

MEDIATION NEWS

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Smullin Mediation

Michael Carbone leads this edition with a lengthy, comprehensive essay on Mediation Strategies for lawyers. Among many topics, he asserts advantages to substantive joint sessions and to opening statements. In most cases, I disagree.

In my practice, I will normally conduct a substantive discussion in joint session only if both counsel convince me that an essential objective can be achieved in no other way. I did make an exception in an attorney's fee case where the employer had already paid \$ 1.3 million in fees to both sides and the plaintiff sought an additional \$ 240,000. The briefs and contemporary best practices convinced me that the defendant CEO and the plaintiff could be moved by the emotions each experienced during core communications. Wary of the risk of poison in the presentations, I carefully coached both parties about that risk and the importance of "I" messages. This preparation convinced the attorneys that this approach was worth the risk. The plaintiff's attorney later told me that my making this exception to my normal process provided an unexpected breakthrough in an 18-month impasse. We had agreement to terms by 5:00 PM.

These subjects involve multiple considerations and often strong views. If you have thoughts, experience or opinions, I would welcome them. You can email or telephone me at (650) 941-4600.

Dave

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Featured Articles

[Mediation Strategies: A Lawyer's Guide To Successful Negotiation](#)

by Michael P. Carbone

Every successful negotiation requires that you have a sound strategy. In this article I will explain the steps that I believe you should follow when developing a mediation strategy.

[The Conflict Skilled Organization](#)

by Lynne Eisaguirre

What is the common denominator in most organizational conflict? The leaders have not spent enough time and energy thinking about culture —that invisible glue that holds organizations together and determines organizational effectiveness.

[Mediating in the Shadow of Faith: Personal Beliefs, The BATNA Analysis, and Dealmaking](#)

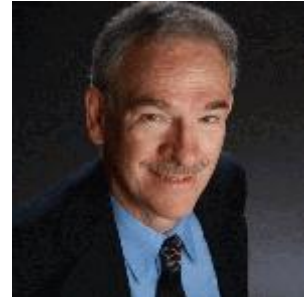
by Gregg Relyea

This is a fictional story based on fact, teaching an example about mediation.

[3 Things that Mediation is NOT](#)

by Justin Kelsey

Mediation has become a popular alternative to court proceedings, with mediators resolving disputes of all kinds there is still a significant amount of confusion about what is mediation and what can a mediator do for you.



Dave Smullin

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Featured Blog Posts

[Marital Conflict is Not a Mental Health Disorder](#)

by Dr. Jacqueline Burnett-
Brown

[The Role of Humility in Mediation](#)

by Jan Frankel Schau

[Creating Knowledge Together](#)

by John Lande

[Mediation Shouldn't Be More of a Barrier Than a Boon](#)

by Susan Yates

[How to be Truly Helpful](#)

[Bullying in the Workplace: How to Respond Effectively](#)

by Alan Sharland

This article explores the concept of bullying in the workplace and how to respond to it more effectively.

Mediation in the News

[Colorado governor approves public records mediation](#)

Colorado has a new law encouraging citizens and state agencies to resolve public records disputes outside court. The new law offers mediation as an option when a citizen wants to challenge a government agency's denial of his or her request for public records.

[Do not treat mediation as routine and ordinary](#)

Preparation is the key to success.

[Lawmakers hit freestanding emergency rooms with mediation and disclosure requirements](#)

The TX House voted 129-11 in favor of the Senate's version of a bill that will force freestanding emergency rooms and other out-of-network providers into mediation with customers who dispute surprise bills

[Concord adopts rent mediation program](#)

A year after a group of Latino residents seeking relief from soaring housing costs in the Monument Boulevard neighborhood spurred a debate over rent control, city leaders have established a process for tenants to appeal large rent increases.

[The Mediator's Proposal As A Tool For Litigants](#)

Should a mediator — the legal neutral to the dispute — try to resolve the case by issuing a nonbinding proposal based upon a dollar amount that he feels could be accepted by the parties?

[Read All News](#)

[When Someone is Upset](#)

by Tammy Lenski

Quotes

Ultimately, there is positive intention behind all behavior.

The best way to give advice to others is to find out what they want and then advise them to do it.

Discussion is an exchange of knowledge; argument an exchange of ignorance.

The foolish and the dead alone never change their opinion.



CELEBRATING 21 YEARS

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