

MEDIATION NEWS

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Smullin Mediation

This month's Mediation News includes an essay on the "Wisdom of Native Americans" as applied to mediation. The author discusses fundamentals like "listening" and "respect" as well as less recognized values such as "compassion." That analysis reminded me of a recent mediation where compassion transformed deep differences into a satisfying settlement.

The case involved a retail driver plaintiff who advised her employer that she had visited the Labor Commissioner in pursuit of overtime and expense reimbursements, including for some expenses which had not yet been submitted. She was then fired in part for insisting on payment before completing her work assignments. Thereafter, she sued for the overtime, unreimbursed expenses and wrongful termination.

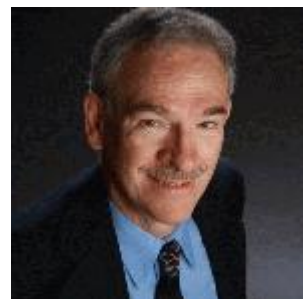
The parties were far apart prior to the mediation, in part because the employer could not understand how it could be liable for overtime or expenses for which no documentation had been provided. The first three hours of mediation involved little progress. However, by focusing on what the plaintiff's work life was like as her working relationship deteriorated, I learned that she had some personal experiences which were horrific. Suddenly her behavior appeared more understandable. In caucuses with the employer, while maintaining confidentiality about the facts, I shifted the tone of how I referenced the plaintiff's behavior. Negotiations then substantially improved, resulting in an agreement on all issues. It was another example of the expression "The parties do not care about what you (the mediator) know, until they know how much you care." Compassion had provided a major breakthrough.

Dave Smullin

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Featured Articles

[Divorce Lawyers: 5 Little Known Things You Need To Know](#)
by Vicki Shemin



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by Tammy Lenski

Quotes

One wonders if people would listen to you talk if they didn't know it was their turn next.

It takes a good person to be a good listener.

Courage is grace under pressure.

Genius is the ability to reduce the complicated to the simple.

There is an inescapable fact: the relationship between a divorce attorney and a client is, at best, a business relationship.

[Did They Teach You This In Law School?](#)

by John Sturrock

I recently attended the annual American Bar Association Dispute Resolution conference in San Francisco. Several themes emerged (for me) as fairly critical for modern lawyers. Here's a top ten.

[The Wisdom of Native Americans](#)

by Joe Epstein

Native American wisdom focuses on healing wounds, and bringing peace through good feelings, not fear. While mediations are focused principally on legal issues, Native American wisdom teaches us to be mindful of a person's emotional damage as well.

[Mediating Disputes as a Reliable and Protective Life Hack](#)

by Michael Toebe

Do we realize the pain-relieving, cost-effective remedy that mediation can be in our everyday lives and do we look at mediators the same as we do other trusted service providers we use?

[Need Help Getting Your Spouse to the Negotiating Table?](#)

by Eileen Coen

What happens when you want to use mediation for divorce, but your spouse doesn't? It's a fairly common situation, but not a hopeless one.

Mediation in the News

[Florida Mediators in Fiery Debate Over Credentialing](#)

Mediators across Florida are used to resolving heated disputes — but this time, the argument is amongst themselves. The two groups at loggerheads: those who believe everyone mediating cases filed in state courts should be certified by the Florida Supreme Court, and those who are vehemently opposed to that idea.

[What does neighbor-to-neighbor mediation mean for a city?](#)

Taking complaints from cops and courts and putting the people behind them in rooms with mediators is more effective, saves time and money for taxpayers in the long term and leaves both sides happier.

[Mediators provide boost to the court system](#)

“They really do save the court a lot of time . . . and it's not just here. It's throughout the state of Florida.”

[Mediation: dragging your feet will cost you in UK](#)

Parties receive considerable encouragement by the courts to mediate. Recent Court of Appeal decisions reinforce that approach.

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