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## Digging Deeper

First Mediation Corporation Newsletter

June 2006

### Greetings from the Editor!

Welcome once again to our bi-monthly Digging Deeper newsletter where we discuss cutting edge topics in negotiation and mediation that go below the surface to the heart of achieving resolution. Your comments and feedback are welcome.

**-Mariam Zadeh**

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### Mariam Zadeh Completes the Master of Laws Program from Pepperdine University

Please join First Mediation Corporation in congratulating Mariam on her completion of the Master of Laws program in Alternative Dispute Resolution. Jeff met Mariam while teaching as an adjunct professor at Pepperdine University, shortly after she began the LL.M. program in 2003. We're very excited about Mariam's accomplishments and expect to see great contributions from her to our field. Way to go!

### Barnes & Noble Book Signing for Jeffrey Krivis

It was a great turnout at Barnes & Noble for the signing of Jeff's new book, *Improvis-ational Negotiation: Stories About Love, Money, Anger and the Strategies that Resolved Them*. After sharing his thoughts, insights and ideas that brought this book to life, Jeff signed copies of his book for more than 75 readers who turned out for the event. We extend a big thanks to all for their support in making the book signing a great success!

### Calendar of Events



This is where you can learn about the latest events that are being sponsored by First Mediation Corporation. If you want to make sure to receive an invitation to one of our upcoming events or seminars, be sure to join our mailing list below.

You can find Jeffrey Krivis at the following upcoming events:

June 22 - 24: Professor, Pepperdine Law School Specialized Mediation Course (Malibu, CA)

### Quick Links...

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## Hunting for Deception: By Jeffrey Krivis and Mariam Zadeh



Although few will admit to it, there is no doubt that deception plays an active role in mediation between both sides and their communications with the mediator. This is because every negotiator wants to leave the negotiating table believing that he or she obtained the best possible result for his or her client.

Most believe that to accomplish this goal, some form of deceit is required. Some may give deceit in this context a more politically correct name, such as "aggressive bargaining" or "zealous advocating". We, on the other hand, will refrain from sugar-coating what transpires in mediation every day, and will call it as it is:

deception.

Yes, we said it. The "D" word. We've all used it as negotiators and we're here to highlight ways of detecting it when it's used against you.

If you find our position cynical, our research has revealed the following facts: 1) 61.5 percent of subjects' natural conversation involved some form of deception; 2) individuals reported that they averaged 16 white lies over a two-week period; 3) the typical person lies approximately 13 times per week; and 4) 28 percent of negotiators lied about a common interest issue during negotiations while 100 percent of negotiators either failed to reveal a problem or actively lied about same if they were not questioned directly on the issue.

Deception in negotiation takes many forms which range the spectrum from bluffing, posturing, evading, concealing and misrepresenting, to outright lying. At every juncture, the deceiver must decide whether to create false information (lying or

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misrepresenting), deliver vague and ambiguous information that contains part truth and part deception (bluffing and posturing) or avoid providing relevant information (evading).

For purposes of this discussion, we will rely on a definition that views deception as "a deliberate act that is intended to foster in another person a belief or understanding which the deceiver considers false - specifically, the deceiver transmits a false message (while hiding the true information) and also attempts to convince the receiver of his or her sincerity."

There are many reasons why people are motivated to deceive. The five primary motivations are: 1) to save face; 2) to guide social interaction; 3) to avoid tension or conflict; 4) to affect interpersonal relationships; and 5) to achieve interpersonal power. A follow up study concluded that lies are motivated by a need to defend oneself socially or economically in a disadvantaged situation, supporting the notion that deceivers act with purpose and specific motivation.

Within the negotiation context, some practitioners would argue that deception and lies are commonplace because negotiations are based on information dependence. In other words, negotiators have little choice but to rely on the data and claims that their counterparts provide in order to reach agreement. To do otherwise would require verification of each and every statement made and position proffered, which would be both highly time consuming and likely cost prohibitive.

Now that we have established that deception takes place practically all around us – and most certainly across the negotiating table – the question remains as to how best to deal with this predicament in your negotiations. You may be thinking to yourself that with all the trial and negotiation experience you have, it is pretty unlikely that an adversary could successfully pull a fast one on you.

But although you may be the exception to the rule, there is substantial evidence that most people have poor ability to recognize deception. The reason for this is that most of us harbor a belief that truthful statements are preferable to lies. As a result of this bias, we will often unwittingly assume that the information we are being provided is accurate, relevant and truthful. If, however, we learn to identify the verbal and non-verbal cues that often accompany deceptive messages, rather than merely relying on hunches or our experience as practitioners in the field, we can significantly improve our ability to detect deception.

Interpersonal Deception Theory, proposed by researchers David Buller and Judee Burgoon in the 1980s, deals with deception as it occurs in interpersonal situations. Interpersonal Deception Theory presumes that deceivers strategically control their behaviors to maximize their deception success and credibility with others. Evidence suggests that during the course of a conversation, deceivers adjust to the reactions of others so that their

communication style appears truthful.

Examining the interaction from this perspective, the deception volley goes something like this: Deceivers choose from an array of verbal and non-verbal behaviors designed in their minds to increase the chances of succeeding at the deception; in return, those on the receiving end react to the deceptive message, whether consciously or subconsciously, sending signals of suspicion. As deceivers perceive this suspicion, they in turn refine their performances to suppress such cues, working on allaying suspicion and enhancing their credibility.

Despite popular belief, deception is not easy and actually requires a great deal of emotional, cognitive and psychological effort believed by researchers to be triggered by feelings of guilt, discomfort or fear of detection that often accompanies the lie or deceit. Consider the last time you told a fib (if you can't think of one, check your pulse). Thinking back to that time, it's likely that you became somewhat nervous, had to think hard before stating the lie, considered the consequences of being discovered, and tried at the same time to come across as sincere and believable to your counterpart.

All of this requires considerable cognitive complexity. If you are someone who can repress signs of nervousness and stress and look natural under even the most difficult of circumstances, then you are more apt to be a successful liar. Individuals who have larger behavioral repertoires, greater social skills and communicative competence will generally be more proficient, alert, confident, and expressive, and less fidgety, nervous and rigid, making them more skilled at deception than others.

### [Read the Complete Article](#)

#### **We Want to Hear From You ...**

Please feel free to drop me a line at [mzadeh@firstmediation.com](mailto:mzadeh@firstmediation.com) to let us know if there are particular topics of interest that you would like us to cover in future issues. We are always interested to hear from our readers and welcome and appreciate your feedback.

Mariam Zadeh



#### **Last Minute Club - Become a Member!**

We realize that it is often difficult to schedule cases with us on short notice or in instances where there are critical time



pressures. As a result and in an effort to accommodate our colleagues when faced with this situation, we have instituted the *Last Minute Club*.

As a member of the *Last Minute Club*, you will be notified in the event of a cancellation or opening in our calendar and will be given priority to book that last minute spot. You can choose to be notified by email or phone, at which point we will advise of the date, time and number of hours available.

Please keep in mind that the first to respond with a firm acceptance by all parties of the opening will be able to reserve the date.

We are hopeful that becoming a member of the *Last Minute Club* will help accommodate your firm and serve your needs for any last minute mediations.

### [Last Minute Club Membership Form](#)

#### **Have Something to Say? Join Our Blog!**

We invite you to check out our Blog where you can contribute your thoughts, ideas, and experiences. It's a way to shed light and create dialog about issues that are of importance to you and your colleagues.



[To the Blog!](#)

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