

MONDAY, JULY 21, 2025

How a TV show helps resolve disputes

By borrowing George Costanza's Festivus tradition of the "airing of grievances," a mediator has found that letting litigants vent their frustrations can defuse tension, restore rationality and unlock resolution — even in the most contentious legal disputes.

By Joann Rezzo

If you watched the 1990s sitcom *Seinfeld*, you may remember George Costanza's idea for a new holiday called Festivus. Festivus involved bizarre things like "feats of strength" (such as living room wrestling), but one of its more memorable features was the "airing of grievances," in which celebrants sat around a dinner table taking turns telling each other all the ways their friends have disappointed them over the past year.

Who could have ever predicted that Festivus would become a feature of my legal practice? But in fact, when I represented either plaintiffs or defendants in litigation, I would often find myself relying on Festivus to help successfully resolve their cases.

Now I'm a mediator, and I regularly incorporate a "Festivus Phase" into my process. Granted, Festivus isn't going to work for every mediation — it is highly customizable and dynamic — but I have found it to be remarkably instrumental in helping resolve even the most seemingly impossible disputes.

How it works

The Festivus process is simple: Let the parties air their grievances, then watch the temperature gauge go way down. When litigants are able to fully unburden themselves, they often morph into rational beings capable of listening to different perspectives and making concessions on formerly intractable differences.



Shutterstock

The airing of grievances can be cathartic, enabling angry, hurt and frustrated litigants to focus on the business of resolving their disputes. Clinical research bears out the benefits of Festivus. In "Emotional Intelligence: Why It Can Matter More Than IQ," Daniel Goleman writes that when a person is highly emotional about an issue, they can undergo an "amygdala hijack," losing access to their prefrontal cortex, the part of the brain responsible for rational thinking. They need help regaining control of the amygdala to start thinking clearly again. When

they verbalize their feelings, they can diffuse the power of those emotions.

The process

A week or so before a mediation begins, I do pre-mediation calls with each side to get a sense of things. I want to understand hot-button and walk-away issues for both sides. This is an important step, whether the case involves a multimillion-dollar business deal or an hourly worker who was fired from his job.

During one such call, I quickly saw that — on one side of the dispute — the parties and counsel were so

angry with the other side they couldn't even think like businesspeople when it came to considering settlement. The multi-million-dollar case had been pending for years, with two prior failed mediations, and our mediation was to be the "last shot" before it went to trial.

Given the palpable animosity, I chose to dedicate time at the beginning of the mediation to "Festivus." In separate sessions, I asked the litigants and their attorneys to tell me everything the other side had done over the course of the litigation that bothered them. They loved

this idea, animatedly disclosing all the “horrible” and “egregious” things parties and attorneys on the other side had done.

Amazingly, it worked. I could actually see the tension dissipating as they blew off considerable steam. Once both sides had gotten the toxins out of their system, I turned the conversation back to the business of the day. We ended up reaching an agreement by the end of the full-day session. Given the bad blood between the attorneys, however, they asked me to stay late to help them finalize a long-form settlement agreement. By 11 p.m., after much back-and-forth on the details, we had a signed agreement. Festivus had worked!

I often invoke Festivus when mediating workplace matters. Employee relationships frequently break down because of workplace dynamics: workers come to contretemps over seemingly minor matters; C-Suite executives disagree about the management or direction of their company. When I do this type of mediation (I refer to it as a “guided discussion” so it feels less intimidating), a good deal of time may be spent in a Festivus-type session that brings the parties together in the same room, with each having the opportunity to tell the other person how their actions have affected them.

I always exercise a certain amount of control and “rule enforcement”

during this Festivus phase. It may seem risky to bring warring parties together, but I’ve found it to be extremely effective. In some sessions, both sides have cried and later laughed together. If they start getting angry, we may have separate “cooling off” sessions. At the end of the day, we always seem to reach a place of understanding, and the employees leave with a specific, achievable plan for how they are going to work together in a manner that is constructive, honest and transparent.

Festivus can also help with highly emotional litigants, individuals who just need to be heard. When they are able to tell their own stories, in their own voice, such litigants can feel like they’ve had their “day in court.” The “airing of grievances” allows them to move on, put on their “businessperson hat” and discuss possible settlement options clearly and rationally. They might never have been able to do this without first having a “Festivus” phase.

Festivus for the rest of us

Even litigators can work Festivus into client relations. Over the course of my 27-year career as a litigator, I learned that highly emotional clients often had strong knee-jerk reactions to certain things – such as overly intrusive discovery, or an “offensive” demand or offer made during mediation). I found the best approach

with such a client was to let them blow off steam about how they felt.

I knew that if I tried to cut them off, to explain that what they were seeing was actually “normal,” they would overreact and become argumentative. If instead I let them have their say and get the anger off their chest, they would be able to hear me as I explained that what was happening was normal and expected in the litigation process. There’s a place for Festivus not just in mediation but in all legal practice.

Here are a few ways to use Festivus with highly emotional clients, whether in a legal practice or in mediation:

(1) Pay attention to what the person is saying and particularly to what he or she seems to be feeling. Show that you are listening, genuinely interested and “empathetic,” regardless of whether you agree with what the person is saying.

(2) If the person is angry or tearful, don’t run away from or avoid the emotion. Rather than avoid or ignore it, let the person know that you recognize he or she is upset.

(3) Don’t try to calm the other person down just to make yourself feel more comfortable. Remember that he or she has good reason for being upset.

(4) Don’t get defensive. You did not cause the problem, but getting defensive will only make it worse.

Work to keep things focused on the problem at hand.

These skills should help win the person’s respect and trust.

We can all thank Seinfeld for showing us just how powerful an “airing of grievances” can be! And we can leverage the power of Festivus to be better advocates for our clients, whether in litigation or mediation.

Joann Rezzo is a neutral with Signature Resolution with more than three decades of litigation experience representing both plaintiffs and defendants and serving as a full-time mediator. Her specialties include employment, business and commercial litigation, fraud, insurance, personal injury, professional malpractice and tort disputes. She can be reached at jrezzo@signatureresolution.com.

