

SUCCESSFUL MEDIATION

Thank you for your interest in my services. I look forward to working with you. I am fortunate to have 31 years of experience adapting the mediation process to many different situations. I want to give you the full benefit of this experience so you get what you need from our work together. Please take a few minutes to review my recommendations and consider their application to your situation.

The **fundamental goal of mediation** is to fully explore all possibilities for a mutually satisfactory agreement. For this to take place, participants have to be ready to:

- acknowledge the past without getting stuck there,
- work constructively in the present, and
- imagine possible steps to move forward into the future.

Beyond this goal, if the participants are willing, mediation offers the potential for peace through a transformation of the feelings and judgments about the situation and the people. This can be an outcome of great value....to experience greater peace.

People often ask me (a) whether mediation will work and (b) how long it will take. The honest answer to both questions is, "It depends." The specific answer depends upon three things....

- Sufficient Motivation – *How much do you and the other side want to resolve this and move on?*
- Clarity of Understanding – *Are you willing to make a full effort to understand the situation, focus on what is most important, develop options, and assess them?*
- Effective Communication – *Are you willing to overcome any barriers that get in the way of constructive, respectful communication between the participants?*

In essence, success in mediation depends, upon the level of your motivation and effort. My work is to structure and "hold" a physical, temporal, and psychological space. This gives you the opportunity to develop clarity and communicate so you can explore all the possibilities for a mutually satisfactory agreement. Your work is to find and sustain sufficient motivation so that you make a full effort and persevere in the face of any challenges.

Understand What Is Important

Align Your Words and Actions With Your Intent. It is critical to take time and reflect upon what is most important so that your behavior toward the other parties serves your highest priorities. In the midst of difficult conflicts it is possible to become reactive and behave in ways that fail to serve, or even harm your own interests. For example, I have seen parents who love their children and would give up their life to protect them, remain so stuck in their hurt and anger toward the other parent that they act in ways that produce emotional trauma in their children's lives....the exact opposite of what is most important to them. I have seen employees who want to protect their job security speak before thinking in mediation and burn bridges that are impossible to rebuild leading to an inevitable parting with a supervisor and the organization.

Prepare to Negotiate

Do your homework. Before you enter mediation and between sessions, take time to consider what information is needed. Have relevant documents available for reference. Consider what you need to learn that you don't know. For example, if the issue involves the value of a piece of property, you don't have to spend money on a formal appraisal, but you might talk informally to knowledgeable realtors about a 'ballpark' idea of property value. If the dispute involves legal issues, a consultation with an attorney before entering mediation might be a good use of your time and money.

Stay Centered

*Don't react, go to the balcony**.* A centered state is a state of managed anxiety and emotional balance. From this place you can access all your resources....intellectual, emotional and spiritual. It is a place of full capacity and personal power. If a participant in mediation becomes very emotional and judgmental during the process, it is useful to know what to do to manage the emotional state so that feelings and verbal judgments are not expressed without considering that what you express is true, respectful, **and** helpful to move things forward. For most of us, it helps to have a space (a "balcony") where we can go to regain our perspective. We know from the growing field of neuroscience that the thinking and creative capacity of the neo-cortex in the brain is compromised when people "flood" with strong emotions like anger and fear. Too often in conflict that has persisted over time, people "marinate" in these powerful emotions...anger, resentment, rancor, despair, grief, frustration, fear, and anxiety. Use your understanding of what is truly important to pull out of unbalanced emotional states so you can make wise decisions.

Be Accountable. When you maintain a sense of equilibrium, it is more likely that you can examine your responsibility and accountability for the situation. This avoids the common trap of placing all the responsibility (in the form of blame) at the feet of the other person and holding yourself in an innocent victim stance. Many conflicts cannot be simply reduced to "Right vs. Wrong," with a "Victim" and an "Oppressor."

Communicate Constructively

*Be hard on the problem and soft on the people.** You can be firm in making statements about what is and isn't acceptable without accusations, judgments of others and disrespectful language. "I can't see why that proposal is fair and workable from my perspective." vs. "That's a ridiculous idea." You can remain focused constructively on the problem without personalizing by remembering to frame your questions and comments positively whenever it is possible and honest to do so. For example, shift...

- From "I don't want....." To "What I want is...."
- From "That won't work...." To "What might work...."
- From "You're a liar....." To "I need independent verification..."

*Bring them to their senses, not their knees.*** Threats often backfire, drawing counter-threats or defensiveness. A respectful warning about what you might have to consider, delivered **along with a clear, sincere affirmation of your desire to continue to work together**, is usually more constructive.

Additional Behaviors That Help

Do unto others as you would have others do unto you. There is a reason that the '**Golden Rule**' is one of the oldest and most universal of moral and spiritual teachings, existing in varied form in most of the major religions. If you don't like to be spoken to in a sarcastic, lecturing, or judgmental tone, then avoid speaking with that tone. If you want someone to consider what's fair from your perspective, then be willing to listen and consider what's fair from their perspective. Too often in mediation, people feel entitled to speak and act toward the other in less than respectful ways because, "that's how he treats me!" In the words of Mahatma Gandhi, "An eye for an eye makes the whole world blind." It only takes one person who refuses to become disrespectful to improve the quality of the conversation. And it is not only our words, but our body language and voice tone that convey meaning. Language in any form that conveys scorn, contempt, or lack of basic civility is unlikely to produce anything positive and highly likely to increase polarization, hostility, rigidity and defensiveness.

Firm on Goals, Flexible on Means. Remain firm in protecting what is important and flexible in considering ways to accomplish this. For example, if someone makes a proposal that you can't accept, rather than reject it outright ("That is absolutely unacceptable."), consider an alternate response that could keep the exchange going. ("That won't work for me, but I'd like to take your framework and apply it differently to see if there is something here that I can agree with.")

Keep Your Eye on the Prize, Not on the Rear View Mirror. Many conflict situations have taken time to develop before the parties see the need for mediation. It is common that participants have strong feelings about what happened and what others have done or failed to do. However, when the focus remains mostly on these feelings and one's judgment of others conduct, it is much more difficult to get traction and work toward a fair, workable agreement. Participants may have irreconcilable views of what took place. Therefore, be prudent about how you choose to air what happened and the impact upon you so you do not get "stuck" in the past, simply recycling hurt, resentment, and judgment. If you want to work toward agreement and closure, address the past and keep your eye on the desired outcome....a fair, workable agreement. This cannot be found in the past!

Think Options! What possibilities are you aware of to consider or formally propose? How have others addressed issues like this? Be resourceful and creative in identifying and presenting options.

Develop Effective Proposals. Consider how a proposal will be received by the other side BEFORE you share it. How can you present an option so it addresses your needs but also considers the needs of the person who has to agree? Look for opportunities to demonstrate flexibility and good will. Where can you make real or symbolic concessions?

Create a trustworthy support system so you are not isolated and anxious. It can be useful to have at least one person to whom you can turn to for support and guidance. Sometimes this is a trusted friend, family member, or spiritual teacher. Sometimes it is a professional advisor (coach, therapist, lawyer, accountant). Ask yourself if this is someone whose only motivation is to support your ability to make a good decision. Rather than giving you advice about what to do, this person will often help you by listening and asking questions that help you tap your inner capacity to be wise and resourceful.

Be Proactive. Let the mediator know if something needs to change to make the environment work better for you. This could mean a break, development of ground rules, or work in separate sessions (caucus) outside the presence of the person with whom you are in conflict. Ask for what you need in the process. Even the best mediator cannot read minds and hearts. If something isn't working, let the mediator know.

* From *Getting to Yes*, Roger Fisher and William Ury ** From *Getting Past No*, William Ury