

Mediation in Hollywood: Knowing how to close the deal

Negotiating Hollywood deals and mediating disputes rely on the same timeless principles: do your homework, build relationships, create graceful exits and show your cards wisely to achieve outcomes where everyone can feel like a winner.

By David R. Shraga

When I was starting out in Business Affairs (BA) I learned from veteran negotiators who showed me the ropes and shared “old school” wisdom from the trenches. Typically, they framed it in the form of questions like, “What do you do if...?” Admittedly, many times I had to ask for the right answer, but when it was given, the counsel was always pure gold.

After putting in my time as a Hollywood dealmaker, I saw that I kept coming back to these pearls of wisdom. Across all the projects, all the talent, and all the negotiating counterparts, certain foundational principles would always guide me.

Now, as a mediator specializing in entertainment and media, I see these same principles surface within my mediations as well. To achieve a settlement it turns out, the same emotional intelligence, negotiation tools and communication skills are what’s needed. The questions and stories I’ll share below make the case that what happens in mediation when litigators face off parallels what happens in BA when deal lawyers and agents go at it.

Do your homework

I had been tasked with hiring an A-list director, was about to speak with her team of A-list lawyers, agents and managers, and my boss (the head of international BA) was joining the call.

“What’s your plan?” the EVP muttered while we sat on hold.



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Sheepishly, I answered, “I was going to make the standard offer...” And to make matters worse, I added, “... and do the usual spiel.” You can imagine how it went.

Experience teaches there is no standard deal and certainly no standard spiel. What I should have done was describe my strategy based on the thoughtful questions I had asked myself to prepare. Is it her usual team or are the reps new? How badly do we need this project, and need her on it? Is it just about money or is there something else we should know? Where do we start so there’s

room to go up but we’re not being insulting?

As a mediator there is also no standard case or path to a settlement, and understanding the subtle dynamics in each room is equally critical. What are the nuances of all the relationships between the parties? The lawyers? The insurers? The witnesses? The experts? What breakdowns in communication led to why we are here? What are the true costs here? Financially? Operationally? Reputationally? Competitively? To best position a deal or a mediation for success everyone

involved needs to always do their homework.

It’s about the relationship

We were in a competitive bidding situation to buy the rights for a “hot property,” had hit our max but were up against parties willing to pay more, and the sellers ultimately decided to go with someone else.

“Did you protect the relationship?” grumbled my boss after hearing we lost the deal.

Fortunately, there was a silver lining I could share. “Sorry it didn’t work out...,” their lawyer had said,

“...but I told our folks you were my favorite to deal with.” A generous solace.

In BA a long negotiation is like courtship, and in Hollywood repeat business is inevitable. That’s why no matter how tough the deal we never lose sight of the relationship. Establishing rapport, then trust, and building confidence is always key – especially if you can’t close the gap. That’s when the relationship itself is the win and pays dividends the next time around.

Relationship and rapport building are equally important in mediation. Establishing connection humanizes the other side and paves the way for breakthroughs. The mediation statements start the relationship with first impressions of the parties and the lawyers. The pre-mediation conference then reveals subtle personality dynamics. The session itself cements the connections. And post-mediation settlements are like making a deal after the last one didn’t close. At every juncture, building the relationship expands your options.

Everyone needs a graceful way out

We had gone back and forth for weeks, and the studio was basically at its limit. The high-powered talent lawyer, however, kept asking for

terms we had said no to repeatedly. And our team was confident, despite how much the other side was protesting, we could keep saying “no” and they would eventually cave.

“How do you hold firm and not blow the deal?” intoned the grizzled dealmaker while perusing Variety.

I thought I could just dig in but my mentor knew better. “The most dangerous person is the one backed into a corner,” he said, explaining that every agent or lawyer needs something to take back and sell as a win. So, I pivoted, gave a little more where we could, found things to offer that hadn’t even been asked for, and the placated rep closed the sweetened deal.

Mediations are no different, and a party who feels they have no good options becomes unpredictable and volatile. Practicing this principle doesn’t mean giving away the farm or going easy on the other side. Instead, an effective mediator probes and uncovers what each party needs and can also afford to give. The convergence of these elements creates a durable settlement where everyone feels they’ve won something. Contrary to popular belief, a good settlement does not leave everyone equally unhappy. Instead, a good mediator, like a good BA, helps all parties leave the negotiation feeling satisfied enough.

How to show your cards

It was an impasse over an Oscar winner’s deal. Weeks of negotiations had stalled, and several key sticking points remained. We had already built rapport and trust, but no one would blink. Meanwhile, the studio head wanted it closed, we risked losing the talent, and the vultures were circling.

“How are you going to cut through and not get played?” rasped the implacable old negotiator.

We had to get real and find the middle ground. That meant focusing on what we really needed, moving them off some wishful thinking and trading horses. “Tell ‘em what you need, what you’ve got, and make sure they’ll close if we go there ...,” he counseled, “... and let ‘em know we won’t burn ‘em.” So, we all showed our cards, stopped posturing and got it done.

This conversation can only happen when a relationship with rapport and trust has already been established. Vulnerability takes courage, and as Brené Brown tells us, it’s a superpower if you can go there. When a mediation has stalled, just like a deal, the ability to have hard conversations and to demonstrate vulnerability can deliver the breakthrough. Just as in BA, with every conversation that leads up to the hardest ones, an effective mediator

builds credibility and creates the conditions for the magic to happen.

In closing

Negotiating entertainment deals and settling cases stemming from their collapse are two sides of the same coin. In many senses, a mediation is a BA negotiation that’s simply happening at a different stage in a deal’s life cycle. And while the tunes being sung in a mediation will have certainly changed since the deal was originally made, the individual notes this mediator hears are still very much the same.

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