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**"Oh, By The Way"**

We drive hard to numbers. Sometimes too hard....and in the process we too often overlook many of those terms that may be important to clients and resolution. I call them the "Oh By the Ways". I’ve written about this in *Mediation News* before but it happens so frequently that I feel obliged to revisit it.  I just had it happen in a case I mediated in Philadelphia. Parties, tending to duck some difficult discussions - conflict is difficult enough, thank you very much, without having to sit down with our adversary and getting into the nitty gritty of even more flummoxing detail - put it off, hoping that the noise of final drafting will absorb the conflict entailed in really getting to the bottom of important issues.

In the Pennsylvania case, it was simply an issue of the nature of confidentiality and whether anonymous reporting would be permissible.  Often, the issue is more complicated. Part of the neutral's job is to bring into the stream and facilitate the difficult dialogue that needs to take place in order to serve what should be a common goal of finality and closure, which more often than not includes the "Oh, By the Ways."