

RISKIN GRID SCENARIOS

Scenario 1 –

Context: Brother is executor of deceased mother's estate. Sister is contesting the mother's will. Mother passed after a long, painful struggle with ALS. You are in a caucus with brother who is disgusted with the sister. He says to you about the sister: "She is a horrible human being. She won't settle on anything. You can see her ridiculously inflated offers. She is just trying to piss me off. She tortured mother this way too!" Craft a question in each segment of Riskin's Grid that you think would be effective? What other techniques/interventions might you use to prepare for those questions?

Scenario 2 –

Context: A family is in litigation arising from the dissolution of a family business. There are four siblings. Allegedly one of the sisters embezzled from the family business 7 years ago. In caucus with that sister, you decide to do some reality testing and ask the sister that was accused of the impropriety a few questions about the allegation. "Now, your siblings are likely to bring up these allegations of embezzlement at trial. . . ." She interrupts and says to you, "They are lying, they are lying! And you believe them." Where were you on Riskin's Grid when you asked the questions? Where do you go from here?

Scenario 3 –

Context: You have been retained by the EEOC to mediate an employer/employee dispute. The employer is a governmental entity and the employee is pro per. The employer claims their supervisor reported the employee up the chain for inaccuracies on his timesheet. After that the employee filed with the Commission claiming discrimination based on his veteran status. The employee claims there were no inaccuracies and this was a repeated ongoing pattern of discrimination based on his veteran status.

Employee caucus: The employee repeatedly mentions retaliation to you. What questions would you ask that are narrow? What questions would you ask that are broad? Plot them on Riskin's Grid.

Employer caucus: The employer says to you: "We have to go to Court before we let him get a dime of taxpayer money. This is a completely spurious claim." What questions would you ask that are narrow? What questions would you ask that are broad? Plot them on Riskin's Grid.

Scenario 4 –

Context: You are mediating a case that will likely go to arbitration if not settled. The suit is for the intentional interference of contractual relations with a third party. Talent

agency A filed suit against another Talent Agency B and their agents after agents went from A to B, taking big name clients with them. In addition to naming Talent Agency B, the two agents were named as defendants. In an intentional interference claim, the burden is on the plaintiff to prove the elements of the claim rather than on the defendant to prove that its acts were justified. To prevail on the claim, plaintiff must prove four elements: (1) that a valid contract existed, (2) that defendant had knowledge of the contract, (3) that defendant acted intentionally and improperly, and (4) that plaintiff was injured by the defendant's actions. *United Truck Leasing Corp. v. Geltman*, 406 Mass. 811, 812, 551 N.E.2d 20 n. 6 (Mass. 1990).

Ask reality testing questions of A and B. Label where you are on Riskin's Grid.

Also ask questions that would elicit interests of both A and B. Label where you are on Riskin's Grid.

Statement 6

Context: An elderly man is petitioning for a civil anti-harassment order. He is sure his neighbor is poisoning his flowers. He says to you, the mediator: "She's been poisoning my flowers. I know that she is deliberately sabotaging and harassing me." Try asking a reality testing question, in each quadrant of Riskin's Grid. You may also want to analyze this through the lens of the New New Grids.

Statement 7

Context: You are serving as a mediator for the court's limited jurisdiction mediation program. In the present case, an uncle is suing his nephew for an unpaid debt of \$24,000; both parties are pro per. The uncle says about the defendant/nephew who borrowed the money: "Before I filed this lawsuit, Bob had missed three payments in a row! We're supposed to be helping him out, but he never hears a word I say. That's why he missed the payments. He didn't even know when they were due." What is a reality testing question you would both uncle and nephew in each quadrant of Riskin's Grid? What are other techniques you would use to settle the case besides reality testing? Assume you are in caucus.

Scenario 8 –

Context: A son and a step mother co-own a business. Dad used to co-own the business but passed away two years prior. Litigation ensued on a number of issues. The stepmother is accusing the son of inaccuracies on his timesheets. This is not relevant to the current lawsuit, but the step mother will not stop repeating, "I can't trust any of them. He is doctoring his timesheets!" The son claims there were no inaccuracies and this false reporting is a repeated pattern of craziness based on step mother's greed and treachery. In a meeting with stepmother you ask her several questions about the timesheets trying to uncover whether the behavior was a one off or repeated to which the stepmother replies: "You are obviously on his side!" Where do you go next? Label each intervention on Riskin's Grid.

