Negotiation Problems
and Possible Solutions

The Case of the Squabbling Authors:
A "Med-Arb" Response

Stephen B. Goldberg

Editor's Note: From time to time, Negotiation Journal publishes brief descriptions of negotiation problems, followed in a subsequent issue by our readers' ideas on possible solutions to those problems. In the April 1990 issue, we printed "The Case of the Squabbling Authors," a dispute between two scholars over whose name should appear first when their article was published. The problem was an adapted version of a case that originally appeared in Dispute Resolution by Stephen B. Goldberg, Eric D. Green, and Frank E. A. Sander (Boston: Little, Brown and Co., 1985). Ironically, shortly after the Negotiation Journal publication, one of the Dispute Resolution authors, Stephen B. Goldberg, was faced with a real-life version of the "squabbling authors." Following is Professor Goldberg's description of how he handled the case.

Less than two weeks after the publication of "The Case of The Squabbling Authors" in Negotiation Journal, I was presented with almost precisely the same case. Sociology professors Arthur Horton and Ruth Johnson (the names are fictitious and the discipline changed) had, over a period of approximately three years, collaborated on a lengthy article. The article had twice been rejected by prestigious journals, accompanied both times by extensive criticisms. Each time, the authors substantially revised the paper to respond to those criticisms. When they were ready to resubmit it for publication, a dispute arose over who should be listed as the first author. Originally, they had agreed that Johnson, a former student of Horton and currently an assistant professor at a different

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university, would do the majority of the writing, and would be first author. According to Horton, however, the numerous drafts prior to journal submission, followed by the two rejections and the extensive criticisms, necessitated substantial rewriting, and he had done most of that work. Thus, he claimed, he was entitled to first authorship. Johnson denied Horton’s claim, contended that the bulk of the writing in the current version was hers, and insisted that their original agreement regarding first authorship was still valid.

Both authors wanted a prompt, inexpensive resolution of the dispute, and agreed that a mediated outcome was preferable to a ruling by a third party. They were doubtful, however, that mediation alone could succeed. Hence, they chose a half-day mediation-arbitration procedure (“med-arb”) in which I would attempt to mediate a mutually satisfactory outcome. If that were not successful, I was to provide an immediate arbitration decision that would be final and binding.

During the initial joint session with the disputants, I learned that Horton had previously proposed, and Johnson had rejected, an alphabetical listing—Horton and Jones—with a footnote stating that each author contributed equally to the paper. Johnson’s reason for the rejection was that if Horton’s name were first, the paper would generally be referred to as his, and the footnote would not alter that perception. Both had agreed, however, that whoever was ultimately first author would accept such a footnote as a means of softening the other’s defeat.

In my initial private meeting with Horton, he promptly made two proposals, each contingent on his being senior author. Initially, he offered to provide Johnson with a body of data which he had collected. She would be free to analyze those data, and write an article on which she would be the sole author. Alternatively, he had two other papers in preparation, and he would allow Johnson to be second author on both of those, with as much or as little actual contribution by her as she wished.

Before presenting these proposals to Johnson, I explored with her, also in private, what her interests were in this dispute. She told me that her first interest was in having justice done: She said she was responsible for most of the work, and therefore should be first author. She also indicated an interest in what she called a “good-looking vita”; her research had been going through a fallow period, and her prospects for gaining tenure would be improved if she had an article published with Horton on which she was senior author.

We then discussed Horton’s two proposals. Neither of them, she decided, furthered her interest in justice. Still, either could further her career more than being the first author on the article in question. Under one proposal, she would have one paper with sole authorship and another (the disputed one) on which she was second author; under the other proposal, she would have three papers (including the disputed one) on which she was second author. Either of these possibilities, she said, would improve her tenure prospects more than a single paper on which she was first author.

I had no way of assessing the correctness of these assumptions, so did not comment on them. I did, however, point out to Johnson that if Horton would not agree to her being first author, and I were required to decide the dispute, I could not do so on the basis of which author had in fact done the bulk of the writing. To do so would require that I spend many hours analyzing