

The-Spaces-We-Bargain---Part-2

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SPEAKERS

Chris Casillas, Emily Martin, Matt Greer

- C** Chris Casillas 00:09
- In our last episode, we explored the various options now available to parties and thinking about where to conduct your next negotiation session. Recognizing that the forum in which you bargain can be as impactful as the merits of any underlying proposals, we began this series of podcasts with the basic question of what will be the best forum for you in each of your next negotiations. In this episode of the PERColator, Matt, Emily and Chris try to advance this question at least one step further, by offering some tools and criteria that you might utilize in considering how to answer this question about the best forum to negotiate, recognizing that the answer may change from one negotiation to the next, or within a particular negotiation itself. Relying on the work of several scholars in the dispute resolution field who have posed a similar question, this episode seeks to offer our listeners some criteria to help you better assess whether, for example, an upcoming negotiation may be best suited for an online format, rather than an in person meeting.
- M** Matt Greer 01:23
- Hello, and welcome to the PERColator. My name is Chris Casillas. I'm one of the co-hosts of the PERColator podcast and I'm joined again by my wonderful colleagues, Emily Martin and Matt Greer. Emily, how's it going today?
- E** Emily Martin 01:37
- Today is a great day. How you doing, Chris?
- M** Matt Greer 01:40
- I'm doing awesome. And it's always a pleasure and a fun time to get on our zoom here and record a podcast so good to be with you. How about you, Matt?

M

Matt Greer 01:49

I'm doing great too. I'm still riding the high of the energy from a lunchtime zoom that we had with the negotiation project folks, so I'm doing good from that. And looking forward to recording this episode as well.

M

Matt Greer 02:02

Yeah, we've been busy here at the negotiation project as of late with LERA sessions, and lunchtime zooms, and our podcast. So lots lots going on, but good to have all of you join us again here today. So we're gonna, we're gonna continue with kind of a mini series we've been doing that we launched in our prior episode, that was kind of inspired by the fact that here we are kind of coming up on mid 2022 here, two plus years into the pandemic. And, you know, while the situation seems to kind of evolve constantly, and it's really hard to make too many predictions about where we'll be in a couple months from now, let alone, you know, perhaps next week, you know, it is we are starting to see some things shift and open up a little bit. And some folks are, you know, starting to return to kind of in person negotiations and meetings and stuff. Others are still, you know, virtual. But we're starting to starting to see things mix up and, and a blending of some of these forums. You know, I think, a few years ago, pre pandemic, the thought of like doing regular mediations and negotiations online, probably didn't cross anybody's mind. And now it's kind of part of our lexicon and part of our day to day existence. And so last time, we talked about, you know, the fact that we are moving into this new world where there's going to be a range of options, a range of different forums to think about where we conduct all sorts of different types of negotiations and meetings, whether it be a Labor Management Committee meeting or a full contract bargain or trying to settle a grievance arbitration. And we talked about, you know, the fact that we could go back to kind of a full traditional in person meeting, we could use kind of online video conferencing software like zoom or teams that we've been predominantly using the last couple of years, we could have some hybrid options where maybe some people are online, some people are physically in person. And then of course, we have those kind of more traditional, I guess, quote, unquote, old school methods of, of email, text messaging, those those kinds of things as well. And maybe some of the old, older kind of video conferencing technologies that kind of existed, pre pandemic, like Skype or something like that. So lots of different lots of different forums to consider and think about. And today, what we wanted to kind of pose this question for all of you and think about as we kind of move forward in this conversation is, how might you go about deciding, you know what forum is best for you, in your particular circumstance, you have all these options now. There is this kind of menu of different things to choose from. And instead of just kind of shooting from the hip, or kind of defaulting into one into one particular space, are there some criteria that you can use to kind of evaluate what might be the best setup for you? So with that, I'll turn it over to my colleagues to maybe kind of inform us a little bit about maybe some different criteria that we might use to think about that question.

M

Matt Greer 05:33

Yeah, I could take it from there, I guess, unless Emily you want to share something along the way, but I think it's a, it is an interesting way of thinking about it, I think most of us, including me, I kind of just do a kind of a gut reaction, on the spur of the moment, before I go into a

conversation, it's like, it's just, you know, what tools I have available, I'm just gonna go with it. And it'll give a whole lot of thought to it. But I think, thinking about some of the criteria that might go into how you evaluate whether or not one of the forums is better or not so great for the various conversations you'd have was really helpful. So one of the things that was out there was the meta concepts, and one of those has to do with like the richness, the media richness of the forum that you're looking at. What we mean by that is like the environments in which we can engage and track others through multiple forms of communication. So you might want to think of all your senses. Can you hear everyone? Do you want to hear everyone? Is their ability to mute? To kind of have that good separation between voices, can be, can be valuable. How can you see each other? Are you going to, is it a mechanism where you can see each other really clearly, individually? Or is it going to be more important to see the group, the whole, the whole room versus individuals might be another factor? Can you gather those nonverbal cues? Do you have a visual sight line where you only see somebody's face and you don't see the rest of the body, so you can't get that body language and the eye contact pieces? Kind of determining which of those would be more important for the conversation you're going to have and whether or not your your forum is going to provide for that can be helpful to be thinking about. So I think we kind of default to think that the in person or more visual oriented kind of forums have the higher media richness where you can see everything and kind of get the full full perspective on that. But I think that there's a little bit of a counter that. I think, Emily, you mentioned now and maybe maybe you want to speak on that I think the you made a great point about sometimes a phone call, which may not have same media richness can be valuable, too. So I think you've kind of expressed that in an interesting way in our pre-call. So do you want to talk a little more about that?

E

Emily Martin 07:41

Well, yeah, and actually, I want to, I want to step back, I think, I think the premise that in person, you can read the body language better, has been this, this myth that I have heard since the beginning of the pandemic. And I want to just counteract with that point with the idea that actually, I think when everybody's on Zoom, you can read body language differently. So this isn't even gotten to the phone yet. Right? But when when you are online, and everybody is in their own little box, and you can see all those faces, you can look at everybody's face at the same time, which you can't do it in person meeting when you're sitting around the table, and you have to turn your head and like staring somebody sitting in the corner if you want to see what their reaction is. So before we even talk about the richness of the medium, I think it's different and I think different, different forums give us different types of information. And I think that can be really interesting. But when I think about video versus online, I do think that sometimes, and I think some of the conversations we've had within the hearings world about credibility determination, there was such a freak out in the beginning of the pandemic, about how are we going to have online hearings? How do you judge the credibility of a witness? And and, you know, I went to a training and there was a speaker from New York, and she pointed out, you know, a lot of what we do in judging credibility is based on body language. And there's a lot of implicit biases that are built into that. And the research is showing that actually listening to the voice can be a better judge. Well actually, not even listening to the voice, listening to the words and do they make sense? But that was her point, you know, does does the testimony makes sense? In light of the other testimony and judging credibility like that, but I've heard in other places that voice can be a truer indication than body language, body language can steer us wrong, and voice can be a piece of it. And that also reminds me of I'm that of the generation where I spent a lot of time on the phone when I was a teenager. And I noticed that sometimes a phone call can feel more honest. There's less less of a facade of facial

expressions and kind of keeping your mask on that when you're talking on some when you're talking on the phone with somebody. Sometimes you can have just actually more direct, more personal, more more just just more rich conversation because you don't, because he just remind you of like when you were talking to a friend or when you were talking to a family member on the phone. And so I just want to counteract the idea that rich, more rich environments are better. In some ways, I think they add more layers. And there's more ways to misjudge and misconstrue, and to put more assumptions on to things that aren't necessarily the right information. They can lead us astray. So I think I think in our earlier conversation I was making the point that that more rich is not necessarily and this is always a better forum for every conversation.

M

Matt Greer 10:44

Yeah, I really liked that point, Emily, because I think sometimes we we default into thinking that a more kind of media rich environment, like in person or online, when we can see people and kind of interact with them, and kind of actively watch what's happening is kind of always going to be better. But that's not that's not always the case, as you point out, sometimes a quick phone call where, you know, we don't have to worry about your appearance, or how we're looking or, you know, our hand gestures or anything like that, you know, can just be more of a focus on, you know, what's being said, in the substance of that and we can kind of just hone in on that, rather than worrying about some of these extraneous things can be a really significant advantage that we don't always consider. So I'm really glad you brought that point up. I think another, you know, if we're talking about kind of criteria here, I think another thing to kind of give some consideration to or some thought to, in considering kind of these different forums is how much interactivity you want, how much engagement in the moment that you want? Obviously, some spaces are better for this than than others. For example, you know, email is a low kind of direct engagement forum, because you know, you're not communicating in real time with somebody else you are communicating, you're conveying information, but you're not doing it at the same time as the other person who may be reading the email some time later, and then responding to that email even later than that. So I think we want to kind of use that also as a, as a factor for considering kind of what what environment might be, might be best, sometimes you really need that immediate interaction, you need to kind of be able to read the room or get some instant feedback over a thought or a proposal. But other times, maybe it's it's best, where you can create a setup where somebody can kind of just sit with something for a while and digest it and react later on. And so maybe using a medium, like email might be better in some circumstances. So I think that's another way of kind of thinking about how we might choose some of these different different forums. Are there any other questions, you know, that we can maybe kind of suggest to the listeners, Matt and Emily that they might kind of think about as they're going through this, now that now that we're kind of faced with this prospect of having to kind of pick between so many different places to conduct our negotiations, maybe a list of some questions that we might go through and ask ourselves as we as we, when we do have those opportunities to kind of be more deliberate about this, how we might kind of make the quote unquote best decision?

M

Matt Greer 13:49

I think one of the things that we've touched a little bit on this, in the last episode was thinking about what you're going to be talking about what it, what is going to be the content of your negotiation or your conversation? And thinking about that and figuring out and kind of thinking

thoughtfully about how that will come off in the various types of forums, you know, is this going to be one where the eye contact is going to be really important? Is it going to be one where having a really genuine phone conversation might be the more appropriate forum for this for this type of conversation? You know, how many people are going to be in that, that, you know, having that conversation, do they need to, need to have their their voices heard? Those can be really important things to thinking about the actual content of it. I think classically as a mediator at PERC, you know, I think about the grievance mediation where somebody has been disciplined or dealing with that type of a situation versus a contract mediation where it may be a totally different type of environment. And, you know, they might have different advantages and disadvantages to the various types of forums, given what you're going to be talking about. So definitely seems to be one of the key ones that I think about.

E

Emily Martin 14:55

Yeah, I think when we think about some of these things, especially when you start going into online and email, it makes you, it lets you play around with time and space, right, you don't have to be in the same space, you don't even have to be processing the information at the same time. And that can have a great benefit, it can have... people can have a more, a better chance to think through things or sleep on something or respond, not in the moment. And that could lead to a richer, fuller, more considered response. But gosh, there's some magic of today's the day, this is the one we're gathered all here together, let's get this thing done. And it's hard to sometimes corral all the people that should be part of a conversation together, unless you have the day to make it happen. So I think that can be that can be really important as well. I think, you know, one of the things, one of the criteria is like the relationship and trust, and is it easier or harder online, or in person, I think we're all still learning how to be better using all these different tools, but in some ways, we're also learning how to weaponize, and and you can signal, I think I think there's something important about sometimes people might need to turn off the camera for a particular reason, and I think it's really important to have that latitude. But that can also be a way to, that can be a way to send a message, it can be a way to disengage as a signal. So I think all of these things are are parts of what we're learning as we're getting better at what we're doing. And I guess one other factor I was thinking about, is that I always sort of think that people approach collective bargaining in different ways, and often the way that they approach collective bargaining is influenced by the job and the profession, and the industry they have, how they solve problems, in their day to day life in their workplace, influences how they solve problems at the bargaining table. And I think that for some, these tools, they're more or less happening in the rest of their their life, if there are, if they are a workforce that do not sit at a computer, and do not spend a lot of time in online meetings, then the idea of doing negotiations that way can feel very different, versus a workforce that that doing a Zoom meeting 24/7 is the way to do things, and everybody's used to doing it. So I think the idea of, of how we think about these different forums, might be industry specific, in some ways, or there might be some some groups of employees that are more likely to favor one method versus another method. And it's not just in these abstract criteria that could apply to anybody sometimes it's very context specific. Does that resonate with the two of you? Does that make any sense? Chris? Matt, what do you think?

M

Matt Greer 17:53

Yeah, no, that that makes a lot of sense to me, I think that's another kind of layer here. We have to, we have to take into consideration of, you know, how comfortable people are in these

different forums, what they're used to. And then also how that maps on to kind of these hybrid spaces of, you know, some people being online, because that's where they're more comfortable now, after all this, you know, time, versus people who really need to kind of physically be present and the differences there and how that interact, how that interacts and kind of interplays against one another. And I really like too how you mentioned kind of this, with the relationship piece that really got me thinking about, you know, in in zoom and teams, a lot of times people for various reasons, and sometimes really good reasons, just because of their personal circumstances or situations need to keep their cameras off. And you know, that can, other people can kind of make assumptions about, you know, why somebody has their camera off. That may not be true at all, but can impair the relationship if there's not some understanding or discussion around that, which isn't a dynamic you have in person because we don't, you know, when we're physically present, we don't have a way to, you know, turn off our screen, so to speak, we're all there. We can all see what what we're doing. And that's a very different thing online, and it can have an impact on the relationship, in part because a lot of times I think people assume other people are doing things for for different reasons that may not be true, and without a good discussion around that, it can be a potential problem, so I really liked that you bring up that. Matt, any any last minute thoughts or you want to close this out?

M

Matt Greer 19:43

Yeah, no, I think you you all covered it. You know, I was thinking that those comments you just made Chris that, you know, some folks, I was thinking back to a mediation I had a long time ago where somebody made a comment about how somebody on their team, like when they wanted to deliver bad news they would use a certain way of doing of that, they would make either, you know, it was kind of a joke, I can't even remember what it was, something like, maybe it was a phone call was like, "Oh, I know when so and so just calls me out of the blue, they're gonna, they're gonna blindsides me with some some bad news. And so I just know, that's what is going to happen when they use, when they give me a call versus if they do something else or send me an email." So I think it's I think it's this kind of ties into the thinking of the forum and what message you're sending, you know, do you do fall into those trends where you're sending messages by by how you communicate with other with other folks? And, you know, how that plays into the relationship, so can be important. Chris, I know that was there a couple resources out there that people might want to be thinking about if they're they want to dig a little deeper into this?

C

Chris Casillas 20:41

Yeah, good point, Matt. And we'll put this in the show notes for today. But some of the concepts here that we spoke about today, we borrowed from some articles that are in The Negotiators Desk Reference on a couple of articles by Schneider and McCarthy about choosing among modes of communication. And then a few other another article by Noam Ebner about negotiating via email that borrowed some of the concepts from today to kind of think about how we might go about these, you know, evaluating these different options, so I do want to make a shout out there to to those authors who have who have informed our discussion for today. So and we'll, we'll capture that in the show notes. So thank you guys.

M

Matt Greer 21:31



Excellent. Thanks.