



Psychogeography and mediation

Where you sit at the table, the shape of that table and the temperature of the room can impact the outcome of the negotiation

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Simply put, mediation is facilitated negotiation. The participants are sitting at a table attempting to negotiate a settlement of their own choosing – one that meets their unique philosophical interests and basic human needs. There has been much written about how to negotiate during mediation and how to counter “unprincipled” negotiation tactics; however, little has been written about the impact of the physical environment – the site location, characteristics of the room, features of the furniture and people’s placement at the mediation table. Understanding psychogeography¹ may help people more effectively negotiate during mediation.

Site

Everyone is very aware of the concept of “home field advantage” when it comes to sports. Teams that play on their home turf are statistically more likely to “win.” The same concept holds true when participants negotiate. Parties negotiating a settlement are more comfortable when they are in familiar surroundings. They know the route to the office, where to park, where the restrooms are located, etc. Subconsciously they are not worried about the best route to take or how long the trip, and so they can remain focused on their mission: negotiate a settlement.

If the mediation is going to take place at the office of the mediator or one of the attorneys, and the site is unfamiliar, make a trial run. Educating the client on the best way to get to the site will lower anxiety. Planning to meet the client at least 45 minutes before the mediation will help ensure that no one will be late,

rushing in at the last minute out of breath, and unfocused. In addition, arriving early allows for exploring the mediation and caucus rooms, so there are no surprises.

Room

Pay close attention to the physical characteristics of the room. Is it a windowless room or is there floor to ceiling glass providing a spectacular view of San Francisco Bay? Is the room lit with only natural light or the typical fluorescents? The impact of these seemingly unimportant factors is profound.

Light has a significant psychological impact on the ability to concentrate and to absorb information. For example, when a person’s back is to a large window, especially one with a view, within minutes the person seated opposite will either be distracted by the view, and will not be able to concentrate or pay attention. The bright light behind a person creates what is termed “*psychological noise*.” Anyone looking at a person who is “*backlit*” will not listen. Also, people looking into a light source are more likely to interrupt the speaker whose back is to the window. If negotiations are going to have a good chance to succeed, then consider closing the blinds or getting another room.

It is interesting to note that people who are seated with their back to a window or open door are less likely to provide information or to actively participate in negotiation discussions. Most people are more likely to listen, pay attention and provide more information when their back is to a solid wall.

Fluorescent lights have two factors to consider: energy and neurological

response. Fluorescent lights remove oxygen from the air. That is why modern, hermetically sealed office buildings pull in a certain percentage of outside air during the day. By late afternoon the O₂ levels are lower, and with less oxygen, people get tired. The brain needs oxygen to stay alert, so taking a break during the negotiations, stepping outside for some “*fresh air*,” may prevent missing an important detail during the negotiations.

A second factor to consider, although not often experienced, is the impact of the strobe light effect that fluorescent lights can have on some individuals who suffer from epilepsy. Fluorescent lights have been known to trigger seizures, so be alert and know if the client needs accommodation.

Closely associated with light is the temperature. When people are either too hot or too cold they are unable to concentrate. Again, this keeps a person from remaining mentally alert and focused during the negotiations. This in turn could lead to someone making a statement or agreeing to something that they might regret later.

One important detail to remember: physical discomfort from bright lights or uncomfortable temperature is only fleetingly noticed. Very few people are consciously aware of the profound psychological impact that light and temperature have on their ability to think clearly.

Colors have a psychological impact – they can stimulate or calm. Rooms decorated in reds, yellows, chartreuse or orange need to be avoided. When people are negotiating, there are many other factors that are stimulating the brain. Rooms with neutral colored walls of shades of



blue, green or gray tend to calm. Abstract, "busy" art or paintings depicting violent scenes, such as ships being tossed about in high seas, are not calming. One thing an attorney does not need during mediation is an overly stimulated client. To think clearly, the less stimulation, the better, and this includes avoiding caffeine drinks.

Furniture

If anything has a significant impact on psychogeography, it is the furniture. Chairs come in a variety of styles: high back versus low and arms versus no arms. So what? The psychology associated with chairs is profound. Chairs with high backs and arms signify a seat of power – symbolizing a throne. If one group has high backed chairs with arms, and the other side has lower backed chairs with no arms, the second group is psychologically disadvantaged.

More modern office chairs have a pneumatic "lift" lever, which can raise the height of the seat with a flick of the finger. When a person raises the height of their seat, so they appear taller than the other negotiators, psychologically, they have an advantage. Again, the conscious mind does not register the fact, but the subconscious mind does, and subliminally it says, "They are more powerful."

The shape of a table has not only a historical significance, but also cultural. When people come together to negotiate during mediation, theoretically, everyone wants to start with a level playing field. In order to negotiate, people need to exchange information, and people are more willing to exchange information when they feel that they are not disadvantaged.

Historically, round tables symbolized equality: no one is in a superior position. Round tables tend to come in three basic sizes: four, six or eight feet in diameter. Even with an eight-foot round table, it is difficult to fit more than six to seven people at the table. Anything wider than eight feet tends to separate people too much, and they are less likely to provide

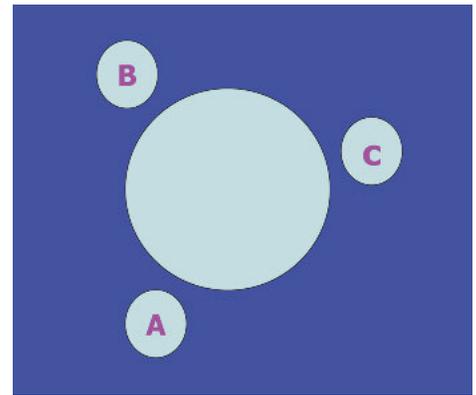
information. Subconsciously, round tables signify informality, so when parties are seated at a round table they are typically less combative and more collaborative.

Most conference rooms have oval or rectangular tables. These tables induce significant psychological assumptions about the location of "power" positions. These assumptions evolved from cultural and/or historical programming. One cultural assumption is that the "head" of the table is the narrow end, and therefore that is the most powerful position. Every place migrating away from the narrow end of the table becomes less powerful.² For this reason, mediators sit at the "head" of the table, to maintain a power position. Anyone seated opposite the mediator, unless it is a co-mediator, will be argumentative and will attempt to dominate the conversation.

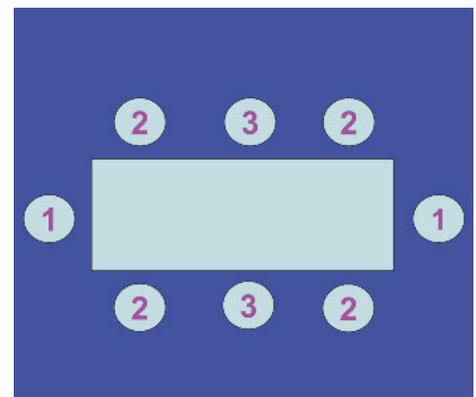
If mediators are "psychogeographically" aware, they will place the parties in the chairs immediately to their right and left. The theory is to "empower" the disputants. Attorneys are placed further away from the mediator, since attorneys do not need to be empowered. They already possess power of legal knowledge and familiarity with the process. This seating arrangement has a practical application as well: if the attorney is representing a client and the spouse is in attendance, the attorney sits between the two and can more easily confer with both. Also, if the spouse is not a named party, it is appropriate that they are sitting in a less powerful position.

Positions at the table

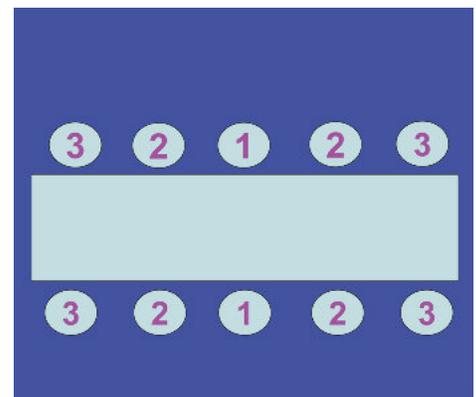
With the mediator at the "head" of the table and the plaintiff and defendant to his/her right and left, the psychological symbol is a triangle. Triangles are subconsciously assumed to be stable shapes: wider at the bottom and narrower at the top. When people are placed in this arrangement they are more engaged and collaborative. This placement also ensures that the negotiators can have good eye contact and have a better opportunity to read body language. Having good eye



Round tables symbolize equality, but offer limited seating.



Parties of equal power sit at opposing ends, and those closest to them have more power than those in the center.



With no one at the "head" of the table, the center seats become the most powerful.



contact is important when attempting to determine the truthfulness of a statement. These are all significant benefits for any negotiation to succeed.

There is a second significant reason for the profound psychological impact on some mediation participants: safety. Placing the client between the mediator (at the head of the table) and the attorney creates a feeling of security for parties, when there is a significant power imbalance. Feelings of insecurity are often experienced in employment, divorce and medical malpractice cases. There are some who believe that when the parties are so empowered, they are less likely to suffer from “buyer’s remorse” after the settlement is signed.

Another assumption associated with rectangular tables is that the seat placed at the center of the long side of the table is the most powerful. There is the significant religious association with this perspective: Christ sat at the center of the table during the Last Supper. Further, this assumption also has historical roots associated with the military. As Commander in Chief, the president always sits in the center chair placed on the long side of the table. The judiciary also reflects this assumption: note the location of the Chief Justice at the Supreme Court.

Cultural considerations

In addition to the historical assumptions associated with the center of the long side of the table, there are some cultures, which hold that the center is the most powerful position. When negotiating with people from different cultural backgrounds, it is wise to consult a cross-cultural expert. For example, if the desired outcome is to negotiate a contract

or a settlement with a Japanese company, place the company’s president at the center of the long side of the table. In this context attorneys are seated closer to the mediator near the narrow end of the table.

No matter which cultural assumption places power on a specific seat at the table, be sure to always place “like” opposite “like”: client opposite client and attorney opposite attorney. When people are seated in this manner, they are less likely to be argumentative, thus furthering the negotiations. If an attorney is placed opposite the other side’s client, then there will be more aggression. This results from the power imbalances between an attorney and the other side’s client. In this scenario there is less information exchange and a lower probability of settlement.

A final thought regarding placement at the table is the theory that arguments are more likely to be generated diagonally. The person who is furthest away from the mediator often initiates the argument. This phenomenon typically happens when there are more than two people on each side of the table. When an attorney is not only accompanied by the client, but also joined by two associates and an insurance representative, the situation usually develops. This is especially true when the other side has only the attorney and client. The mediator may need to temporarily move to the other end of the table to reestablish civility.

Application

The sophisticated attorney, who is aware of the impact that psychogeography has on negotiation, can increase the odds of crafting a lasting settlement.

If the mediator is not informed, counsel may wish to consider doing some educating. Also, the attorney who has an awareness of the impact of psychogeography will be better prepared to confront and counter a deliberate attempt by the opposition to manipulate the process and participants.

Although none of the topics mentioned appear significant individually, collectively they will have a profound impact on the probability of negotiating a settlement. Being aware of the psychological impact of the site, room, furniture and placement of the parties at the table will increase the odds of leaving the negotiation a “winner”!

Endnotes

¹ Psychogeography: the subconscious (psycho/brain) impact of the physical environment (geography) on emotions and behavior. This term includes the location of the mediation or negotiation site, the characteristics of the room, furniture and the placement of people at the negotiation table.

² There are degrees of power also associated with whether a person is seated on the right or the left of the mediator. Psychologically, people seated to the mediator’s right are more cooperative. This is based on the assumption that the person on the right side of the mediator has more power than the person on the left.