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Beware the Stalemate of World War I

A study in failed negotiations and unreasonable expectations

By Steve Block, Esq.

There was a widespread belief that WWI would be over quickly. Based on the Schlieffen Plan, the German Government thought it could sack Paris in 42 days and then turn their sights to the eastern front. The folly in their expectations was aptly stated by Kaiser Wilhelm II who quipped, "Paris for lunch, St. Petersburg for dinner."

Of course, it didn't turn out that way. After storming into Belgium, things went bad for the Germans. Artillery, mustard gas, and mud foiled the expectations of a quick victory. The French fared no better, thinking they could flank the German Army and stroll into Berlin. They lost 27,000 soldiers in a single day of fighting. The Russians spoiled the German expectations by advancing into Prussia before the German Army arrived.

Actually, the first stalemate of WW I occurred shortly after the assassination of Archduke Ferdinand in Sarajevo when the Austro-Hungarian Empire sent the infamous Ultimatum to the Royal Kingdom of Serbia. It was a take it or leave demand, a non-starter, that further fanned the flames and guaranteed the conflict that became WWI.

The Great Stalemate refers to the trench warfare that prolonged the agony with no real progress in ending the war other than by attrition. The failed negotiations and seemingly endless carnage during the Stalemate claimed 15 million lives and 20 million casualties.

Applicability to Negotiations and Civil Litigation

References to war and peace are not just interesting from a historical viewpoint, but offer timeless lessons that apply to the process of civil litigation and the resolution of disputes. It is not uncommon for the "tough negotiator" to open a mediation session with a seemingly uncompromising position--not unlike the rigid Ultimatum of the Austro-Hungarian Empire.

There is no suggestion here that one should not be a tough negotiator in holding the line where necessary or that one should not go to trial (war) just because there are risks associated with it. But before going to war, it is prudent to exhaust efforts to explore whether there is room for compromise and settlement. The ultimatum approach to negotiations is often counterproductive and guarantees failed negotiations.

When negotiations result in a stalemate, one must fully explore whether there is any way to break the impasse. Creativity, patience, re-identification of goals and means to achieve them can help move the ball forward. The best trial lawyers, in my view, are also the best negotiators. They are thoroughly prepared, and through patience, creativity and well thought out negotiating strategies often achieve excellent settlements for their clients. And in the face of a stalemate, they have developed the skills to know when, in fact, the only way to break the impasse is trial.

Fueled by emotionalism and what would become later characterized as the Great Game, the actions of a few, missed whatever opportunities they might have had for risk avoidance, and thereby launched the world on one of the most destructive endeavors ever known to human-kind. Emotion, miscalculation, overconfidence, and inflexibility unfolded into a horrific collision of empires that killed millions of people. Certainly, there was no lunch in Paris or dinner in St. Petersburg.