

TWENTY WAYS TO SABOTAGE YOUR MEDIATION

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1. Use a sledgehammer to make your point and obliterate theirs.
2. Tell the other side you have other more important things to do today.
3. "I can wing it in the mediation and prepare like a Trojan for trial".
4. Use ridicule and sarcasm to make the other side squirm.
5. "I will save all my moves until the final phase of the negotiation. I have a king hit argument which will be most effective delivered then or saved for trial. "
6. "If I am intractable the other side will eventually give way and make the concessions. "
7. "This talk fest is going nowhere fast. I am going to call it quits now."
8. Forget the cardinal rule that you don't learn anything with an open mouth.
9. Wear your tunnel vision glasses.
10. Inflate your clients' expectations of the outcome in advance.
11. "There is no downside in exaggerating my numbers. I can always make up a justification for them. "
12. Treat the mediator as someone to be persuaded or worse the enemy, rather than as a vital resource who will assist both parties to achieve resolution.
13. "I don't want to tell my client what they don't want to hear and I don't want the mediator to tell them the bad news either."
14. "My client has told me everything there is to know about this case." (Yeah right!)
15. Treat a stalemate as the end of the process.
16. Fail to recognize that your mediator has access to the others side's camp and just may know something you don't.
17. "This mediation is all about commercial realities not personalities and feelings."
18. Take the opportunity to hone your cross examination skills on their witnesses.
19. Disregard the need for face and make claims such as "We've run all these cases and we know the law better than anyone."
20. Let them know in no uncertain terms that their pleading is so deficient it is not worth the paper it has been written on.

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