



THOUGHTS ON HOSTING A JOYOUS HOLIDAY DINNER AND ACHIEVING A SUCCESSFUL MEDIATION RESULT—POSSIBILITIES AS DINNER HOST AND MEDIATOR--all names are fictitious and have been changed to protect the innocent

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When drunken Uncle Harold makes certain demands in advance of a holiday dinner of his desire to drink his favorite liquor at the dinner and everyone in the family knows that when Uncle Harold drinks liquor he gets ugly and makes everyone feel ill at ease, what do we do?

When B. Barrey, lawyer and mediation participant, lets it be known prior to the mediation that no matter what anyone says he will not negotiate and in fact will make everyone miserable and regret that the mediation was ever scheduled, what do we do?

When a client at the mediation, overwhelmed with the events happening around them, breaks down in tears and cries out “I am leaving, I cannot take any more of this debacle” as a mediator what do we do?



All of us face similar emotional dynamics when we are forced to deal with difficult people in difficult situations and difficult people at joyous holiday gatherings. The holiday family dinner is a perfect microcosm of a mediation environment wherein conflict plays a part. As much as we all may want our holiday dinners to be “perfect” we may nevertheless be forced to deal with situations beyond our control and with family members who may be extremely difficult. The manner in which we deal with Uncle Harold and his drinking may assist us in our approach in mediation to both the crying mediation participant and the recalcitrant lawyer.

Prior to the holiday dinner do we let it be known that certain dinner behavior is unacceptable? What happens if we let Uncle Harold know in advance that he cannot drink liquor at dinner? Are we willing to let Uncle Harold stay home and not participate in the family gathering? What about Uncle Harold’s niece who loves him so much and has flown thousands of miles to attend the family holiday dinner especially to see Uncle Harold? Is Uncle Harold’s presence absolutely necessary at our family dinner? Are the needs of the whole better served by revoking his invitation?

B. Barrey, our difficult lawyer presents a similar case of difficult choices. Do we revoke his invitation to the mediation, in advance, if we are able to project that he will be an obstacle to any resolution? Are the other mediation participants agreeable to moving forward with discussions and possible settlements with the knowledge that lawyer B. Barrey will do anything to make the

process difficult? What happens to lawyer B. Barrey if the mediation participants decide that the willing parties are able to reach an agreement without lawyer B. Barrey's participation? Will the group dynamic place sufficient pressure on the lawyer to be part of the process—maybe yes? Are we as mediators willing to assist in developing strategies that carve out lawyer B. Barrey from a possible settlement? What if B. Barrey's participation is absolutely necessary in order to reach a mediated resolution?

How strong are dinner participants and mediation participants alike willing to assert themselves and let those who seek to disrupt the process know that their behavior is unacceptable? Is a strong voicing of preferences and expectations from dinner and mediation participants alike enough to assure that both the mediation and dinner will be worthwhile experiences? Voicing our intentions and expectations to all participants will increase the likelihood of a meaningful experience for all. However, if there is either a failure to express what is expected from participants or a failure to obtain an acknowledgment by the participants that they are aware of the expectations, we run the risk that our holiday dinner and our mediation will be neither joyous nor successful.

The overwhelmed client presents a more difficult situation. In my recent article entitled *The Role of Empathy in Conflict Resolution*, an approach to the client needs may be addressed with empathy and compassion by the mediator. What is the difference between the difficult lawyer/relative and the overwhelmed client? The difference is simple—the client's emotional crisis is real. The contriving lawyer or self-indulgent relative may be utilizing their behavior as a strategy to control the room, the environment, and the result. Our role as mediators is to be empathetic to participants and at the same time remain in control of the living organism of mediation. Likewise, as a holiday dinner host we do not want one relative's behavior to disrupt the entire holiday.

In advance of holiday dinner and mediation we must think about and articulate to the participants our intentions and expectations in a very clear manner both as dinner host and mediator. Making our intentions and expectations clear and letting it be known to all parties that they are accountable for their actions will enhance the prospects for a delightful holiday dinner and a successful mediation.

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**DINNER IS SERVED—BE WELL—BE HAPPY— BEST WISHES AND BLESSINGS
FOR A JOYOUS HOLIDAY SEASON AND NEW YEAR**

I look forward to being of service to you in the New Year.

David

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