

FAMILY MEDIATION TRAINING NEWSLETTER

Spring Issue

CULTURAL DIVERSITY AND MEDIATION: OR, DOES SAYING SOMETHING REALLY MEAN IT!

The importance of a sensitive mediator within the scope of "different culture mediation" cannot be overemphasized. All agreements may simply hang on the understanding of the differing cultures and the ability of the mediator to make the parties understand those differences and not just the "settlement." Misconceptions often arise simply because one party does not understand the culture and therefore the bargaining process of the other. An avoidance of eye contact or certain body language may signify a "no" while the party is really saying "yes". This creates confusion with the other individual. Interpreting the human response across cultural lines may be the key to success not failure. It is the mediator who may be the instrument with the knowledge of these differences to ask the key questions and interpret the real meanings of words or actions that will keep things clear and understandable for each party.



A NEW ACRONYM FOR ATTORNEYS;
HERE'S A THOUGHT:

- A Advise without advocating
- D Don't talk - it is the client's mediation
- V Verbalize, the potential areas of agreement and/or disagreement
- O Options; finding these helps both the mediator and the client(s)
- C Calmness and candidness; these are helpful to all parties and the mediator
- A Alternatives; seek ways around "roadblocks", you are a problem solver
- T Take time; never give the impression of hurrying through a situation
- E Equal; treat your clients as well as the other party as equals, not subordinates.

GRANDPARENTS: THE LAW VERSUS MEDIATION

Just another reason why the process of mediation, if carefully thought through, assists all of the parties in a divorce....
The Court, in *Ledoux-Nottingham v. Downs*, 210 So3rd 2017(Fla.2017) approved the enforcement of a foreign grandparent visiting order. While commendable, it certainly re-enforced the fact that time sharing rights for grandparents are still denied in Florida and that the courts and legislature don't care very much about this. Generally, grandparents in Florida don't count for much in a divorce. Potentially, therefore, some of the very best memories for children may be denied them, those of their grandparents, and at a time when the family based on divorce is undergoing even more change. How then can mediation effectuate a potential difference? ALL issues are within the pervue and scope of the mediation process. Why not raise the "issue" of the rights of extended family as just one more issue? While never advising or suggesting, the mediator by raising all issues permits the parties to be thoughtful in thinking through their divorce.

IF YOU HAVE AN ARTICLE OF INTEREST,
WE WOULD BE PLEASED TO PUBLISH IT FOR YOU

The art of Listening: Or, Do You Really Hear What I am Saying

Real "listening" to someone is to be "in the moment". Mediators, above all else must "be in the present" when we listen. We need to learn to listen so that the individual "feels" that they are "heard" and that you, the mediator, are not just parroting back what you heard. When you are really listening, you are not thinking about the end of the conversation, or other work, or even what is for dinner. Rather, you are connected to the individual "in the moment" and you have taken that moment to tune in to not only "hear" but to "feel" what the person's words and emotions are. How then to accomplish this:

1. Ensure you have the time to commit to the process;
2. Note whether you are in a hurry –such that it would cause you to give less than the quality of time that a person deserves
3. Cleanse your mind of opinions, prejudices, judgements;
4. Open yourself to exist in that moment so that you can completely hear what is being said;
5. Be ready to identify the emotions that you are listening to from that person
6. Consider how their emotions are affecting the conversation

As the mediator you are not the "problem solver" but the "owner of the process". Only when the parties know that you are truly "listening" and "hearing" them will you be able to assist them toward a conclusion that is "right" for both sides.

Immigration: Mediation Issues–Part 1

While you may have thought that immigration has nothing to do with mediation you may wish to rethink the possible problems engendered by someone who is within the mediation process but has "issues" related to immigration.

1. Divorce prior to an initial interview with immigration (USCIS) for lawful permanent resident status (LPR status or generically known as "green card" status). When couples who are married and where one party is a United States Citizen (USC) who has already filed for LPR status for their spouse (and perhaps that spouses children under 21), nothing has been attained until the initial interview has been conducted by USCIS and their case approved. Thus the immigrant, should divorce occur prior to the interview, retains their original status (whether lawful under other documents or illegal presence). What to do: At the initial interview and/or intake the mediator might wish to find out if the parties are all legal residents/USC of the U.S. If not, are they aware of how divorcing might impact their status? No, it is not the "practice of law" for the mediator to be aware of this information and ensure that all parties are aware of their options and any consequences of any action they do or do not take.
2. Divorce post interview with USCIS. If at the time of initial interview with USCIS the parties have been married for less than two years the approval will be "conditioned" for an additional two year period. At the time of the end of the two year period the parties must show USCIS that the marriage is still intact for the LPR to receive "final" approval of LPR status. This too is an issue should the parties decide to divorce prior to the two year period. What then can the mediator do? Ensure that the parties are aware of their situation and the options and any consequences of any action they may be considering. Of course, if the marriage had been what USCIS considers a "real marriage" then the divorce prior to the two year period will probably be of no consequence. However, it behooves the mediator to make sure that the parties are aware of the possible need to look into this further.

In the next issue we will discuss attaining USC and domestic violence and the lack of support post divorce for an LPR seeking USC status (no matter the period of time).