



The Kalon ADR Center. Create Value, Not Conflict.

The Kalon Law Firm, LLC
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**THE LUMINIS:
INSIGHTS FROM THE KALON ADR CENTER**

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THE NEXT STEP IN MEDIATIONS

Most of us understand negotiation as a process of advancing your position against your opponent's mutually exclusive position. Fisher and Ury, of the Harvard Negotiation Project, advanced our understanding of negotiation by revealing in "Getting to Yes" that positions are proxies for interests, and a negotiator can reach the best outcome for her client by understanding the interests of her client and her opponent.

Often the mediator understands better than the parties the concept of interest-based negotiation and, if he is skilled, will help the parties realize their interests and lead them to resolutions that are more satisfying than a position-based win.

Interest-based negotiation is considered the gold standard by most mediators. But, perhaps, there is an even better standard.

I think there is: narrative-based mediation.

Let me explain with a story. I was recently in Bali. The roads are narrow, congested, and filled with a mix of trucks, cars, and scooters (which outnumber trucks and cars ten-to-one). Sometimes cars cut off trucks. Scooters always cut off cars and trucks, without eye contact, hand signals, or light signals.

The first time I saw this happen, as I was riding in a taxi from the airport, I was surprised

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and then even more surprised when my driver did not honk or show any sign of irritation. Our drive to my hotel was a flurry of scooters cutting us off. Not once did he honk his horn or raise his voice in anger. Instead, each time a scooter began to enter our lane, he slowed and created more space so she could enter.

I thought my driver was just a well-mannered person, but every driver of mine after him acted the same way. I realized that in Bali people have a different narrative about what is proper driving conduct than where I live. In Bali: be kind, give way, keep driving. In my home, it is something like: be assertive, block, honk.

This story brings me to the idea of narrative mediation.

We understand the world through the stories we tell. My hardship might be someone else's challenge. Where one person sees a failure, another might see a lesson. The more you think about it, the more you will realize the same set of facts is often understood very differently by different people, especially between cultures (which probably became obvious to you the first time you traveled abroad).

In Bali, if I had been asked to mediate road rules between trucks and scooters, I probably would have listened to their positions, asked questions to discover their interests, and tried to form the basis of new rights of way.

But the drivers and scooter riders of Bali had a better solution: they negotiated their own rules of the road based on a collectively held narrative.

A mediator can do the same with opposing parties in any situation by exploring the world views held by the parties, helping each side craft a shared story about the same set of facts, and resolve the conflict.

Think about that next time someone cuts you off.

Missed an issue? No worries. They are here:

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Want to Set Up a Mediation or Arbitration With Us?

If you have a case that you are unable to resolve, we can help you reach an agreement with your opponent, create value for your client, and close your case, avoiding the expense, time, and uncertainty of trial (a resolution method of last resort). We use Doodle to conveniently set up hearing dates and can set dates within a forty-five day window.

If you need a date immediately, we will work with you to make it happen.

Contact Christopher P. Kriesen at ckriesen@kalonlawfirm.com

The Kalon ADR Center gives 5% of its revenue to a fund for graduates of the Hartford Youth Scholars to help further their education needs.

The Kalon ADR Center is recognized as one of “Hartford’s Finest, 2019” by the Hartford Courant. Attorney Kriesen is recognized by Best Lawyers, 2020 and Super Lawyers, 2019, in ADR.

THE PEOPLE OF THE KALON ADR CENTER



Attorney Kriesen is the founder and principal of Kalon. He has been practicing law as a trial and appellate lawyer for over twenty-years. He completed Harvard Law School's Advanced Mediation Workshop at the Program on Negotiation. He serves as an Attorney Trial Referee, Factfinder, and Arbitrator at the Hartford Superior Court and Special Master at the District Court, CT. He completed an eight-class, one-year program at the Stanford GSB. He holds a Juris Doctor from The University of Connecticut School of Law. He is recognized as a Super Lawyer for ADR.



Demetra Turi is a member of Kalon's founding team. She manages business operations at The Kalon Law Firm. Prior to joining the firm, she gained more than 27 years of experience at an insurance defense firm in Hartford. Her many roles there included legal assistant, IT manager, bookkeeper, and billing manager.

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