

**Strengthening Mediator Competence**

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**A VERY FAMILIAR TALE**

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**Adding a Skilled Mediator**

**17 CAMELS**



**The Father Left:**

- 1/2 to his oldest son
- 1/3 to his middle son
- 1/9 to his youngest son

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### After mediation...

#### The Solution

- The oldest son got 9 camels
- The middle son got 6 camels
- The youngest son got 2 camels
- The mediator takes her camel back.

#### Everyone was satisfied




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**BADGER** → PATIENCE, PERSERVERANCE, OPTIMISM  
(FROM: [The Middle Voice](#) (Stulberg and Love))

- **B**egin
- **A**ccumulate Information
- **D**evelop the Agenda
- **G**enerate Movement
- **E**lect Separate Sessions
- **R**each Closure




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### The "A" of BADGER: accumulating information

Listening Skills

Note-taking Skills

Questioning Skills




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### Barriers to Effective Listening

- Distractions
- Assumptions
- Premature Conclusions
- Overconfidence in judgment
- Confirmation Bias

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What do you see?



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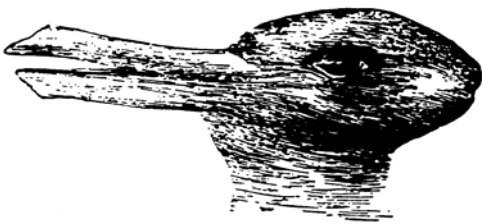
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What do you see?



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### Quiz on Listening

1. Did Love get to work on time?
2. Name one person in her car pool?
3. What injuries did she sustain?
4. Whose umbrella did she trip over?
5. What type of job did she have?
6. How did she feel when she was hung up on?
7. What does Love give as Stulberg's number?

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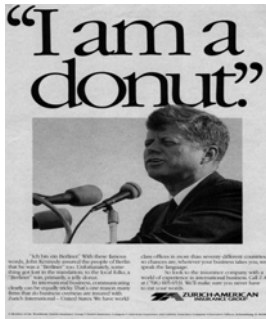
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### Interruptions and Time

- When one party repeatedly interrupts the other, the mediator should know that the interrupting party:
  - a. Is a rude person who will be difficult to work with
  - b. Is highly involved in the subject matter being discussed
  - c. Was provoked by something said by the speaker
  - d. None of the above.
- When one party comes 30 minutes late to the mediation session, the mediator should know that:
  - a. The party is disrespectful of the mediation process
  - b. The dispute is not very important to the late party
  - c. The party is trying to wear down his opponent
  - d. None of the above.

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### Spatial Distance and Eye Contact

- When one of the parties keeps shifting his chair to be closer to the mediator, the mediator should know that:
  - a. The party likes the mediator and is "making a move"
  - b. The party is trying to create an alliance with the mediator against the other party
  - c. The party is scared of the other side and wants protection from the mediator
  - d. None of the above
- When one of the parties will not make eye contact with the mediator, the mediator knows that:
  - a. She is lying
  - b. She feels insecure
  - c. Both a. and b.
  - d. None of the above.

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### WHAT DO MEDIATORS LISTEN FOR

- INTERESTS
- ISSUES
- PROPOSALS
- PRINCIPLES
- FEELINGS
- BATNA

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### BADGER → PATIENCE, PERSISTENCE, OPTIMISM

- Begin
- Accumulate Information
- Develop the Agenda
- Generate Movement
- Elect Separate Sessions
- Reach Closure



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**Developing the Agenda/Framing Issues**

- Identify the **negotiating issues**.
- Frame the *negotiating issues* in **neutral** language
- Propose an **order** for conducting discussion.

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Ordering the issues thoughtfully

- H**ighlight common interests
- E**asy issues first
- L**ogical categories and sequence
- P**riority for pressing deadlines
- S**tability and balance

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**Mary and Fred**

(possible) COMMON INTERESTS

- happiness, health and well-being of Sara
- maintaining a working parenting relationship

ISSUES

1. Parenting and financial arrangements if Fred and Mary both die.
2. Summer plans for Sara
3. Arrangements with new partners
  - what Sara calls new partners
  - sleeping arrangements when Sara is present
4. Afterschool childcare arrangements

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**Making Shifts Possible: from conflict to collaboration**



1. Costs of not settling	1. "more time...more money"
2. Stroking and encouragement	2. "we're making progress...we've settled the deal with the cars!"
3. Positive attitude	3. "we're flying!"
4. Agenda setting	4. Move to the "frequent flyer miles"
5. Suggest compromise	5. "split them right down the middle?"
6. Imagine when things worked...	6. "moments during courtship" ... "wedding?"
7. Use positive images	7. Music, food
8. Find or play scapegoat	8. Institution of marriage
9. The "yes" rule	9. "Say yes!"
10. Appeal to common interests	10. Fun, freedom, love
11. Use metaphors	11. Put your swords away" ... "glass half full"

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**Generating Movement: Targets of Engagement**

- Common interests:
  - Identify shared interest
- Information
  - Past practice
- Perspective
  - Role reversal: focus on future
- Negotiating Practices
  - Party priorities: trade-offs (exchanges): compromise.
- The Big Picture: Costs of Not Settling
  - Procedural costs: quality of life costs




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**Putting It Together: Exercise 2**

- Jones and Rogers:




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**Possible Moves**

- Develop information base
- Focus on future
- Dovetailing interests
- Trade-offs
- Costs of not settling




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