

Mediation is a Panacea for the Budget Crisis

The budget crisis is continuing to overwhelm our judicial system since Governor Brown cut \$544 million from our courts, thus resulting in even more layoffs, pay cuts, pay freezes. And longer wait time for getting court cases to hearings and to trial. The legal community doesn't agree on what should be cut, or what the best solution is, but they all agree that change is necessary to alleviate the stress. We all must work together to alleviate the added pressure to the courts while successfully resolving disputes. The Governor has delayed in filling judgeships- so for example Orange County nine vacant judge positions which is overwhelming the current sitting judges with a burdensome workload and great stress.

Using technology to streamline practices, evaluating the need of each staff member, reviewing special programs, using volunteer lawyers, and encouraging the use of mediators and arbitrators are just some of the suggestions. Mediation has been proven to be an effective panacea for resolving disputes in a timely manner to allow court rooms some relief. Considering the financial situation that continues to challenge our courts and clients, our legal community need to educate and encourage their clients to try the civil mediation court panels, and if the settlement is not totally successful, then going to court is still an option. It's a cost effective step to resolution.

Judge Nakamura is the Current chair and founder of ADR/Mediation Committee in the Orange County Superior Court. Aside from this busy program, he is a member of the Grand Jury selection Committee, the jury Orientation committee and Orange County superior Court Executive committee. The Orange County Superior Court Civil Mediation Program offers litigants who have filed Superior Court unlimited cases the chance to use a highly qualified experienced mediator to provide dispute resolution services at a reduced rate of \$150 an hour for up to two hours. The all lawyer panel members must be highly trained as mediators, carry malpractice insurance, be free of any discipline violations from the bar, and keep up to date with training in ethics and procedures.

Since most disputes are the result of challenging relationships and misunderstandings; mediation is effective to get to the root of the problem. Using successful strategies to create mutual gain solutions often will salvage business, neighbor, and employment relationships. Mediation empowers the parties to engage in problem solving to negotiate a settlement. The few hours spent in mediation, instead of hours of grueling discovery, costly motions and hearings, and arguing before the court, can lead to early resolution and contented clients. When focusing on areas of agreement, the mediator neutralizes hostility, reframes away blame and guilt and sets a tone of collaboration. In reality, since we can't change the past, why not focus on how to make the present better right now? The cooperative process of mediation allows our clients to move on with their lives more effectively and in an expedited manner.

The success of mediation in the Orange County Civil Mediation Program has alleviated some of the stress on the courts. As of June 30, 2012, 65.2 % of the cases mediated in the first half of the year settled all issues completely. The disputants in those cases didn't have to wait for court delays to get their cases resolved. They saved money, endured far less stress, reached confidential settlements and retained their privacy. When disputes are resolved by the parties with the help of their attorneys and a third party neutral, they exit mediation with a feeling accomplishment, relief,

and their dignity. For the attorney advocates involved, they don't have to worry about the risk of losing their case. Moreover if the clients are satisfied with the outcome, they are much more likely to pay their attorney fees without a hassle.

Mari Frank, Esq. has been an attorney/mediator in private practice in Laguna Niguel for over 30 years. She has taught negotiation and mediation at UCI and as a MCLE Trainer. She is an Executive Committee Member of the LPMT Section of the State Bar of California. She is a mediator for the Civil Mediation Panel of the Orange County Superior Court and she hosts two radio shows, Prescriptions for Healing Conflict which airs on KUCI 88.9 FM (www.kuci.org) in Irvine every Monday morning at 8:30 AM. (www.conflicthealing.com), and Privacy Piracy which airs at 8:00 AM on the same station (www.PrivacyPiracy.org).