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UNDERSTANDING AND WORKING WITH LAWYERS:
How lawyers attempt to influence and persuade at mediation
Recommendations for mediators for engaging and working effectively with lawyers

As a lawyer, I have attended with clients at countless mediations, and been intrigued at how little I – and my client – have been influenced or persuaded by the other lawyer. As a mediator, I have had the privilege of hearing each side's perspectives and observed lawyers interacting with each other, with their own client and with the other party. Again, I have been intrigued by the lack of persuasive effect lawyers can have on each other and the parties.

This paper therefore looks at:

1. What lawyers do at mediation.
2. How this impacts on the decision making of parties.
3. How influential and persuasive is "what lawyers do" at mediation.
4. Recommendations for mediators for engaging and working effectively with lawyers.

The focus of this paper is how lawyers conceptualise mediation and how they engage in it. It is not an analysis of the potential tasks or roles which lawyers can fill at mediation: an important topic which has been well covered elsewhere.[1] This paper is not a "lawyer bashing" exercise. Lawyers bring many constructive contributions to mediation and can assist clients to make difficult but wise decisions.

1. What lawyers do at mediation

Individual lawyers do not attend many mediations. This is not because lawyers are resistant to mediation, but merely that mediation is still an exception to their normal way of resolving disputes via lawyer-to-lawyer negotiations or court. For lawyers, mediation is not core business nor their default starting point for helping clients with disputes. Lawyers think of mediation as a possible option (and suggest it to clients) after initial attempts at negotiations reach an impasse. There is the tendency for lawyers to use mediation for their problem cases. Even if lawyers recommend mediation, their clients may resist.

It is common knowledge that most disputes do not proceed to court determination. Many disputes are resolved without parties seeking assistance from lawyers. Most disputes in which lawyers do become involved are resolved without going to court. When court proceedings are commenced, the vast majority are settled before a final determination by a court.

Lawyers, however, use court as a starting point and template for conceptualising mediations. Lawyers negotiate from a rights-based perspective and "in the shadow of the law" in two senses, being:

- Considering likely court determined outcomes as the reference point for settlement options.
- Using the court process as a template for the procedural approach to be taken in negotiation and mediation.

The following table compares differences between the court and mediation process which explains some of the characteristics of lawyer behaviour at mediation.

At Court	At Mediation
The sole decision maker (and therefore audience) is the judge.	The joint decision makers (and therefore audience) are the parties.
Judge determines process and outcome.	Mediator determines process. Parties determine outcome.
Decision maker is unaffected by outcome.	Decision makers are directly affected by outcome.
Decision maker has no relationship with either party, and rarely expresses strong feelings towards either party. Displays little empathy and rapport to avoid suggestion of partiality and bias.	Decision makers have strong feelings towards each other.Mediator expresses empathy and aims for rapport with both whilst trying to avoid appearance of bias.
Decision maker gives little regard to future relationship of parties.	Decision makers affected by and have regard to their future relationship.
Lines of communication strictly controlled and directed via judge. Little direct interaction between lawyers and parties.	Lines of communication open and flexible. Likely direct interaction between lawyers and other party.
Decision maker hears many cases. Individual cases are just one of many.	To the parties, their case is the world's most important.
Lawyers and parties start with clear positions. Judge choose between them or come up with alternative -typically "in the middle". Alternative options or solutions not explored or brainstormed.	Mediators dissuade parties from initial positions. Identification of multiple options encouraged.Parties will use the mediation dialogue and information exchange to decide what they want.

Strictly defined and therefore predictable process. Case presentation is prepared in advance. Hearing is a controlled presentation to persuade the judge not the parties.	Flexible and unpredictable processes. Likely that outcome will be different to both parties initial preferences.
Most information has been previously exchanged between the parties. Typically, few new facts emerge during hearing.	Central feature of mediation is the exchange of information. Mediation is a learning process for both parties especially about the needs and concerns of each other.
The decision maker knows the least about the parties' circumstances. Rules of evidence are designed to exclude.	Parties as decision makers know the most about their (and each other's) circumstances.
Oral and text based discourse. Court discourse is ritualistically courteous. Turn taking, formal address, little expression of emotion etc.	Primary focus on conversation and spoken word – not text or documents. Expectation of turn taking and immediate responses. Discourse emotional, and parties may struggle to follow conversational courtesies of turn taking, listening, language, use of names etc.
Law determines procedural and outcome norms – not individual participants.	Mediator largely determines process norms. Parties determine outcome norms.
Judges tend not to worry about implementation.	Mediators will reality test possible settlement options.

Eight typical behaviours of lawyers at mediation include

- Lawyers like going into private meetings early. They can be uncomfortable with the open-ended and unpredictable mediation process. They are uncomfortable interacting directly with the other side and witnessing parties jointly expressing strong emotions. Remember – the lawyers may have referred their "difficult" client to mediation in the hope the mediator would sort it all out.

- Lawyers try to persuade the mediator or the other lawyer – rather than the true decision makers being the parties. Lawyers direct their dialogue to the mediator. Such lawyers may not have explicitly considered:
  (a) Who their real audience is and how they might be persuaded and influenced.
  (b) That mediation needs a joint decision of the parties.

(c) The paradox that the person who needs to be influenced is the other party who has relational issues with their own client. The person to whom their own client has negative feelings is the person who must be encouraged to reach a mutually satisfactory agreement.

- Lawyers like written documents. Mediation (in contrast to court) is a dialogic or conversational form of communication and dispute resolution. Mediation sessions are primarily verbal with parties engaging in dialogue in real time (as opposed to negotiations in writing where the parties can control the pace of communications). Given the conversational mode of mediation, there is an expectation that the parties and lawyers will conform with conversational norms of listening, responding directly and turn taking. Lawyers (especially those uncomfortable with direct interaction with the other party and the open ended and unpredictable mediation process) can find reassurance in tendering large amounts of written documents, including submissions.
  Alternatively, lawyers will do no preparation (including having no documents) hoping the mediator will sort it all out.

- Lawyers will restrict information and issues to what they deem to be relevant at court. They may advise their clients to not disclose information because it might be used against them at a possible court hearing (which rarely actually occurs) or to keep the information as a surprise at court. They fail to appreciate that the disclosure of the "secret" information might be persuasive at mediation and help avoid the matter proceeding to a hearing. They also might forget that most court processes require discovery and therefore there are rarely true surprises at a hearing.

- Lawyers typically come to mediation with a firm position and want to argue in support of it – just like at court. An invitation to make an opening statement will be heard as an invitation to make a legal submission. Lawyers will use likely court determined outcomes as indicators of fairness and then raise issues of costs, delays, worst case outcomes etc as reasons to compromise. Whilst these additional issues may be raised by the lawyer as reality testers, they can be interpreted by parties as counter-productive threats.

- Lawyers will view issues and possible outcomes through a narrow frame of likely court determined outcomes. Lawyers will typically see the range of possible outcomes as obvious and limited. Lawyers therefore get frustrated with parties (including their own client) not knowing what they think or want, and using mediation as the place in which to formulate what they think and want.

- Lawyers tend to be good at courteous interaction and follow conversational norms of turn taking, respectful names, no explicit abuse. They will expect their client to confirm with the same, and therefore lawyer behaviour can be good modeling for parties.

- Lawyers are experts in considering what can go wrong and how to provide for worst case contingencies. They frame proposals in terms of negatives – the delays, costs, risks of doing worse etc that the other side faces if the proposal is not accepted. The other party may hear this as threats which generally are not productive as voluntary mediation. For more about threats at mediation see page 12 below.

2. How lawyers affect joint decision making of the parties at mediation

The primary decision makers who must be persuaded and influenced at mediation are the parties. It is the joint decision making of the parties that must be influenced – rather than the individual decision making of the separate parties.

Decision making at mediation is done amid constantly changing factors, unclear information, and conflicting points of view. Mediation requires parties to make decisions in the face of great risk and uncertainty. These decisions must be made both individually and jointly in consultation with the other estranged party. Parties and their lawyers (and the mediator) attempt to influence each other both as to their actual decisions and how they make their decisions. A consideration of how lawyers attempt to influence and persuade at mediation therefore requires a consideration of how people make decisions.

Programmed and non-programmed decisions

People can make decisions differently depending on how they perceive the nature of the decision to be made. Herbert Simon[2] (in reference to organizational decision making) categorized decisions as being either programmed or non-programmed -

1. Programmed decisions are repetitive and well defined. Organizations and individuals generally have existing procedures to deal with programmed decisions. These procedures may be instinctive habits or found in conscious policies (standard operating procedure or “SOP”).

2. Non-programmed decisions are novel and poorly defined. The organization or individual will have no existing standard procedures. They will not have seen the problem before and therefore will not know how to respond. There will be uncertainty whether any suggested solutions will solve the problem. “Simply, defining the problem can turn into a major task.”[3] This difficult task of defining the problem is analogous to issue exploration in the facilitative mediation diamond.

Disputants at mediation are faced with a range of non-programmed decisions. They generally have not been through a similar dispute (or even mediation) before – and not with each other. They face a range of novel issues for which they may have no known process, or they may be in dispute about the most appropriate process.

Neither the parties or lawyers will consciously recognise that the decisions they face are non-programmed. Some disputants will still make decisions according to habit or their SOP which may be unproductive and aggravate the dispute. Others disputants will be too overwhelmed by the uncertainty of the decision and struggle to make any decision. In contrast, lawyers are likely to see the presenting problems as requiring programmed decisions. Lawyers will have dealt with similar problems previously and probably also dealt with the other lawyer in other matters. They will rely on the court framework as their SOP.

Central processing approach to decision making

The literature and research on how people make decisions features two main approaches. First, the central processing approach by which an individual engages in a conscious and structured deliberation to reach the best possible decision. Second, a more automatic approach by which an individual reacts to circumstances by relying on mental short cuts which are also called heuristics.

The central processing approach draws on the "expected utility model" of decision making first proposed by Daniel Bernoulli in 1738. It proposes that people choose between alternative courses of action by assessing the desirability or "utility" of each action's possible outcomes, weighing those utilities by their probability of occurring, and selecting the course of action that yields the greatest sum – i.e. "expected utility."[4] An individual chooses options by assessing the probability of each possible outcome, discerning the utility to be derived from each, and combining those two assessments. The option pursued is the one that offers the optimal combination of probability and utility.***[5]*** Expected utility theory presumes people have complete information about all the choices and probabilities and consequences of each alternative course of action, and that they can interpret and understand all that information.[6]

Central processing involves individuals working through a rational and systematic lineal process. For example, Baseman[7] proposed a six-step rational decision making process (similar to the diamond model of facilitative mediation)by which an individual should –

1. Define the problem.
2. Identify the issues and criteria affecting each.
3. Weigh or prioritise the criteria.
4. Generate alternatives or options.
5. Rate each option by the criteria.
6. Compute the optimal decision.

Central processing is an overtly rational and cognitive process. It is the way lawyers like to think they think. It can take time, effort and therefore motivation. It is complicated where there are multiple issues. It is difficult where parties are making unilateral decision in isolation – but even more difficult when decisions must be jointly made between parties with some mutual ill feeling. It can be difficult to apply central processing to the non-programmed decisions faced at mediation where parties engage in direct, immediate and often emotional discourse. It is not surprising therefore that parties at mediation might instead rely on intuitive short cuts and impulses.

Heuristic approach to decision making

This decision making approach is automatic and involves heuristic shortcuts and biases by which the individual reacts to cues by applying associative rules. People do not normally analyse daily events into exhaustive lists of possibilities as posited by the expected utility model. The brain thinks by association. An input (words, images etc) cause the listener's brain to throw up associations and memories which then evoke emotions which will be negative or positive[8]. Our views of the input will depend on how it makes us feel. Neurologist Antonio Damasio says that thought is made up largely from images (which he broadly construes to include sounds, smells, visual impressions, ideas and words). Our individual life experiences cause these images to become marked by positive or negative feelings. When making a judgment or decision in the face of certain thoughts and inputs, people instinctively consult the feelings they have previously linked to thoughts and inputs which then serve as cues for behavior.[9] Humans commonly mistake their feelings for thinking. Kahneman quotes Sarnock Mednick that creative thinking is associative memory that works well and that creativity is helped by positive mood. Unhappy people have reduced ability to make good intuitive choices. [10] Of course, disputants at mediation tend to be unhappy by definition. When parties make decisions at mediation they will be influenced by their lived experiences of the dispute and of each other. These experiences will be largely invisible and unknown to the lawyers and mediator.

The heuristic approach has also been described as the "bounded rationality" perspective which is often associated with intuitive decision processes. "Experience and judgment rather than sequential logic or explicit reasoning are used to make decisions." [11] Intuition need not be arbitrary or irrational if based on years of practice and experience. Intuition is easier and more efficient compared to attempting the central processing approach to decision making. The effort of central processing is increased when the decision must be made jointly with another disputant with whom there is shared antipathy. Intuition is problematic however when applied to the non-programmed decisions facing disputants at mediation.

Heuristic theory says that conclusions come first and then the individual looks for supporting facts and arguments. It can be quick and efficient (especially when a person is under stress or an answer is expected immediately such as at mediation) but can also lead to predictable mistakes.

Researchers have identified many heuristic shortcuts including:

1. Availability & consistency

Decision makers will consider options by reference only to information already, or easily, available to them. When asked to form a judgment, decision makers at mediation rarely retrieve all relevant information, but end the search as soon as enough information has come to mind to form a judgment with sufficient subjective certainty to satisfy their accuracy motivation at the time.[12]

In considering easily recalled available information, decision makers will more readily accept the information that confirms our existing views and preferences, and more readily dismiss or not notice information that is contrary. For example, disputants at mediation will more easily recall instances of difficulty in their relationship than instances of cooperation. They will have difficulty initially imaging how proposed solutions might

work. Spending time discussing in detail how an option might work can influence a party to accept it as a possible option and not dismiss it automatically.

2. Confirmation bias and naïve realism

People assume they see the world in a clear and unbiased way – and that their views are based on objective commonsense. We attribute different viewpoints of other people to the other person's personal qualities. Their failure to see commonsense is due to them being "mad or bad". We attribute other people's problematic behavior to their intrinsic personalities, whilst attributing our own problematic behavior to circumstances.

Once people commit to a position it is difficult to change their view. The more they repeat their position, the difficulty of persuading them otherwise is multiplied. This explains why people often continue to invest time and money in a solution or a course of action that is not working. They may hope they can still succeed and recoup their investment – or feel that the increasing investment makes it even more important they take their chances of sticking with their current course. Consistency and persistency are valued social values. Once a person is committed to a course of action there can be significant cognitive dissonance to deviate. Individuals may block or distort information which may suggest the approach is not working.

3. Reactive dismissal

An option may appear to have lesser value to a disputant because it is proposed by the other side. In an emotionally charged mediation, the automatic reaction (rather than considering the real worth) may be that "if it is good for them, it must be bad for me"[13]. Once an offer is made by the other side, it is automatically less alluring than when it appeared unachievable. Conversely, when an option becomes unavailable, it will appear more attractive than before.

4. Optimistic overconfidence

People are overconfident in their predictions concerning the outcome of future events. [14] They believe the chances of good things happening are better than they are in reality, and the chances of bad things are less than they are in reality.[15] People tend to be over confident about how well they will do at court, and also overconfident about what the other party might agree to in negotiations. People tend to overestimate their ability to know or "mind read" the thoughts and motivations of another person – including the other side in a dispute. Conversely, they expect the other person to know or mind read their own thoughts and motivations. Hence, the common comment from disputants to the effect "she/he knows what I mean, what I want etc."

5. Illusion of causality

The human mind looks for and perceives causality. That is, it presumes that one action caused another action (including feelings) purely due to their proximity in time or space. Similarly, people presume that the person who carried out the first action intended to cause the perceived resulting actions including how that resulting action caused them to feel. The distress felt by a disputant at mediation will commonly and mistakenly perceive their distress to be caused by the other party whom must have intended to cause the pain.

6. Social comparisons

When in doubt and facing decisions in the face of uncertainty, a convenient short cut is to consider what other people do in the same situation.[16] In particular, they will look for cues from other people whom they like or admire – rather than those they dislike.[17] Alternatively they will look to an authoritative and credible source. A dispute that is difficult enough to need mediation will have some degree of uniqueness that makes it hard for parties to gain information about what others do except on a hearsay or gossip basis.

Disputes that proceed to mediation can be "perfect storms" of heuristical thinking for parties. They must make non programmed decisions (which they have not previously faced) jointly with the other disputants (whom they dislike) in the face-to-face mediation environment. Lawyers react to complexity by simplifying and reducing the dispute to what is legally relevant and to what the law provides remedies (eg. money). Lawyers see mediated disputes as needing programmed decisions, central processing and implementation of a SOP which is typically the most likely court outcome. This explains why lawyers can become frustrated at their own client's ability to grasp the mathematics of settlement options. The lawyers and parties can engage in fundamentally different conversations around the mediation table.

Arguably however the central processing model cannot be applied at mediation absolutely except in the simplest of decisions. It requires a large number of separate sub-decisions and it may be impossible for some short cuts not be taken at some of them. Discourse and interaction between participants at mediation happen in real time. Parties generally conform to conversational norms of immediate response which does not encourage central processing. Mediation does not allow time for careful consideration and weighing up of all options.

3. Influence and persuasiveness of lawyers at mediation

Lawyers perceive their role at mediation to be akin to their role at court – persuading the judge/decision maker. They will attempt to persuade the other party using the same techniques they use to try to persuade the judge at court. A judge at court will have either a neutral attitude towards the advocates – or a positive one arising from their similar world views and preexisting professional relationship if the lawyer is a frequent court advocate. At mediation however each decision maker (being the parties) will view the other lawyer as the alter ego of the other party with whom they have some degree of negative feeling. They will be much harder to persuade or influence than a judge.

Positive persuasion versus negative compliance

"Persuasion involves influence designed to change people's minds, whereas coercion involves influence to change people's behavior."[18]
Coercion usually involves threats of consequences or at least causes the other side to perceive they have no choice. Coercion results (if successful) in desired behaviours but not agreement with underlying attitudes or values.

In contrast, persuasion aims to influence attitudes. [19] Attitudes are learnt, they are global and typically emotional assessments. Attitudes influence the thoughts and actions of the holder. Strong attitudes influence message evaluations and judgements of communication so that people with different strong attitudes will take different information from the same situation or message. Persuasion is ideally directed to influencing attitudes not just gaining desired behaviours.

Kelman[20] writes of encouraging the other side to accept influence. Lawyers tend to attempt to influence the other party (and their own client) without considering what might make them more likely to accept influence. Kelman says that influence can have three different outcomes being:

1. Compliance arising from coercion

Coercion merely changes the target's behavior. The other person accepts influence because he hopes to gain a specific reward or avoid a penalty – not because they accept the correctness of the proposition. This may prove to only be short term. "If public compliance is not accompanied by private acceptance … the outcomes of influence are typically ephemeral and unstable."[21]

2. Identification

The other side accepts influence to establish or maintain a satisfying relationship with the other. The satisfaction is due to the relational act of complying. The target tends to only comply whilst the satisfactory relationship continues. At mediation, there probably is not a satisfactory relationship and little positive identification between the parties.

3. Internalisation arising from positive influence and persuasion

The other side accepts influence because the content of the induced behavior is intrinsically rewarding and consistent with their value system. They develop a long term commitment to the course of action espoused by the influencer. It makes efficient implementation of agreements more likely.

Malhotra[22] says that most influence tactics operate by either of three approaches:

- Altering the target's incentives, by offering them more or by threatening them with less (or greater) costs or benefits. This will be heard by the other party as threats which need be used carefully at mediation – see below. This approach is akin to Kelman's compliance.
- Altering the target's information set by giving them additional information or challenging the accuracy of their current information.
- Positively influencing the target's attitudes towards a given idea or proposition without changing either their incentives or information but rather by changing their psychological perception. This would result in what Kelman calls identification or internalization.

Use of fear and threats

Threats at mediation need be used with caution. People react to threats with fear, and in doing so tend to focus more on trying to control the emotional effects of fear – rather than protecting themselves from the threat causing the fear. Witte[23] says that typically the threatened ignore the threat and how they might avoid the threat. Instead they engage in three possible coping responses to reduce their fear, being:

1. Aggression to the communicator of the fear message. The threatened becomes enraged about the threatener's intention instead of thinking about the message.
2. Defensive avoidance. The threatened avoids thinking about the message.
3. Change the subject.

Perloff says there are two likely responses to fear or threat messages. First, the audience may focus on damage control. This is more likely when the fear message comes from a third party (perhaps the mediator engaging in reality checking). Second, the audience may focus on controlling their fears by denial or making their own threats. Lawyers and parties should discuss solutions as well as the problem, and emphasis the benefits of the requested course of action as well as the costs. This dual approach might reduce some of the reaction to a perceived threat. Lawyers can also frame the risk as arising from the possible action of a third party rather than coming from themselves or their client.

4. Recommendations for mediators

1. Do not presume the lawyers are comfortable in mediation, or experienced in the process. Consider your opening statement to be for them as well as the parties.
2. Reassure everyone through your demeanor and process that you are the expert in the difficult relational and emotional aspect of the process. This is why the lawyers proposed mediation and persuaded their clients to attend. Say that the problem preventing settlement is not a legal one, but rather a "relational or communication or emotional problem." Lawyers will welcome this.
3. Accept their documents – show you have read them (dog ears, post it notes etc) and put them aside. Do not open them in joint session. It will probably result in the discussion narrowing to the legal framework.
4. Consider whether lawyers should make opening statements at all. If not, you can acknowledge the valuable contribution they have made in the written outlines. Further, consider if both parties and lawyers make opening statements, and in what order. In inviting each lawyer in turn, remind them that it is opportunity to discuss issues and concerns rather than outcomes. They will probably take a firm opening position. Gently undermine these initial positions (and subsequent ones) by referring to them as "useful options which we can consider. I'm sure we will come up with many more today."
5. Consider using an explanation to parties of programmed versus non-programmed decision making to gently shift lawyers from single options based on likely court outcomes. Ask the parties have they been in mediation before and have they been involved in this type of dispute before. Say "this is what the textbooks call a non-programmed decision. They are difficult and you need to find new and different ways of dealing with the problem. Your old ways of dealing with have not worked. The first step is to define and understand the problem".
6. Use the lawyers for the difficult discussions. They will probably do this more courteously than the parties. Parties can listen in non-confrontationally, reflect and take a break from talking. Do not resist allowing the lawyers to debate the legal issues. They will be anxious to justify their attendance and fees. Use the lawyer's debate to reflect with the parties on the significance of their able and experienced lawyers being unable to agree on the law. The implication is that the law is unclear, there are no guarantees and the parties might be better served working out their agreement rather than going to court.
7. Encourage lawyers to consider how to constructively refer to worst case scenarios and WATNAs. The skill is to assist them in framing this discussion in a way that the parties do not perceive as threats coming directly from the opposing lawyers or their client. For example, ask the lawyers "what might a judge say about that issue". The lawyer's answer can then be more impersonally framed as that of an absent third party. It still frames options in terms of court outcomes. If you wish to avoid this,

ask the lawyers how this problem has been resolved in other settled matters in which they have been involved.

8. Let the lawyers worry about the details of the agreement reached at mediation. Solicitors, especially, are concerned about detail and systems of implementation. If you consider (as I do) that mediators add value by reality testing agreements, ask lawyers if they have had similar matters where implementation has been an issue. This can be a gentler approach than suggesting the particular clients might not comply.
9. Lawyers will say (especially if the mediation has turned to shuttle) "I've tried but I can't get them to budge". The comment probably means they have explained a hundred times the mathematics of the possible settlement options to their client, but not considered the client's heuristic thinking. The lawyer's frustrated comment can provide an entry into a discussion with lawyers speculating on who needs to be persuaded and how they might be best persuaded.

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[1] For roles for lawyers at mediation see Hardy, S & Rundle, O Mediation for Lawyers CCH 2010, p143.
[2] Herbert Simon The New Science of Management Decision Harper & Row 1960
[3] Richard Daft Organisation Theory & Design Cengage 2008 p453
[4] George Lowenstein et al Annual Review of Psychology 2008 p651
[5] Gilovich, Griffin & Kahneman eds. Heuristics and Biases CUP 2002 p1
[6] Plous The Psychology of Judgment & Decision Making McGraw Hill 1993
[7] Baseman. Also see Field's eight steps model
[8] Kahneman, D. Thinking, fast and slow. Allen Lane 2011
[9] Gilovich et al p400
[10] Kahneman p69
[11] Daft p458
[12] Kahneman et al p105
[13] Russell Korobkin. Psychological Impediments to Mediation Success: Theory & PracticeOhioState Journal of Dispute Resolution 2006. 21:2 p316
[15] Russell Korobkin. Psychological Impediments to Mediation Success: Theory & PracticeOhioState Journal of Dispute Resolution 2006. 21:2 p284
[16] Alison Ledgerwood et al Changing Minds in the Handbook of Conflict Resolution: Theory & Practice Jossey-Bass
[17] Plous p35
[18] Ledgerwood, A Chaiken,S Grenfeld, D & Judd, C. Changing Minds: Persuasion in Negotiation and Conflict Resolution.
[19] Perloff, R. The Dynamics of Persuasion : Communications and Attitudes in the 21stCentury.Lawrence Erlbaum. 2003.

[20] Kelman, H. Compliance, identification and internalization: three processes of attitude change. Journal of Conflict Resolution. 1958 2:51.
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[22] Deepak & Max Bazerman Psychological Influence and Negotiation: An Introduction Long Overdue Journal of Management 2008, p511
[23] Witte, K. Fear as motivator, fear as inhibitor. Handbook of Communication and Emotion. Academic Press. 1998.