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Mediation Links

Resolution Washington, Dispute Resolution Centers

Mediate.Com, news and mediation services

Association for

A Message from the WMA President

Dear Colleagues:

I hope that all of you are surviving the floods, winds, ice, snow and freezing temperatures of the last couple of months!

A few of the things that were happening during this time:

- The WMA is partnering with the EEOC, WA State Bar Association, UW and Seattle U. Law Schools, Interlocal Conflict Resolution Group and Resolution Washington in finding ways to increase the diversity of mediators in this profession within the state. We conducted the second meeting in January regarding what barriers minorities may be encountering in pursuing mediation as a profession. A course of action is being developed by the EEOC and will be shared with you as soon as we receive it.
- As a result of the November Region 2 (King Co.) presentation on Co-Mediation by Rina Goodman and Mark Kuciemba, a Co-Mediation Checklist was developed by the Seattle Federal Executive Board's ADR Consortium. This checklist is for use in the 30-45 minute pre-mediation co-mediator meetings and lists topics the co-mediators may wish to discuss with one another and their observers before the mediation. The checklist can be found at: www.seattlefeb.us\mediaiton.html in the Forms section.
- We were contacted by a Visiting Scholar to the UW from Canada. He was interested in learning about different models of and contexts for mediation. He was particularly interested in the various mediation models and wanted information on what models we use in the state. He recently received his PhD at the University of HI and is especially interested in the narrative mediation model as a result of his experience in the Hawaiian culture. If any of you are aware of anyone using the narrative mediation model, please let me know.
- We were also contacted by the WA State Bar Association who asked to meet about the future direction of mediation in the State of Washington. They are in the process of collecting data about the current state of mediation in the state and what design future mediation should take. They asked what they could do for us. We responded that they could ensure us that any final recommendation be a collaborative effort that includes all mediation organizations in the state. They enthusiastically agreed to that.

Conflict Resolution

**Federal Mediation
& Conciliation
Service**

**Mediation Training
Institute
International**

**Alternative Dispute
Resolution
Resources**

**Conflict resolution
Information
Services**

**ADR Section –
Assn. of American
Law Schools**

**Mediation Quotes
Reconciliation
should be
accompanied by
justice, otherwise
it will not last.
While we all hope
for peace it
shouldn't be peace
at any cost but
peace based on
principle, on
justice.
Corazon Aquino**

**We are all one - or
at least we should
be - and it is our
job, our duty, and
our great challenge
to fight the voices
of division and
seek the salve of
reconciliation.
Roy Barnes**

The WMA Board met on February 7th to discuss exactly that: the future of mediation in the state and aligning our organization's goals to that, as well as the Vision and Mission Statements. If you have any questions, concerns or input on these ideas or any of your own, please contact your WMA Regional Rep listed on the WMA website at www.washingtonmediation.org.

Chris Koser
President, WMA

Bridging the Divide between Lawyers and Mediators

As an attorney and as a mediator I straddle two worlds. People have often asked me if reconciling these two professional selves is difficult, expecting that the gravitational pull that each exerts must draw me in opposite directions. It does not.



Although one field goes so far as to frame itself as an alternative to the other, there is in fact much overlap and common ground between these two seemingly different fields.

There is much that each can learn from the other. Knowledge of one provides a deeper appreciation for the traditions and qualities of the other.

The problem though is that all too often attorneys and mediators view each other as rivals, not partners, in dispute resolution. There's plenty of mutual distrust and even open hostility to go around. What's interesting is that because I've got credentials in both worlds, each side trusts me enough to tell me what they think about the other.

Among the concerns that attorneys have about mediators are:

- Mediators will take clients and business away from lawyers.
- Mediators who aren't lawyers aren't competent to mediate disputes involving legal issues.
- Mediators who are lawyers want to play judge and make lawyers look bad in front of their clients.
- Mediators are a waste of time and money--all they want to do is get everyone to get in touch with their feelings, hold hands, and sing kumbaya.
- Mediation is the handmaiden of tort reform.

Among the concerns that mediators have about attorneys are:

- Lawyers want to put mediators--especially mediators who aren't lawyers--out of business.
- All lawyers care about is billable hours instead of helping clients achieve the best outcome possible in the client's interest, not the lawyer's.
- Because lawyers are adversarial, lawyers will make any bad dispute worse, destroying relationships and dissipating client assets.

Reconciliation requires changes of heart and spirit, as well as social and economic change. It requires symbolic as well as practical action. Malcolm Fraser

The practice of peace and reconciliation is one of the most vital and artistic of human actions. Nhat Hanh

Contact Us

Editor: Darrell Puls

Announcements:

Elections to the WMA Board of Directors will be held during the annual meeting on May 4 at the UW Law School. Please submit names and a brief bio to:

Joyce Ebbert

- Lawyers lack vision: the only outcomes they can see are binary--win/lose, black/white, good/bad.
- Litigation is an (un)necessary evil.

We need to talk!

Reprinted from:

<http://mediationblog.blogspot.com/2007/01/bridging-divide-between-lawyers-and.html>

Beware the "Conflict Replay"

By Dr. Tammy Lenski

Have you ever been in a disagreement or tough negotiation and couldn't get it out of your head later? Maybe you kept replaying all or part of it in your mind, or told someone (or several someones) about it. Maybe it stayed with you for days or even weeks. Maybe your frustration, outrage, righteousness or worry were fed by the replays.

Beware. **Replaying a dispute for yourself or others carries a price it may not be worth.** When you replay a conflict (or any situation, for that matter), you're actually creating a well-worn neural pathway in your brain. It's like a walk in the woods: If you take the same route every time, the path begins to get established and worn and easier to use. **The more we "walk" a neural pathway in our heads, the more it deepens and and the easier it becomes to follow that line of thinking next time.** For a little more on neural pathways and their relationship to memory and learning, try this [article on Brain.org](#).

That's a great way to memorize the multiplication table. But it's **an expensive trap in conflict and one that gets people stuck** time and again. I see the results with too much frequency in my mediation work. It generally sounds something like this: Let me tell you what *really* happened. My version is the "right" one. I know it happened that way because I remember it clearly. The other person's memory/story/recollection is fallible/crazy/wrong/a lie.

It's an expensive trap because:

- Just because you replayed a conflict over and over in a particular way doesn't mean that the memory or perception of it is accurate. **It just means you've created certainty by the act of replay.**
- It takes a long time—if it's even possible—to become willing to consider that there are other ways of remembering, perceiving or understanding what happened. **It's alluring to stick to the same path, harder to beat a new path through the brush.**
- If each side suffers from this same problematic clarity, a lot of emotional energy goes into try to help the other person "see the light" or arguing about who's recollection is more accurate.
- If the dispute gets stuck due in part to this phenomenon, it can be expensive for the pocketbook, too.

<http://lenski.com/index.php/2006/02/beware-the-conflict-replay/>

China Considering Nationwide Mediation Regulation

The Chinese Ministry of Justice is developing comprehensive legislation to regulate the practice of mediation throughout China. The legislation was proposed by the 10th National People's Congress, which recognizes the "pivotal role" mediation already plays in resolving civil disputes and promoting economic development, but sees a need for improved quality, standardization and greater financial support.

Source: Keith Seat's Mediation News on Mediate.com

Disabled Win Access through Mediation

Monday, October 9, 2006; Page A15 Washington Post

In nine of every 10 cases involving federal disability laws in the past five years, the Justice Department achieved compliance by government agencies and businesses by using mediation and not imposing penalties.

Attorney General Alberto R. Gonzales said that 1,800 complaints out of 2,000 cases involving the Americans With Disabilities Act had been settled through mediation. The department's civil rights division also settled 151 such cases against state and local governments.

"We have accomplished this through an aggressive program of enforcement and public education," Gonzales said in Minneapolis on Thursday at the annual conference of the U.S. Business Leadership Network, which promotes employment of people with disabilities.

The cases were pursued under a Bush administration initiative to improve the access that people with disabilities have to theaters, sport venues, hotels and other destinations where large numbers of people gather.

The administration is also taking steps to ensure more cities and counties make their public spaces and services accessible to disabled people. Those efforts include modifying sidewalk curbs for wheelchairs, allowing guide dogs for the blind in shelters and installing telephone systems that assist deaf people in making 911 calls.

In Hennepin County, which includes Minneapolis, local officials agreed to provide a sign language interpreter for deaf people who are undergoing chemical dependency treatment and other programs. Anne Arundel County in Maryland agreed to improve services for the deaf and the hard of hearing in its two jails.

The report included a few cases in which offenders faced penalties. In one, movie theater chain AMC Entertainment had to pay \$100,000 in damages to customers discriminated against because of access problems.

John Wodatch, who runs the disability rights section at the Justice

Department, said most employers are eager to fix problems. He estimated that as much as 70 percent of his staff spends time helping businesses and local governments comply with the law. Department lawyers try to reach a negotiated solution first. "We're not trying to get litigation. We're trying to get compliance," he said.

15th Annual Northwest ADR Conference



The 15th Annual Northwest Alternative Dispute Resolution Conference will be held May 4-5 at the University of Washington Law School. Block these dates out on your calendar, as this conference will be the best ever. In particular, be sure to attend the Saturday lunch to hear an amazing story of murder and reconciliation.

The conference starts in the afternoon of Friday, May 4 and runs all day on Saturday, May 5. Don't miss it!