

February 2016

**BARRIERS TO SETTLEMENT
LESSON #2**

ATTRIBUTION BIAS

One common barrier to settlement is attribution bias. This causes systematic errors when people evaluate or try to find reasons for their own and other's behavior. In a litigation dynamic, the "other" is always the "adversary" and therefore lawyers and their clients tend to ascribe the worst to them.

You can combat attribution bias if you do this...

We attribute our own successes to our intelligence, knowledge and skill; whereas we blame our failures on external forces: bad luck, sabotage by others, etc. We apply those principles in reverse when we view the action of others. They succeed because of luck and they fail because they are stupid or lazy. The truth is we don't always know, and are not always good judges about the motives of others. Because we have these biases, though, we can get stuck making poor decisions.

Don't let your biases cloud your judgment in settling your case. Instead, deputize a trusted third party (your neutral) to convey any bad news or pivotal evidence or arguments on your behalf. Typically, your neutral is not ascribed with the same hostility or skepticism as "the other". That means, she can convey your offers or information in a way that will likely be better received than you can.