

Names and dates have been changed to protect the identities of the innocent and the guilty.

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I have been with my partner Keiko for almost a decade. While we are very committed to one another, life has conspired for us to live in different cities. We started dating in high school, went on to colleges about 1,000 miles apart, and our lives got more complicated from there. Going into 2009 we had spent six years living in different areas of the country and three years living in the same place. As you might imagine, I was ecstatic when I found out this past spring that Keiko would be moving to Boston to start her graduate education.

We started exploring apartments for the 2009-2010 academic year and quickly came to the realization that we would need a roommate to afford the kind of place we wanted. We reached out to a number of people in Boston, and decided that my ex-roommate Chuck was by far the best match. Chuck and I were roommates in college and have a great rapport. The three of us visited a number of apartments and eventually fell in love with one. We signed a lease and all moved in in early August.

After moving in we were faced with the age-old question: how do we arrange the furniture? Between the three of us we have two couches, some musical instruments, multiple computer desks and a dining room table that we hoped to put in the common area. The question was how to put them all in to take full advantage of the space. Keiko was of the opinion that the space should be as open as possible, and Chuck wanted to set up the furniture so that he could lay on a couch and watch movies on his computer with friends, which would mean partitioning off part of the room with furniture. Further, Keiko wanted comfortable space to read and study.

All of this was complicated by our different abilities to conceptualize spatial arrangements. Chuck and I hail from engineering backgrounds and have strong spatial skills. We could say “move the big couch against the wall next to the desk” and know exactly how it

would look without moving anything. Keiko could not visualize these arrangements. In talking (caucusing) with her I came to realize that to fully understand what each suggested change in the arrangement meant, she would need to see the furniture physically in the proposed arrangement.

Keiko and Chuck seemed to have diametrically opposed ideas as to how to use the space, and their inability to understand how the other interacts with spatial issues caused a number of literal screaming matches in which they both effectively anchored into their positions and so were less willing to consider the other's interests. I had no strong opinion of my own as to how we should arrange the furniture, and no desire to take sides. However, I did understand at least in part where both were coming from. We had all signed a lease, and so I decided that it should be my role to work with them to find an arrangement that addressed both of their desires and was acceptable to, if not optimal for, both of them. Without a cordial living arrangement, we would be looking at a rather miserable year together. Looking back on it, a potentially hostile living space is a pretty bad WATNA. As for Keiko and Chuck (and, for that matter, myself), neither had a stronger position of power in the matter. We were three equals, however the process was not exactly democratic – had two people 'outvoted' the other, the 'loser' might have acquiesced but likely only with a healthy dose of resentment. Accordingly I realized that we had to work together to find something that we could all agree to.

The informal nature of the mediation was another interesting wrinkle. We were all roommates and friends and our rapport served to keep things civil. It also meant that the process of finding an agreeable solution could extend over a few days and that caucusing with the parties was very easy as we all have different schedules. We also did not have the formalized introductory remarks from the mediator – we all knew one another, and I did not in fact think of the process as a mediation until I reconsidered these events in light of this course. Lastly, the

entire process differed greatly from the exercises in class in that the issue arose and was resolved fluidly in a short span of time, so no one had any meaningful opportunity to prepare notes or discuss strategy. Fortunately the solution we eventually arrived at was a pie-expanding combination of both Chuck's and Keiko's interests, and so no one really had to give up anything.

As the mediator I was decidedly interested reaching a good outcome. As the person ultimately responsible for bringing the three of us together, I felt that it was my responsibility to smooth things out as I did not want to jeopardize my relationship with either Keiko or Chuck. Looking back on things there was definitely an uncomfortable pressure due to my interest in the outcome. I realize that Chuck could have seen me as biased in Keiko's favor, however I don't believe that he did in part because being a neutral comes easily to me and in part because the process left them both feeling empowered. I noticed a similar potential for favoritism in as the lessee in the Red Devil Dog exercise as the mediator was ultimately paid by the lessor. I have found that I look at the mediator's role as facilitating a negotiation rather than taking a more active role, and the feedback I have received in the last few weeks suggests that this approach leaves the parties feeling empowered, as they effectively reached agreement on their own, albeit with my support.

Stepping back into what happened, the situation was rather unpleasant before I proactively inserted myself into it. I had previously abstained from the discussion of how to arrange things; Keiko and Chuck were effectively talking past each other and both were complaining to me in private about the other's absurdity. As such, despite being friends the level of animosity was approaching that in The Neighborhood Spat exercise. Realizing that it would be easiest for me to step in, I first sought to let both of them cool off. After demanding that they let the issue sit overnight and talking to both of them, I realized that there were three components

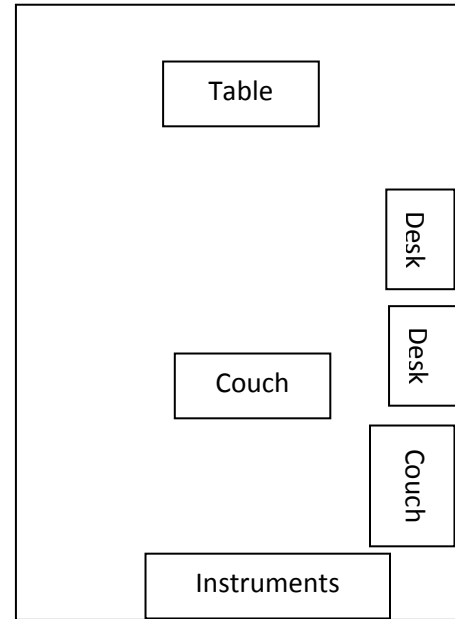
that we would have to deal with. The obvious issue was the final arrangement of our furniture in such a way that addressed both of their interests. As a preliminary matter, I realized that I would have to deal with the spatial issue. Lastly, I was concerned with living in a healthy environment and wanted to preserve and repair the relationship between all three of us.

Keiko was unable to see proposed changes in her head and wanted to physically move things into each proposed configuration. Chuck seemed frustrated by Keiko's inability to see suggested changes in her head and wanted nothing to do with moving things only to move them back moments later if the suggestion was rejected. Keiko and I aren't shy about a little work, so we volunteered to do all of the moving of things so that she could literally see the suggestions. It worked out that we did all of the moving while Chuck was out of the apartment, which in retrospect removed another opportunity for conflict.

Having found a way to help Keiko understand the arrangements that were under discussion, she and I set up the room according to a number of diagrams that Chuck had made and compared them to some of Keiko's ideas, which I diligently sketched so that we could run them by Chuck. Working with the two of them over the next day or so we decided on a divide and conquer method as some things were not really under contention. For instance, we wanted the table in the dining area far enough from the walls that people could sit around it. Accordingly, we put the table and chairs in that space and moved on to the more contentious parts.

Eventually we came back to the arrangement of our desks, couches and instruments. Keiko said she wanted to maximize floor space and Chuck wanted seats arranged conveniently to have conversations with friends. We had examined a number of possibilities and all were rejected by either Chuck or Keiko. The next morning I came out to find Keiko with a

contemplative look on her face. She said she had an idea that might work, so we started moving furniture. At the end of the move we had an interesting compromise, diagrammed at right for simplicity of explanation. The arrangement left a lot of open space in the center of the room near the table and also offered a cozy nook for conversation and music. I was admittedly somewhat surprised that Keiko liked this idea because it partially ate into the available space, however she felt that it addressed both her desires and



Chuck's in a way that they both could agree on. I'm not entirely sure why it took three tense days to come to this arrangement that somewhat resembled some of our previous failed attempts – I suspect that most of it was allowing Keiko to be heard so that she could be open to what Chuck wanted. I also think it was very empowering for her to suggest the idea rather than having it suggested to her. We proposed the arrangement to Chuck when he got home that evening, who after taking the weekend to think about it said that he liked the arrangement. We've kept it ever since, and it seems to satisfy all of our interests.

Looking back on the process, I feel that my instincts as to how to handle it served me well. I very easily fell into the role as a neutral, and leveraged my existing rapport with both Chuck and Keiko to smooth out and avoid wrinkles in the process. I made a point to listen to each of them and to help them explain their approach to the other. That is not, however, to say that there was not a lot of room for improvement on my part. I waited too long to take up the role as the mediator. I also didn't realize when the situation arose just how useful and powerful it is to think through what the parties' interests are, how they conflict or dovetail, and how they

can be used to expand the scope of options under consideration. Nor did I realize at the time just how powerful reframing by the mediator and civility between the parties can be.

I also struggled with their growing animosity toward one another because a poor relationship between them would be strongly negative for me, and my nature as an interested party with regards to their future relationship occasionally led me to exasperation. The fact that I had a stake in them leaving with a good relationship was possibly the most poignant thing for me looking back on it – my relationship with them empowered me to all but force them to listen to one another, however it also meant that I was more easily frustrated when things weren't going well.

I am honestly not sure if they would have been able to resolve the situation in my absence. Neither of them was in a position to truly understand what the other was saying, which largely related to the way that each interacts with all things spatial. They were anchoring into the positions and largely just repeating those positions in raised voices, essentially talking past one another. Suffice it to say, the situation seemed ready to explode.

I believe that a mediated outcome would not have been any better or even substantially different – there are only so many ways to arrange a living room, and our solution seems to satisfy everyone's needs. The informal nature of the situation makes it difficult to say when a mediator might have stepped in and what objective criteria could be used to judge fairness as Keiko and Chuck both had subjective desires in this particular situation. It bears repeating that the fact that both parties' interests were almost entirely subjective added another layer of complexity, and I had difficulty understanding exactly what those interests were due to their total intangibility. While I imagine that this phenomenon does not appear too often in business contexts, I could see it playing a substantial role in mediations surrounding family issues.

I think that a mediator would have made a more purposeful and conscious effort to unearth their underlying interests and to focus more on the overlap of those interests (I certainly would if I found myself in this situation again). A mediator would have reframed hostile comments more actively than I did and would also have given them support by congratulating them on their progress along the way. Also, a mediator would not have had a stake in the outcome, allowing them to keep more emotional distance from the parties' progress and relationship, enabling him or her to avoid counterproductive frustration and exasperation.

I have a number of large take-aways from this course and my reflection on this situation. My experience has impressed upon me just how powerful a personal relationship with the parties and a stake in the agreement can be for a mediator. It is helpful in maintaining civility and using rapport to help (or force) one party listen to the other, however it can also be terribly frustrating if the discussion is not going well. Somewhat related to that, the largest lesson that I learned is just how important rapport is to a successful mediation. The parties need to trust you and to some extent you need to trust them, as is discussed in some depth by Rogers & Salem (DR p. 109). I had some trouble believing the person mediating the Red Devil Dog exercise for me was truly neutral as they were being paid by the other party, and it made me doubt their motivations in asking questions and suggesting options. Tied to rapport are issues of trust and actual and apparent neutrality of the mediator. The mediator needs to foster trust between everyone involved, and needs to be truly neutral – looking for the best solution for all involved.

One thing that I am particularly glad to have had the opportunity to explore through the course was how to go about building rapport. As discussed above, rapport is very important to any negotiation or mediation, and so one important question when you sit down with someone is, "How do I build a working rapport with them quickly?" While there is certainly no sure-fire

method, I found that it was important to actively read the other person's body language and to reflect their rapport-building attempts to some degree. Opening with a small thank you can go a long way, and judging if and when to insert a small joke is also helpful. While mediating, I particularly liked asking the parties broad questions when we entered caucus to give them an opportunity to explain what was on their mind and how they felt, as the broad question may mean that they identify issues that the mediator had not previously seen.

Reflecting back on how I should have reacted in this situation, I realize just how valuable this class has been. The practical exercises were an invaluable teaching tool, and the supportive environment allowed us to learn from our mistakes and receive constructive criticism without real clients' interests on the line. It is amazing to me how much I have already started to use the tools I have learned in my everyday life. It is also remarkable how helpful the knowledge and skills that I have now would have been in handling situations that arose throughout my life, even ones as pedestrian as figuring out how to arrange the furniture in a new apartment.