

Mediation and Mediators: Some Common Myths Debunked

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A few years ago, a national conflict resolution association conducted an informal, for-fun survey on the streets of Washington, DC. They asked passersby to identify the definition of mediation from a multiple-choice list. The good news is that the majority of people correctly chose, “a way to resolve conflict.” The bad news is that more than a few people incorrectly chose, “a relaxation method,” (meditation) “a way to communicate with the dead,” (via a medium, I suppose) “when the media exploits the private lives up public figures,” and worst of all, “the wall that separates each side of the highway” (median).

Obviously, the mediation profession has some educational work to do. One way this comes home to me regularly is through the mediation myths I hear repeatedly. The following are the most common myths I run across and I hope to set the record straight for me and my fellow mediators...uh, mediums...uh, medians...

Myth: Mediators determine who is right or whose case is strongest.

Reality: Mediators do not act in a judge-like capacity and do not decide who's right or wrong. Mediators are “content neutral” and do not take sides. We help participants consider ways to resolve the dispute by facilitating negotiation and helping the conversation unfold differently than it may have in the past.

Myth: Going to mediation means I have to compromise, so I'll have to give up something or settle for less than I want.

Reality: While compromise is one possible outcome of mediation, never assume it is the automatic result. A skilled mediator helps participants explore creative, win-win options that may have been invisible prior to the mediated conversation, leading to results that are often more satisfying than simplistic compromise.

Myth: The mediator needs expertise in the content area of my dispute.

Reality: A skilled mediator does not need expertise in the content of the dispute, whether it's real estate, marriage, information technology, education or another arena. Our expertise is in dispute resolution. It is not part of the mediator's job to make suggestions to solve the dispute; instead, we approach the conflict conversation in ways that help options surface and be explored more creatively. Too much mediator familiarity with the content area of your dispute can actually be detrimental, since the certainty this breeds can inadvertently get in the mediator's—and your—way. Your intimate knowledge of your own dispute is far more than the mediator can ever have, so you are in a better position, given the right tools and opportunity, to imagine and craft your own resolution.

Myth: Mediation will make me “give away my case.”

Reality: While most mediations don't involve a legal case, those that do often have attorneys present for the session. In those instances, it's not uncommon for attorneys to voice this concern. What attorneys and their clients often discover in my mediations, though, is that the drive to make a strong legal case can inadvertently put up barriers to the parties resolving the matter themselves if they were permitted to share ideas and information with one another. Mediation is far more effective if participants are open and honest. In fact, “showing your hand” is important to some degree, as it helps you be better understood, be better heard, and creates an opportunity for better solutions. At the same time, disclosure is within participants' control and no one is forced to share information they wish to keep private.

Myth: There is no point in mediating because I already know I'm right.

Reality: You can feel justified in your actions and beliefs and still have a problem, because the other person usually feels they're right too. And, since mediation isn't about determining who is right or wrong, you have the opportunity to save time, energy and money by focusing instead on how to solve the problem and move on with your life.

Myth: If we can't talk to one another, it's impossible to be in mediation together.

Reality: When we're in conflict with someone, it is true that our ability to communicate effectively is reduced—sometimes substantially. Mediators are trained professionals who know how to help people talk in order to work out the differences, even when the gap is wide and difficult. So, it's not unusual to have mediations where two or more of the participants haven't spoken with each other in some time or have been speaking, but ineffectively. And while most mediation in this country takes place with everyone in the same room, if participants truly cannot share space safely and effectively, it is always possible to mediate between participants in separate rooms...or even in different countries, in this new age of online dispute resolution.

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