Riding the Tiger: Using The Power of Emotion and Behavior in Mediation

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Emotion and Behavior: The Difficult Personality

- Aggressive
- Angry
- Hysterical
- Insensitive
- Lying Misleading and False Statements
- Irrational Ideas or Positions

Traditional or Rational Model

- Lawyers, judges, mental health workers, and mediators work from the rational analytic paradigm
  
  - Problem solving by need, interests
  - Decision making based on BATNA, WATNA
  - Assume both parties are willing and capable of listening to others' positions
  - Common interests promote compromise
  - Separate “people from the problem”
Moving **Beyond Reason**

- Core Concerns
  - Appreciation (lack thereof)
  - Autonomy
  - Affiliation
  - Status
  - Role
- Focus on manifestation, not identifying
  - Fisher and Shapiro, 2005

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**Dynamics in Mediation**

Low Conflict--------> High Conflict

- Education is useful
- How other thinks
- Stable coping
- Problem solving skills
- Early process intervention
- Develop & follow a plan

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- Seen as Criticism
- Own interest
- Personality Disorder
- Limited skills
- Late intervention
- Parallel/high conflict
- Failure to adhere
Thinking about Emotion and Mediation

- **Old Thinking**
  - Stop emotions (you can’t)
  - Ignore emotions (yeah right)
  - Deal directly with emotions (tricky)

- **New Thinking**
  - Obstacles become assets
  - We are not rational beings
  - Accept emotion and use it

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The Biology of Emotions

- Neuropaths are formed to help us see, hear, think and feel.
- Emotion response pathways are developed as well.
- Levels of reactivity and responses are biologically based.
- Temperament/ environment/experience

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What Drives Emotions

- Rivalry; winning at any cost
- Social Facilitation
- Time Pressures/Environment
- Biology, “fight or flight”
- Hard wired into the brain/body response
Emotions and Mediation

- Fear of being sold out
- Loosing control (Autonomy)
- Being safe and secure
- Rejection, self worth

Responding to Emotion

- React carefully
  - Calm yourself
  - Take stock and consider; is response needed
  - Try to identify the emotion or feeling
- Respond
  - Non verbal
  - Verbal
  - Affirmation and thanks

Responding to Emotion

- Recast
  - The conversation and processing are now at least partly about emotions
  - Reframe to present positive and legitimate concerns
  - Talk about how those can be addressed (rational decision making and self interest)
When it is More Than Emotions

- People who disregard or do not fit the rational model
- Are they driven by personality type
  - Narcissistic
  - Histrionic
  - Borderline personality
  - Anti social personality
- Many have traits which under stress dominate thinking

The High Conflict Personality

- Unable to unravel any aspects of problem
- Neither trust nor respect each other.
- Expanding their story in the presence of the other with initiate defensiveness, counterclaim and escalation.

“Cluster B” Personalities

- Most High Conflict people found in this group.
  - Dramatic
  - Interpersonally imbalanced
  - Conflicts are driven by the personality rather than the issues or money
  - Life long pattern of blaming others
  - Likely to escalate disputes to court; file lawsuits
Who are these people?

- Narcissist: “Hi, nice to meet me.”
- Borderline Personality: “I love you, now go away.”
- Histrionic: “I don’t care what anyone says, I AM ...”
- Anti Social: “Rules, we don’t need no stinking rules.”

Who are they?

- Borderline complains people always letting them down
- Antisocial reports worry/nags in past relationship
- Histrionic reports drama
- Narcissistic oblivious to own behavior and feels victimized

The Warning Signs

- Consistent statements about their needs as more important that anyone else
- Problems are not their fault
- I want it now
- If I don’t get my way someone will pay
- Emotional over reactivity
- You feel yourself responding with equal irrationality
Fears and Motivators

- The Histrionic fears being ignored
- The Narcissist fears being inferior
- The Borderline fears abandonment
- The Anti social fears being dominated

Histrionic Personality

- Drama, Exhibitionism
- Use drama, charm, & temper tantrums to replenish their need for affection, attention, and approval
- Rely on others primarily for the underlying dependency need
- Able to appear confident and self-assured

- Beneath guise are shallow feelings & deep insecurities
- May fabricate stories or lie for attention
- Falsely persuade others they or their children have been victims of horrible abuse
- Over reactivity interferes with consistent, stable thinking

Strategies for Histrionic

- Listen with respect
- Empathize with feelings but not the alleged injustice
- Avoid over reacting to intense emotions
- Limit the number of stories you will let them tell and maintain a balance of interest.
The Histrionic

- Have dramatic presentation and stories
- Over the top mannerisms and speech
- Lack detail and focus, shift topics to avoid reality
- Need to be the center of attention
- Fabricate, lie, fail to remember key facts
- Help them create structure, logic and focus
- Listen respectfully, empathy to feelings; not to alleged injustice/abuse
- Focus on specific tasks that can be accomplished
- Do not over react to stories, abuses, etc.

Narcissistic Personality

- Excessive confidence, arrogance, and exploitive egocentricity
- Primary reliance is on self rather than others
- Real or imagined – behaviors provide a self-image of superior worth
- See themselves as more talented, intelligent and attractive than others
- Financial success provides them admiration they so desperately need
- They think they deserve special treatment
- The rules (including court orders) do not apply to them.
- Need for affection & admiration is so great that criticism is met with outrage
- See using others as what they deserve

Strategies for the Narcissistic

- Listening with empathy will help
- Explain the benefits to them of following your advice
- Focus on their self-interest
The Narcissist

- Expect to be treated special
- React strongly to any criticism
- Fail to react to other’s feelings & needs
- Very self centered & absorbed
- Listening with empathy
- Explain the benefits to them of your advice
- Avoid direct criticism & find ways to let them share in decision making

Borderline Personality

- “I hate you don’t leave me.”
- Mostly women (75%)
- Men in this group often commit domestic abuse
- Fear of abandonment
  - See it in every day neutral situations
- Frequent angry outbursts
- Severe mood swings
- Self-Sabotaging behaviors
- Impulsivity
  - Sexual behavior – Alcohol/Drugs
- Idealization and devaluation of professionals and advocates
- High numbers in litigation

Strategies for Borderline

- Modest matter of fact; responses
- Limit expectations
- Avoid over reacting to intense emotion
- Listen respectfully even to anger and blame
Borderline Personality

- Have mood swings, from too upset to too nice
- Act controlling, overly needy, even seductive
- Idealize helpers then demonize them
- Poor decision making and self sabotage
- Modest matter of fact; responses
- Limit expectations
- Avoid over reacting to intense emotion
- Listen respectfully even to anger and blame

Antisocial Personality

- Mostly male
- Act to preempt expected pain from others
- Both attention seeking and self interest driven
- Socially unacceptable behaviors
- Engage in duplicitous or illegal behaviors: seek to exploit others for self-gain.
- Skeptical of motives of others.
- Desire independence and wish revenge for past perceived injustices
- Irresponsible and impulsive
- Insensitive and ruthless to prevent feared abuse victimization
- Failure to plan ahead
- Aggressiveness and reckless disregard for safety

Strategies for Antisocial

- Maintain a healthy skepticism
- Avoid being swayed by charm or doing favors.
- Obtain collaborating information
- Explain the consequences of future misconduct
Antisocial Personality

- Break or ignore rules, laws and norms
- Lack remorse or pity
- Need to dominate others
- Appear charming yet deceitful
- Maintain healthy skepticism
- Avoid doing “favors”
- Seek corroboration/
  confirmation
- Explain consequences but expect to be ignored

Difficult People; General Rules

- Pay attention to words or deeds
- Evoke both strong positive and negative feelings.
- Pay attention to what is going on in your body and mind when dealing with people
- Be proactive: recognize and respond according to type

Common Strategies

- Maintain an appropriate bond
- Fact checking and verification
- Attentive listening
- Set *and maintain* boundaries for emotional support
- Limit time and reactions
- Anticipate the crisis
Maintain the Bond
- Identify the type of bonding issue that causes them to have over compensating relationship styles.
- You do not need to agree with the content to maintain the bond
- Recognize the driving force for the emotions behind the content.
- Maintain the bond; don’t fuel the fire.

Listening
Empathy but not Agreement
- Full attention/eye contact
- No distractions
- Avoid interrupting with unnecessary questions at the beginning when they are telling their story to you.
- Just listen for a minute or two. Respond with empathy, including sympathetic body language
- Open body posture, head nods
- Respond with recognition of how that person must feel.
- Be careful to avoid agreeing with the content of what you have been told.
  * This is quickly seen as validation and reinforces the high conflict behavior

Control Emotional Support
- Maintain consistent levels of emotional support and contact.
- Avoid intense involvement one day and cold distance the next
- Be careful not to over extend or over react.
Limits on Time and Reactions

- Limit your reaction and your available time in a consistent way.
- Any sense of pulling away will be seen as rejection and reason to blame, sue, or otherwise make your life hell.

Anticipate the Crisis

- Caused by bonding insecurities
  - Initial phase of the relationship
  - Before and after court hearings
  - Settlement hearings
  - Face to face meetings
- Take the first crisis call as soon as possible.
  - Test of Commitment
  - Will determine how secure they feel for the duration of the relationship.
  - If they feel brushed aside, they will need to escalate to get attention.
- Avoid being too responsive to emotions.

- Keep a balanced neutral bond.

- Avoid agreeing with the content of the high conflict person's statements.

- Support the person, not the complaint
Responding to Emotion

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