

## “Right” and “Wrong”: A Negotiation Trap

Negotiation impasse is occasionally preceded by discussions of “right” and “wrong”, two basic and powerful concepts. During a recent employment mediation, the former employee announced that she wouldn’t negotiate further in response to her ex-employer’s offer because *she was right* and her *employer was wrong*. She fell into a negotiation trap: unwilling to make further concessions because doing so would be admitting she was wrong, she wanted to end the mediation.

At the [TED conference in March, 2011](#), Kathryn Schultz, author of *Being Wrong: Adventures in the Margin of Error*, discussed right and wrong this way:

*Think for a moment about what it means to feel right. It means that you think that your beliefs just perfectly reflect reality. And when you feel that way, you've got a problem to solve, which is: how are you going to explain all of those people who disagree with you? It turns out, most of us explain those people the same way, by resorting to a series of unfortunate assumptions. The first thing we usually do when someone disagrees with us is we just assume they're ignorant. When we generously share that information with them, they're going to see the light and come on over to our team. When it turns out those people have all the same facts and they still disagree with us, then we move on to a second assumption, which is that they're idiots -- they have all the right pieces of the puzzle, but are too moronic to put them together correctly. And when it turns out that people who disagree with us have all the same facts we do and are actually pretty smart, then we move on to a third assumption: they are deliberately distorting the truth for their own malevolent purposes.*

I’ve seen this play out in mediations when parties focus on right and wrong as the basis for resolving the dispute. Believing they are right, they progressively assume that the other side is ignorant, idiotic or evil, and end up stuck in the negotiation trap of not wanting to admit being wrong.

The mediator’s challenge is to refocus the negotiations and help the parties find reasons to negotiate. For example, I invite the parties to take a breather and help them reevaluate:

- are they anchored to a bottom line that should be reconsidered in light of what have they learned in the mediation? New understanding of the facts, different expert opinion, insurance coverage problems?
- how does the gap in the negotiations compare to the cost of continuing litigation?

- do they need a reality check about the non-economic costs of going to trial? The stress factors related to uncertainty, time away from family and more productive endeavors?

Another approach is to explain that being wrong feels the same as being right, reminding them of the old Road Runner cartoons. Wiley Coyote chases Road Runner off the cliff and Road Runner (a bird) keeps going. Coyote thinks everything is good until he looks down and realizes his predicament. He felt he was right until he realized he was wrong. Studies have shown that parties who go to trial “knowing” they are right frequently learn the hard way that they are wrong. (See [\*Deal or No Deal: Is Settling Better Than Going to Trial?\*](#))

In my employment mediation, the employee responded to my invitation to reevaluate and, with the help of her lawyer, shifted her focus away from right and wrong. After two more rounds of offers and counteroffers, the case settled and the employee left the mediation satisfied with the outcome.