politician), and her grandmama (who is very strict).

As she approaches each of them, Sophia tries to frame her “ask” to appeal to each of their mindsets.

Sophia presents her case to her mom, the judge, by arguing that giraffes meet or exceed the requirements of federal regulations for health, safety, and fuel consumption. Her mom says no. Among other things, she says Sophia's argument was too verbose.

Sophia presents her case to her dad, the businessman, explaining how they could turn a profit by selling giraffe manure. Her dad says no. Among other things, he says Sophia's argument was too effusive.

Sophia presents her case to her uncle, the politician. But before going to him, she conducts an opinion poll of her stuffed animals. The results show that four out of five respondents support getting the giraffe. She adds a pie chart and graphs to prove her point. Her uncle says no. Among other things, he says Sophia's argument was loquacious.

Sophia presents her case to grandmama while giving her a foot rub. Sophia starts to speak, but only manages to say “Giraf” when grandmama says no. And tells her to get to the point next time.



But Sophia is determined. She takes to heart their feedback. Too verbose, too effusive, too loquacious. Get to the point. She shortens her ask to just one word.

She approaches all four at once and, with compelling eyes, Sophia speaks from her heart and says “Please.” And on her birthday, her wish is granted. She gets a giraffe. After hugging her new giraffe, she offers up two more words “Thank you.”

To her credit, Sophia was tenacious, hardworking, and creative. But until the very end, she missed the obvious path forward.

In some disputes, the parties are so absorbed in the fight that they miss even obvious opportunities for resolution. But, as an outsider looking in, the mediator, a neutral party, may be able to help the parties find a path forward 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 gazillion hours reading books to my children. Oftentimes, these books teach me new ways to approach conflict resolution. In this case, Jim Averbeck and Yasmeen Ismail’s “One Word from Sophia” inspired this post.

Disclaimer: Nothing contained herein constitutes legal advice nor does anything contained herein create a professional relationship.