Anger and Apology: Mediation Tools or Traps?
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Anger
Anger defined...and what is anger?

- **Noun:** A strong feeling of annoyance, displeasure, or hostility
- **Synonyms:** rage, vexation, exasperation, displeasure, crossness, irritation, irritability, indignation, pique

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- **Verb:** fill (someone) with anger; provoke anger in
- **Synonyms:** to infuriate, irritate, exasperate, irk, vex, peeve, madden

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Anger...

(www.MentalHelp.net)

1. “Pain” + anger-triggering thought
2. Requires someone to assume or interpret a situation to believe that someone else is trying to hurt him.
3. Motivates a person to take action and defend himself by striking out against the target.
## Anger Physiology: anger is...

*Fight or Flight: The Physiological Response by Rusty Fleisher and Jerry Medol (anger.org)*

- response to a perceived threat to oneself, one's family, property, self-image, and/or identity.
- a warning bell arising in the hypothalamus which triggers nerve and chemical responses to avoid bodily harm.
- increased breathing and heart rate, teeth grinding, headache, inability to concentrate, feeling of hopelessness or powerlessness, thoughts of: “Why me?” “What does he want?” “When will it stop?” “It’s his fault.”

## Anger....in mediation can:

- be a **substitute** emotion: Consciously or unconsciously, people convert feelings of pain into anger to *avoid* the pain.
- be a **distraction**: Shifting one’s pain to hurting the person who has *caused* the pain.
- be a **mask**: Getting angry can be a way to *hide* the reality of pain, vulnerability, or fear.
- create a feeling of *righteousness*, power, and/or moral superiority...and desire to punish people who have caused the pain.
Anger… in mediation

1. Showing anger is signaling that if someone doesn’t get his way, he’ll exert harm or withhold benefits. (Rational/irrational)

2. The usefulness of anger in gaining better results is something we, as mediators, have all witnessed.

3. Whether real or feigned, anger must be perceived to be genuine to be useful in prompting concessions. (Rational)

4. Faking anger leads to a conclusion that someone isn’t trustworthy.

5. Anger may elicit compromise but may also lead to covert retaliation (“pay the price”).

6. Anger works better when directed at an OFFER not at a PERSON.

7. Low level verbal anger is seen as more likely to be useful than physical or extreme anger. (Really?!) 

8. Anger may have the positive result of helping to clarify needs and concerns.
Anger in mediation...and the matter of sincerity

1. Reactions to anger (real or feigned) are complicated and unpredictable.
2. What does anger communicate? ● that a party is tough? ● that a party has clear goals? and/or ● that a party is unlikely to back down?
3. Perception that someone is faking anger may cause others to increase demands and be distrustful or want to retaliate, unsettling the mediation.
4. People make greater concessions when adversaries seemed emotionally inconsistent because they feel a lack of control when negotiating with unpredictable counterparts.

Anger...and managing it in mediation

1. Observe, listen, and interpret
   a. Real or feigned? (rational or irrational)
   b. At a useful time or disruptive? (concessions)
2. Take angry party’s attorney outside:
   a. Can he control his client?
   b. Is his client on medication or ill?
   c. Is client a danger to anyone present?
   d. Is client able to engage in mediation?
3. Take other party’s attorney outside:
   a. Is client OK to continue? (safety?)
   b. Does client believe anger is real or not?
   c. Affect client’s ability to engage in mediation?
   ....DECIDE WHETHER MEDIATION CAN CONTINUE
Anger...and managing it in mediation

If the mediator decides the mediation can continue, then:
1. **Consider making physical changes:**
   a. Take a break, order in food, go to lunch
   b. Rearrange seating
   c. Move to a different room

2. **Consider making tactical changes:**
   a. Move to a different issue
   b. Summarize, recap, reframe
   c. Identify areas where more information is needed and suggest an adjournment to gather it (don’t use anger as reason)

3. Use tools similar to those used for avoiding impasse.

Apology

**JUST SHUT UP AND ACCEPT MY APOLOGY**

**OH, YOU’RE SORRY?**

**APOLOGY NOT ACCEPTED**
**APOLOGY...Why offer an apology?**

**Rationale:**
- Explanation of actions
- Formalistic (high-context cultures)
- Happy-ending

**To what end?**
- Show remorse/regret
- Take responsibility
- Repair/restore
- Avoid future harmful behavior

**APOLOGY...and the role of the Mediator**

Using Active Listening keeps you ALERT to the possibility of an apology coming from either side.

Avoid personal judgments.

The mediator ISN’T the one to raise the subject of an apology.

Once raised, begin the discussion about the apology (getting eventually to the need for an unconditional/sincere apology and the risk of perceived insincerity.)
**APOLOGY...what the Mediator SHOULDN’T do**

- Don’t insert personal beliefs or opinions.
- Don’t minimize the importance or effectiveness.
- Don’t deflect attention away from the idea of an apology.
- Don’t dismiss the idea and not being “right” for the situation.
- Don’t insist on going forward with an apology when a party decides against it.

**APOLOGY...Plaintiff’s comments suggest awareness of the potential impact of an apology**

- She shows no regret or remorse.
- She thinks that money is all I need.
- The least she could do is apologize.
- She never even called or emailed.
Defendant’s comments suggest potential willingness to offer an apology

- I feel bad about what happened.
- I wish I’d never said/done that.
- Money isn’t the only thing she’s looking for.
- What can I do to get this resolved?
- Do you think she’d listen to an apology?
- I’ve tried to apologize but she wouldn’t listen.

Attorney’s concerns

- How to evaluate and/or react
- How/when to discuss it with a client
- Legally irrelevant; not “rights and remedies”

- Defense counsel fear “admissions” could become liabilities
- Plaintiff’s counsel wants to recoup economic loss
- Ethical duty to advocate poses conflict
**APOLOGY...how apologies FAIL**

**Heard as:**
- Manipulative
- Blaming
- Insincere
- Minimizing
- Failing to take ownership
- Offering unsolicited explanation

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**APOLOGY...7 components of apology**

1. Acknowledge what was done
2. Demonstrate genuine regret
3. No defenses or explanations offered
4. Seek to restore the relationship (where appropriate)
5. Commit to not having the incident happen again (where appropriate)
6. Offer restitution (where appropriate)
7. MUST BE PERCEIVED AS UNCONDITIONAL AND VOLUNTARY
### APOLOGY...7 types of apology

1. An apology statement:  
   I’m sorry.
2. An expression of remorse:  
   I feel awful.
3. An offer to help:  
   I’ll do what I can get it approved.
4. Self-reproach:  
   I can’t believe I made that mistake!
5. A direct request for forgiveness:  
   Please forgive me.
6. A promise of future behavior:  
   I promise to be more careful.
7. An explanation:  
   I was distracted and I simply forgot the deadline.

### APOLOGY...and culture

Anthropologist Edward T. Hall’s theory of High/Low Context cultures and the effect of background and circumstances on communications

#### High-context cultures (Middle East/Asia/Africa/South America)
- Emphasis is on relationships; Developing trust is a first step.
- Group harmony and consensus are preferred to individual achievement; open more to intuition/feelings than reason.
- Voice/facial expression, gestures, posture, family history, and status are more important than words. Style is more indirect and formal.

*A Japanese manager said: “We are a homogeneous people and don’t have to speak as much. When we say one word, we understand ten....”*

Flowery language, humility, and elaborate apologies are typical.
**APOLOGY...and culture**

Anthropologist Edward T. Hall’s theory of High/Low Context cultures and the effect of background and circumstances on communications

**Low-context cultures (N. America/W. Europe/Scandinavia)**

- Facts, and directness are valued; intuition is not.
- Speakers are expected to be concise and straightforward.
- Typically, precise words are intended to be taken literally.
- Negotiations conclude with explicit, detailed contracts.

*This is very different from high-context cultures that depend less on language precision and legal documents, may distrust contracts, and be offended by the lack of trust the lack of those elements suggest.*

Apologies may or may not be well-received and must satisfy various apology requirements.

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**Sphere of Conflict – Causes and Interventions**

(adapted from Christopher W. Moore, The Mediation Process 1996)

**Relationship Conflicts:**

- Strong emotions
- Misperceptions
- Stereotypes
- Poor communication
- Miscommunication
- Repetitive negative behavior

**Possible Interventions:**

- Control expression of emotions (ground rules, etc.)
- Validate feelings; apologies
- Clarify perceptions
- Improve quality/quantity of communication
- Find structural changes to end negative behavior
- Encourage positive problem-solving attitudes
Sphere of Conflict – Causes and Interventions
(adapted from Christopher W. Moore, The Mediation Process 1996)

**Structural Conflicts:**
- Destructive behavior patterns
- Unequal control, ownership, distribution of resources
- Unequal power/authority
- Geographic, physical, etc. facts
- Time constraints

**Possible Interventions:**
- Define/change roles
- Replace destructive patterns
- Reallocate ownership/control
- Establish decision-making process
- Change from position-based to interest-based process
- Reduce coercion/more persuasion
- Alter closeness/distance between parties
- Modify external pressures
- Change time constraints
- Consider role of apology

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**Interest Conflicts:**
- Perceived or actual competing interests
- Content/position-based interests
- Procedural interests
- Psychological interests

**Possible Interventions:**
- Focus on interests not positions
- Seek objective criteria
- Seek solutions addressing needs of all
- Seek new options or resources
- Seek trade-offs of interests and/or strengths
- Consider role of apology
**Sphere of Conflict – Causes and Interventions**
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**Value Conflicts:**
- Different criteria for evaluating ideas or behavior
- Exclusive/intrinsic goals
- Different ways of life, ideology, and religion

**Possible Interventions:**
- Avoid defining problems in terms of value
- Allow parties to agree and disagree
- Create spheres of influence in which one set of values dominates
- Search for goals that all parties share
- Consider role of apology

**Data Conflict:**
- Lack of information
- Misinformation
- Relevance issues
- Interpretation issues
- Different assessment procedures

**Possible Interventions:**
- Agree about what data is important
- Agree about data collection process
- Develop common criteria for data assessment
- Use 3rd party to gain outside opinion/break deadlock