

Mediator's Corner

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Priming the Pump for the Joint Session

by [leonel](#)

I suggested to the lawyer that he needn't be aggressive if he worked with his client to refocus him on the purpose of mediation: finding a deal agreeable to both sides. I reminded him that his job was to encourage the other side by noting his client's interest in finding common ground for a resolution. We discussed the benefits to his client of this approach; in that he would be more comfortable explaining what happened once he began thinking about how to satisfy each side's interests, rather than trying to convince the plaintiffs that his company had done nothing wrong.

After my opening at the session, defense counsel asked to go first. He made a sincere and collaborative opening, talking directly to the plaintiffs who believed that their property had been damaged or lost by agents of the defendant. His demeanor and words conveyed his client's interest in getting information and concerns from both sides on the table and fashioning a resolution to the dispute.

His client then spoke of his regret at plaintiffs' loss, how he and his staff had tried to do their best to salvage and return plaintiffs' property, and that he wanted to make things right, consistent with the available (and often conflicting) information about the operative events.

The plaintiffs responded well to these comments. They spoke frankly and emotionally about their losses. Each side listened and asked questions that were answered in a cooperative spirit. The plaintiffs expressed to me their appreciation for the defendant's approach and that they felt they had been heard. The dispute will settle soon after certain procedural issues are resolved.