

November 2018

Who Has to Sit Next to Uncle David at Thanksgiving?

At every Thanksgiving of every size there is some jockeying for position at the table. Seat assignments matter. If you are relegated to the “kids’ table” you just have to deal with it. At the grown-up table there is usually a weird uncle or cousin that you don’t want to sit next to for a variety of reasons that are indelicate or obvious. At the family Thanksgiving I attend, I started to wonder who that guy might be because we have a lot of brothers, uncles, cousins, kids and grandparents. Then I remembered what they say in poker: if you don’t see any suckers sitting at the table, you’re the sucker. Oooh no . . . maybe I am the weird uncle? Self-awareness is valuable but sometimes painful.

That got me thinking about who sits where in mediation. We all know the usual configuration. Mediators at the head of the table, lawyers in the first chair on either side and clients the next seat over. We are mimicking what happens when we are arguing in the judge’s chambers. Counsel up front. Why do we do this? Why aren’t the clients sitting closest to the mediator? Aren’t they the most important people in the room? As a mediator I also make an effort to get comfortable chairs in every room. Hard chairs create hard positions.

When I am working as an attorney in a multi-party case where I am trying to avoid being the target defendant, I head for the opposite end of the table as if to signal this is not my problem, and I don’t have much to add, verbally (or financially). I let another defendant take first chair in proximity to the mediator. I literally distance myself from the

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problem. I don't want to be too close to the action.

Mediators are trained to change seats when they go into private caucus so they are across the table from the client (not at the head) and able to look directly ahead at the client. If the table is round I try to get around to the side the client is on. This is to show that they are important and the focus of my concern. It makes them primary, not secondary, which is key because we want the client to own the process and the problem. They need to know that they are front and center, it is their problem today, not the lawyer's problem or the court's. Empathy also works better in close proximity. So does persuasion. I also try to mimic the body position of the speaker.

So I pass along this holiday advice: If you are near the head of the table and passing the food at Thanksgiving, don't hog the gravy, don't pick all of the fried onions off the top of the green beans, and think about where you were told to sit. Regardless of your position at the feast, I wish you a happy Thanksgiving and safe travels.

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