

# Turning Conflict into Consensus: Managing Disputes & Difficult Counsel

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Ellen F. Kandell, Esq.

Alternative  
Resolutions

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# Who we are?

- Attorney, Mediator, Trainer, Facilitator
- 30+ years experience
- Founder of Alternative Resolutions, LLC 19 years ago
- Clients include business, gov't, universities, non-profits
- Trainer for Maryland's retired circuit court judges, administrative judges and bar association
- Married, mother of 2 employed college grads
- Row for Washington Rowing School



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# Learning Objectives

- Understand conflict, its sources and strategies for managing it
- Understand the complexity of human communication and its barriers
- Understand importance & complexity of listening
- Understand the keys for dealing with difficult clients and counsel

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## Understanding Conflict



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## Negative Aspects of Conflict



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## Positive Aspects of Conflict



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## Causes of Conflict and Interventions

- Strong emotions
- Legitimize feelings, emotions
- Poor or failed communication
- Improve quality & frequency of communication
- Active listening skills
- Use "I" messages
- Misperceptions
- Clarify perceptions
- Separate issues from personalities
- Negative patterns of behavior
- Control behavior through rules and policies

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## Causes of Conflict and Interventions

- Incompatible wants, needs; fears
- Seek clarification
- Differing values, culture
- Look for overriding values or common goals



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## Causes of Conflict and Interventions

- Unequal control, power or authority
- Acknowledge differences
- Search for ways to make structural changes
- Redirect focus to needs
- Lack of information or misinformation
- Agree on what data are needed



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## Factors which tend to de-escalate conflict

- Future relationship needed/wanted
- Threats -- reduced or eliminated
- Parties *focus* on the problem, not each other
- Emotions expressed directly
- Needs discussed openly
- Good communication skills used



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## Conflict Handling Strategies

- Compromise- "*Let's make a deal*"
- Accommodation- "*It would be my pleasure*"
- Avoidance- "*I'll think about it tomorrow*"
- Collaboration- "*Two heads are better than one*"
- Competition- "*My way or the highway*"



Based on the work of Kenneth Thomas and Ralph Kilmann and the Thomas-Kilmann Conflict Mode Instrument

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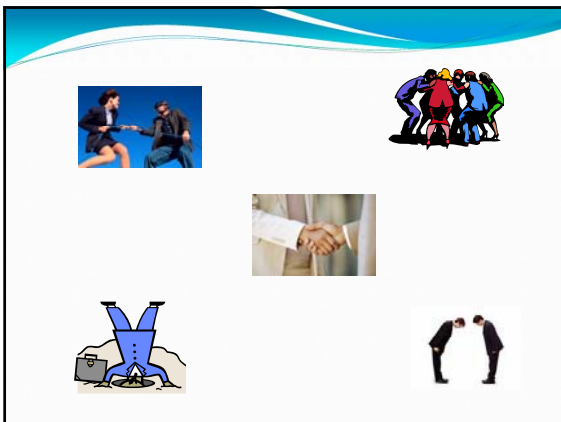
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### Name the strategy

- I'm sorry, but you're going to have to let me cut in here. I have 10 minutes to get this proposal to a courier.
- Oh, don't mind me. Finish what you're doing. I can always hand deliver the proposal in the morning.
- So, how was your weekend? How much copying do you have left to do?
- Would you consider letting me cut in to copy this proposal? Once I get it out the door I can come back and help you get the memo distributed.
- If I don't copy this proposal now, I'll miss the courier. Why don't you pick up your son and I'll copy and distribute the memo for you.

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### Listening

- "The single biggest problem in communication is the illusion that it has taken place."

-George Bernard Shaw

The illustration shows two yellow stick figures standing and talking on mobile phones. A speech bubble is positioned between them, containing the text: "The single biggest problem in communication is the illusion that it has taken place." This visualizes the concept of listening without truly understanding or engaging with the other person.

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## Listening-True or False?

- Listening is largely a matter of intelligence.
- Speaking is a more important part of the communication.
- Because listening requires little energy, it is easy.
- Listening is an automatic, involuntary response.
- A speaker can command listening to happen .
- A person's hearing ability significantly determines his or her listening ability.

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## Listening - True or False?

- The speaker is completely responsible for the success of communication.
- People listen every day, thus eliminating the need for listening training.
- Competence in listening develops naturally.
- When people learn to read, they learn to listen.
- Listening is only a matter of understanding the words of the speaker.

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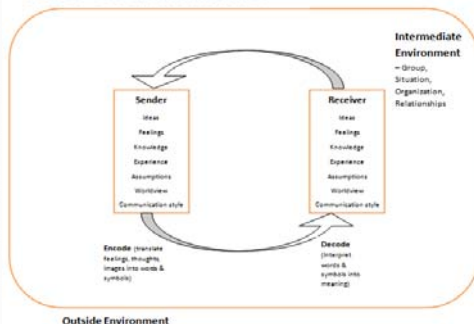
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## Model of Communication



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## Frame of Reference

- What makes each of us unique--
  - Values
  - Stereotypes
  - Cultural background
  - Life experiences
  - Fears
  - Traumas: Big T and little t



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## Frames of reference exercise

- I assume that.....



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## What do you hear?



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What do you hear?



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## LISTENING



- Receiving  
sensory data through hearing and seeing
- Attending to  
sorting data, associating data with stored  
knowledge and within the data set
- Assigning meaning  
assessing data  
using internal filters



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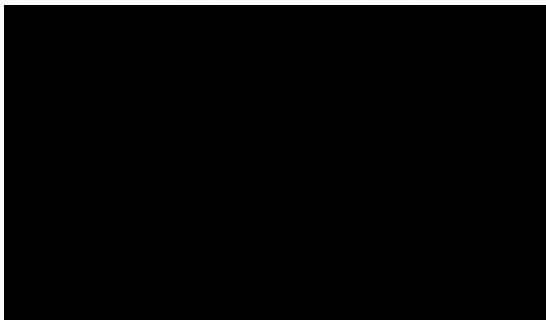
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## Listening in Real Life



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## Are you really listening?

The following behaviors reduce listening effectiveness. How many of these statements are true for you?

1. I engage in other activities ( i.e. working on the computer, filing papers) while I am listening.
2. I assume I know what others will say and tune out as a result.
3. I finish sentences for others when they stumble or pause.
4. I ignore nonverbal cues such as voice, tone , posture or pace.
5. I fidget when people speak too slowly or when conversation becomes boring.

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## Are you really listening?

6. I use body language that does not encourage communication ( i.e. arms crossed against my chest).
7. I dwell on aspects of others that have no relation to the conversation ( i.e. clothing, mannerisms).
8. I act as if I understand what people are saying rather than risk embarrassment by asking them to repeat themselves or clarify a point.
9. I think about other things when people speak, like what I will have for lunch, rather than paying attention to the speaker.
10. I find that my prejudices cause me to tune out.

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## Conflict Management Skill

### Active Listening

- Show interest in what the speaker is saying
- Ask questions to clarify, gather information
- Let the speaker know what you understand

Distinct from Reactive Listening



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## Positions v. Interests

### Positions

- Issue narrowly defined
- Focus on self interest
- Focus on past
- Omits analysis of problem
- Assumes one right solution
- Solution evaluated in terms of self interest only

### Interests

- Issue broadly defined
- Focus on multiple interests
- Focus on future
- Analysis of underlying factors
- Assumes multiple possible solutions
- Solutions evaluated in terms of objective criteria

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## Conflict Resolution Steps

- Identify the problem
  - Use active listening skills
  - Acknowledge the underlying feelings
  - Separate people from the problem
  - Identify interests
- Brainstorm solutions

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## Defensive communication exercise

- You think you are doing your best to communicate to another person and s/he is not cooperating.



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# Trust

## Creating Trust

- Listening
- Keeping confidences
- Being empathetic
- Suspending your own judgments
- Identifying joint interests

## Wrecking Trust

- Breaching a confidence
- Acting superior
- Not listening
- Not being attentive
- Judging the parties
- Lack of empathy




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# Difficult Conversations

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# Disentangle Impact & Intent

| AWARE OF             | UNAWARE OF           |
|----------------------|----------------------|
| My intentions        | Other's intentions   |
| Other's impact on me | My impact on another |




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## Handling Difficult People

### Relaxation

- Voice: even speed, volume and tone
- Body Posture: open, expansive body posture and gestures.
- Eye Contact: neither stare at or avoid contact

### Respect

- Show that you take the person and their problem seriously
- Acknowledge the person's feelings

### Responsibility

- State where your responsibility begins and ends
- Clarify what you can do
- Be persistent, if necessary, in saying what you cannot do

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## More Tips on Difficult People

- Event (no control) + Response (control) = Outcome.
- Invite change, don't order it
- Walk in their shoes, boots, moccasins
- The closer you get to blame, the further you are from solutions
- Don't take it personally



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## 7 Keys to good client service

- 1) Show empathy
- 2) Don't interrupt
- 3) Focus on facts
- 4) Pause before responding
- 5) Paraphrase client concerns
- 6) Indicate regret or apologize
- 7) Follow up with any promises made

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## TAKE AWAYS



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## Keep in touch!

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- Follow our blog-  
*Leaning In: Turning Conflict into Consensus*  
<http://www.alternativeresolutions.net/blog/>



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## Contact information

- Ellen F. Kandell, Esq., President
- Alternative Resolutions, LLC  
 8403 Colesville Rd., Suite 1100  
 Silver Spring, MD 20910  
[www.alternativeresolutions.net](http://www.alternativeresolutions.net)  
[www.marylandfamilymediation.net](http://www.marylandfamilymediation.net)  
[ek@alternativeresolutions.net](mailto:ek@alternativeresolutions.net)  
 301-588-5390





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