

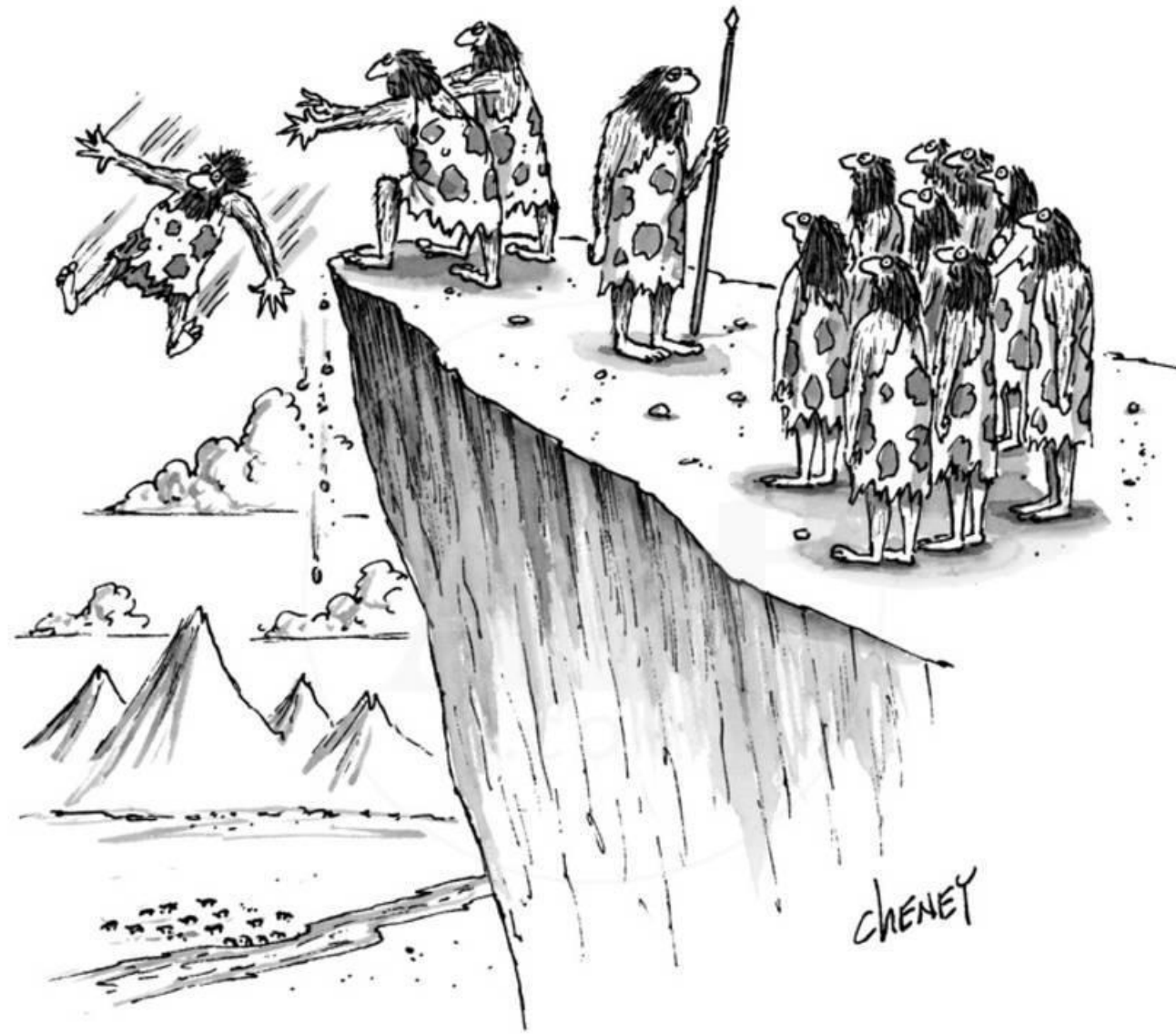
CAUCUS. WHAT IS IT AND WHY?

Private Confidential Discussion between the Parties and the Mediator

Get to the Crux of the matter

Comfort level of the Parties

Gain information in private that may be reluctant to share in joint session



"So, does anyone else feel that their needs aren't being met?"

TO CAUCUS OR NOT TO CAUCUS

Judge for yourself:



Are the Parties at a Deadlock?

Are unrealistic demands being made?


More posturing rather than discussion
of interests/High Emotions

A need to share information in private

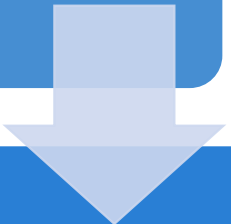
TO CAUCUS
OR NOT TO
CAUCUS.....

CONTINUED!

What are the conflict dynamics?



Is there a need to challenge one or both of the Parties about their strategy or positions?



Would the Parties be willing to disclose more information about their interests in private?

IF CAUCUS,

WHEN

AND

WITH WHOM

From the Start when Gathering
Information

Bargaining/Negotiation Stages

Party/Attorney,
Attorney/Attorney, Attorney

CAUCUS....?

MAYBE NOT!

WHY NOT?

Caucus eliminates face-to-face interaction

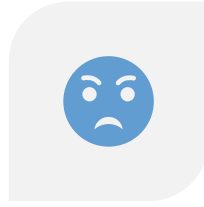
Limits the mediator's ability to reinforce and mirror empathy

Eliminates the ability of the parties to gain additional information

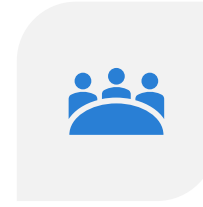
May reinforce the lack of ongoing communication between the Parties

Yes
to
Caucus!

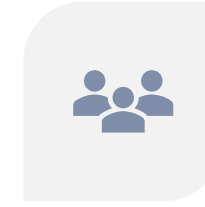
Reason why....



RELIEVES THE
TENSION IN THE
ROOM AND
DISSIPATES
HOSTILITY



PARTIES ARE
MORE LIKELY TO
BE MORE OPEN
IN PRIVATE
THAN IN JOINT
SESSION



CREATES A SAFE
ENVIRONMENT
FOR ONE OR
BOTH OF THE
PARTIES



LEVELS THE
PLAYING
FIELD-
ALLOWS
MEDIATOR TO
ADDRESS
BEHAVIORS



CONFIDENTIALITY
ALLOWS FOR
DISCLOSING
POTENTIALLY
DAMAGING
INFORMATION



OPPORTUNITY
TO PUT A
POSITIVE SPIN
ON NEGATIVE
STATEMENTS

GOING FORWARD WITH CAUCUS

What do you hope
to accomplish in the
Caucus session?

With Whom do you
meet first?

What barriers may
you encounter?

Instructions to the
party leaving the
Joint Session

Reinforce Rules of
Confidentiality

What to do NOW!

In Caucus, one of the goals is to get the party to reveal information that will help the mediation process move along.

Consider several techniques:

Reframing

Use of Questions

Active Listening

Reframing

- To Reframe means to change the concept or viewpoint from its current situation and place it in another “frame” which fits the same set of facts.
- You may be able to change a person’s frame simply by changing their emotional state.
- In order to reframe, you must consider the lens through which the party is viewing the situation (my perception is my reality!).

Reframing Exercise

- GROUP EXERCISE---REFRAMING

Type of Questions

- **Substantiating:**

- These sort of questions help the individuals identify and clarify the issues.

These questions ensure that the crucial information is put on the table:

How did you decide to use this landscaper?

Are you pleased with any of the work done?

Have you used this landscaper before and if so how was your relationship up until now?

Have you tried to have a discussion about the issue?

Type of Questions...co nt'd.

- **Contemplative:**
- These questions draw the parties into the process by helping them explore options as well as their role in mediation. These questions will help set the environment for mediation.
 - What would help you achieve your goals?
 - What are your expectations of mediation?
 - What did you hear that was new and different?
 - What would you like to ask the other party?
 - What might help you to better understand?

Type of Questions....co nt'd

- Closed questions:
 - These questions elicit a short, focused answer
 - Usually easily answered
 - Are useful at the beginning of the mediation for fact finding

Type of Questions... Cont'd

- **Leading:** This style of questions typically points the respondent's response in a certain direction.

“How are you making out with the new computer program?”-This implies in a very subtle way that there is something wrong with the program and leads the person in that direction.

“Tell me how you are getting along with the new program?” This is less leading. There is no implied judgment in this form.

Effective Question Exercise

- GROUP ACTIVITY-Effective Use of Questions

Active Listening

- Active listening is not a passive activity
- It involves a conscious to listen and understand the message
- The active listener remains neutral and does not inject self
- Active listening is non-judgmental
- Involves patience and not afraid of silence or long pauses

Active Listening Excercise

- ACTIVE LISTENING-GROUP ACTIVITY

Positive Results of Caucus



Builds Trust and Rapport



Build unforeseen alliances



Redirect negative statements/positions



Address behaviors hindering the process



Encourage productive dialogue

Now What? Ending Caucus

Identify information you may share with the other party

Offer Caucus opportunity with second party

Allow second party to speak-gather additional information

Avoid the enthusiasm to “tell all” from the first Caucus

Do you continue mediating “in Caucus” or return to joint session?

Return to Joint Session

Thank both Parties for the opportunity of meeting in caucus

Who shall reveal the information obtained in Caucus?

Encourage the Parties to process the information exchanged

Review areas of agreement or suggestions if still far apart

FINAL NOTE:

A USEFUL
FILTER

The Test of Three

Truth

“Is it true?”

Good

“Is is something good?”

Useful

“Is it going to be useful?”