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**Peace Message:** Films and television shows fail to showcase opportunities for collaborative problem-solving, *reinforcing only those methods of conflict resolution that result in bloodshed and oppression.*

**BY DEBORAH ROTHMAN**

Motion pictures and television provide ample examples of conflict. As attorneys, we can encourage the civil resolution of disputes by actively defusing conflict, or we can fuel and even profit from it. Unfortunately, popular culture depicts and encourages far more conflict promoters than warriors for peace.

As a full-time neutral for 10 years, perhaps I see the world through a different prism than my practicing attorney brethren.

When conflict arises, I see opportunities for risk-reducing compromises that, unlike litigation, have great potential to leave the disputants feeling better about themselves and each other at an early stage.

Unfortunately, motion pictures and television shows fail to showcase these opportunities for collaborative problem-solving, reinforcing only those methods of conflict resolution that result in bloodshed and oppression, whether real or figurative, as the price of victory.

*New Yorker* magazine, in a recent cartoon, touched on the zero sum game approach that characterizes so many competitive people: An employee, his thumb jerking in the direction of his colleague, says to his boss, "OK, if you can't see your way to giving me a pay raise, how about giving Parkerson a pay cut?"

"Amores Perros," a motion picture released in the spring, is a case in point. It lays bare the gritty underbelly of life, preceded by gruesome dogfighting scenes.

Early in the movie, a fight-dog owner pours fresh blood over his dog's face and body while shoving the dog toward its opponent in an effort to whet his dog's appetite for the kill.

Subsequent scenes highlight intimate relationships in which one would expect to see genuine love. We see father-daughter love, sibling love and romantic love, all perverted almost beyond recognition.

In the sibling love segment of the film, the viewer is treated to the story of two insecure, competitive brothers. By the time a former police informant is done fanning the flames of their jealousy and fear, they are eyeing each other like vicious dogs, each brother knowing that his life depends on the death of the other.

Unfortunately, this attitude is not limited to cinematic brothers.

I recently mediated the dissolution of a closely held business owned by two brothers whose relationship epitomized the dog-eat-dog mindset. Each believed the other had contributed less to their business and had taken more advantage of the other's generosity.

I have conducted many sibling and husband-wife business partnership dissolutions so I assumed that, once I got some of the underlying conflict surfaced and acknowledged, divvying up the assets would be a cinch.

I didn't count on the Amores Perros brothers. I had assumed between the men some primal shred of fraternity that could be salvaged and used to help not just resolve their business problem but also serve as a foundation for a better relationship.

I hadn't counted on the level of animosity and lack of humanity I experienced from the moment I arrived at the mediation.

When I met the older brother, I was surprised that he was dressed very casually and that, frankly, he reeked of body odor and liquor. He turned out to be the more "civilized" of the two.

The younger brother appeared at the mediation late, wearing filthy work clothes and shoes and displayed an unblinking intensity suggestive of recent amphetamine consumption.

Finding common emotional ground between the brothers proved to be a futile task. I heard tales of parental abandonment and juvenile detention, allegations of drug use, theft and betrayal and veiled threats.

Rather than achieving some reconciliation, I realized I needed their attorneys' help just to get these brothers off their instinctive course of mutual destruction.

I have mediated cases where at least one of the lawyers does not appreciate the difference between litigation advocacy and mediation advocacy. I know it's going to be a long, hard mediation when, in caucus, every time I raise a weakness in the client's case, the lawyer angrily refutes the point, even where the refutation is meritless.

This posturing makes settlement more difficult and time-consuming, if not impossible, because it promotes combative, position-based behavior that is antithetical to the cooperative, interest-based negotiation that usually culminates in settlement.

Fortunately, the attorneys in my Amores Perros case were shining examples of lawyers as civilizing counselors, not pugilists. Notwithstanding their clients' irrational aggressiveness that took no heed of the inevitable outcome of such a collision course, both emotionally and financially, each attorney patiently caucused with his client and me and gradually got him to back down from his intransigent and irrational position that the other brother must pay blood money.

By the end of the mediation, the brothers had dissolved their partnership and, I fear, their filial relationship. Maybe that wasn't such a bad thing. need trans "Bread and Roses," a feature film portraying the unionization of Los Angeles janitors, dramatizes an important corollary to the lesson presented by "Amores Perros."

The feature film "Bread and Roses," which portrays the unionization of Los Angeles janitors, dramatizes an important corollary to the lesson presented by "Amores Perros."

"Bread and Roses" is the story of a poor female janitor supporting her two children and her unemployed husband, who needs surgery they cannot afford. She cannot miss even a day of work for illness, much less take the risk of going out on strike.

She helps her younger sister gain illegal entry into the United States and goes to great lengths to get her a job as a janitor.

The third main character is the union organizer, an idealistic young man who urges the janitors to go out on strike, even after other strike supporters they work with have been fired for their activities. The union pays the young man his salary regardless of whether the janitors succeed or fail in their fight to unionize.

The younger sister confronts the organizer with a challenge I wish more attorneys would think about before they urge their clients to reject reasonable settlement offers: What do you have at stake?

"Amores Perros" and "Bread and Roses" both vividly demonstrate that conflict advocates, whether dogfight promoters or union organizers, stand to gain a financial or emotional payoff from fanning the flames of the contestants' anger and aggression, sometimes at the expense of the contestants themselves.

What do the promoters themselves have at stake? Like defense attorneys, they get paid either way. Like plaintiffs' attorneys, they have a pool of other contestants so their success or failure does not ride on one fight.

When attorneys advise clients on the advantages and disadvantages of a proposed settlement, they have less at stake than their clients do. The plaintiff's attorney on a contingency fee who encourages the injured plaintiff to reject a proposed settlement has a portfolio of other cases waiting back at the office and can afford to take a few cases to trial and lose.

The plaintiff, on the other hand, might prefer to be made whole, if only somewhat, rather than be further gored by a costly and unpredictable judicial system that does not always dispense justice.

Similarly, the defendant may not, in the heat of self-righteousness, want to consider the possibility of facing a judgment that includes punitive damages on top of its own attorney fees.

Attorneys who encourage their clients to roll the dice would do well to ascertain that their clients thoroughly understand what is at stake and can really face a loss without blinking, as perhaps their attorneys can.

The "Sopranos," the HBO television crime family show that draws viewers to their sets on Sunday nights, provides a plethora of dispute resolution situations in every episode.

Here, there is no outside provocateur; the aggression is generated internally. Homicide, or the threat of it, appears to be the conflict resolution method of choice.

When Tony, the protagonist of the series, wants to persuade the much-younger, still-hopeful woman with whom he was having an affair that he does not want to hear from her again, he couples words with choking. Soon the dispute is over, and it is clear she will not darken his doorstep anytime soon.

The season finale of "The Sopranos" demonstrates two other conflict resolution methods. In one scene, Tony and his wife disagree on the appropriate school for their delinquent teen-age son. Tony wants to ship the young man off to military school that will shape him up. His wife wants to send the boy to a school for children with special needs so he can get help for his rebelliousness.

Their chosen method of conflict resolution is shouting at each other at the tops of their lungs until one capitulates. His wife is tough, but Tony is tougher and louder, and in the next scene, the boy is wearing his very own military uniform.

In another scene in the season finale, Tony hosts a "sit-down" between two mobsters, Pauly and Jack, over how much booty Jack must split with Pauly. Tony will help them negotiate a mutually agreeable split.

This episode could bring mediation to the masses, I think. It could be a wonderful opportunity for millions of viewers to see the benefits of cooperation and compromise.

What promised to be a facilitative mediation, however, soon turns into a binding arbitration: The two men go one or two rounds of negotiation with no progress, at which point Tony loses his patience and proclaims what the split will be.

That scene reminds me of horror stories I've heard over the years about expensive, self-impressed neutrals who deign to mediate disputes for benighted clients.

After a few rounds of discussion, such neutrals quickly determine what the appropriate compromise should be and spend the next few hours hammering each side into agreeing to that number.

If the parties don't acquiesce, the neutral leaves.

Neither of the above examples epitomizes the collaborative process the rest of us know as mediation. One of the hallmarks of a good mediator is humility: the recognition that the resolution of the dispute may not exist at the commencement of the mediation.

Only with patience, respect and determination can the mediator help the parties craft for themselves a settlement that serves their interests so well that they choose it over litigation.

Like Tony, some mediators don't have the patience or humility to facilitate a conversation in which each side understands the other's position and interests and, out of that understanding, craft a mutually acceptable compromise.

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