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## Seven Mediator Musts

By Kathy Fragnoli, President  
The Resolution Group

Seven tips for mediators to  
remember during mediation:

1

### BE WHO YOU ARE

Approach the parties as though you are sitting around a kitchen table discussing the issues (especially the emotional issues). Even when the case is predominately about numbers there are always emotions involved. If you are comfortable with who you are the parties relax. It's always important to learn new techniques and theories but you must remain true to who you are.

2

### CONTROL THE ROOM IT CAN EFFECT THE OUTCOME

Setting up the room properly is essential. From the time the parties enter the room they will subconsciously feel who is in control. The seating arrangement can level the playing field and also help you maintain your ability to facilitate the process.

3

### BE QUIET. YOU ARE SUPPOSED TO BE LIS- TENING

It's not your job to be interesting. It's your job to be interested in what people have to say in the mediation session. This is difficult for many of us but you will find that when you listen people will talk. By understanding the



parties better you will understand the dispute better.

4

### SEPARATE POSITIONS FROM INTEREST

What people say they want and what it will take to resolve the dispute are often very different. When you draw out each side's concerns rather than their demands you will find a way to solve complex emotionally based issues.

5

### ALWAYS APPEAR NEU- TRAL

You will never be truly neutral because it is human nature to take sides. However, you must appear to be neutral (especially anytime the parties are together) or the side feeling slighted will begin to withhold information from you and lose confidence that you can get the job done.

6

### AVOID THE TEMPTA- TION TO PREVENT VEN- TILATION

Even in the most simple cases you will find the complainant always (and the responding official will most times) need to vent about one or more issues. Without letting them revisit what it was that caused the dispute in the first place, it will be difficult to move forward. After a large emotional release the parties are much more capable of moving to the bargaining stage of the process.

7

### NEVER PREDETERMINE SOLUTIONS

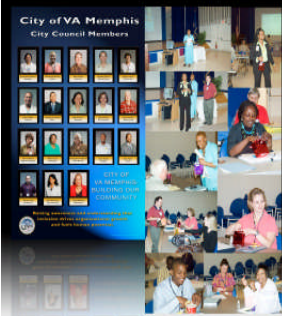
When you assume you know where the case is going ahead of time you may tune out the very clue that will help you get the case settled. Pay attention to body language and other subtle clues at all times.

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**The Memphis VA Medical Center is a fully accredited 244-bed tertiary care facility**

**City of VA Memphis City Council**



**“The Council is extremely diverse with representation from various grades, occupations and services.”**

## Welcome to the City of VA Memphis

Submitted by  
Sharoon McHellen

This is a VHA success story.

The City of VA Memphis is the local inclusion program at the Memphis VA Medical Center. It espouses the concept of many communities and people with one mission. Staff and patients from the surrounding external communities of the Medical Center make up the internal community of the Medical Center.

Working together, the Medical Center Director and the Inclusion Manager developed the *City of VA Memphis: Building Our Community* program, which focuses on the diverse culture represented in the surrounding local communities and medical center as part of a distinct Delta Culture. The concept goal is to influence employees from the negative stigma of the “Delta Culture” towards the affirmative elements of cultural beliefs instilled in employees to form more positive relationships in the workplace.

The City of VA Mem-

phis concept parallels the facility organization to that of local city government. The Medical Center is like a city with its government (Medical Center Director equivalent to the Mayor), laws (policies and procedures), administrations (service line chiefs), restaurant (Canteen), etc. This concept takes the focus of inclusion away from the primary dimensions (race, national origin, gender, etc) to the secondary and organizational levels (grade, profession, education, income, etc.); thereby, empowering employees at all levels to participate in government (organizational) decisions after being elected by peers to serve as City Council (Inclusion Committee). Membership is based on home resident zip codes.

Patricia O. Pittman, Medical Center Director, reassures employees of their value to the organization, both verbally and through written word. The context of education for staff on the City of VA Memphis diversity program has to do with community

building, where each citizen has a voice in how the city (Medical Center) operates. In an effort to hear all concerns and provide all citizens (staff) with a direct voice, she created the City Council. The City Council serves as an advisory board to executive leadership and as the Inclusion/Special Emphasis Committee. The Council is extremely diverse with representation from various grades, occupations and services. City Council members are required to attend inclusion training geared towards making them change agents. Members are asked to review various EEO reports dealing with recruitment, retention, succession planning and employee satisfaction. Mrs. Pittman receives input from them and those they represent as frontline staff on how to resolve concerns, methods of successful recognition, and on how to open lines of communication that work both ways. At every juncture, she reminds all citizens that they have ownership in the

## City of VA Memphis continued

organization and therefore, share the responsibility of telling the good story of Memphis.

### **Purpose for Developing the Program**

The existing environment in Memphis, prior to the arrival of Mrs. Pittman, was one riddled with mistrust, conflict and lack of accountability. Mrs. Pittman's search for a better approach to create a positive work environment, reduce the cost of conflict and tell the good story of the VA Memphis, required her to improve inclusion at all levels of the organization. The City of VA Memphis concept (inclusion initiative) was implemented to allow for up-front open dialog on cultural awareness, change, level the playing field and define the new vision for the organization. This model resulted in just-in-time stability for an unstable work environment.

Mrs. Pittman assumed the position from a long tenured director. It took eight months to recruit a permanent director after retirement of the incumbent and during the recruitment period, the Network appointed two interim directors for several months each. These frequent changes in leadership left numerous employees feeling unsure of their role in the evolving

Memphis VA Medical Center.

### **Improvements since Implementation**

Upon Mrs. Pittman's arrival in Memphis, the senior leadership team consisted of 90% White male, although the general work population at the facility consisted of 78% minority representation. Her vision of the City of VA Memphis included diversifying the senior management group. She reviewed local Federal Equal Opportunity Recruitment Program and Affirmative Employment Plans. She incorporated it into the facility recruitment and hiring process by ensuring recruitment searches geared toward attracting more qualified candidates from various sources. Her plan is paying off as evident in the 30% minority representation in senior leadership. A number of employees have been loyal City of VA Memphis employees with longevity at this local site. To provide opportunities for upward movement, Mrs. Pittman worked with EEO and Human Resource offices on ways to assist existing employees in gaining necessary skills for promotion. With the need of succession planning looming on the horizon, the action had to include

addressing future workforce staffing. Through her leadership, City of VA Memphis was able to receive six technical career field internships; fund six employees' continuing education through employee incentive scholarships and bring in two Health Administrative Interns from a local university, in addition to working with local managers on identifying 33 upward mobility positions.

This sense of ownership carries over into conflict resolution throughout the organization. Upon receipt of an EEO complaint, she sends a memo to the supervisor or manager encouraging resolution through mediation in an effort to resolve conflict at the lowest level. A joint venture with another medical center, VA Tennessee Valley Healthcare System, Nashville, Tennessee, helped to expedite objective mediation through sharing of staff. The amount of mediation occurring at Memphis was approximately 16 mediations per fiscal year. Although formal settlements were not always reached during the immediate mediation, the number of formal complaints for Fiscal Years 2004, 2005, and 2006 demonstrate the impact of ADR with a decrease in informal contacts and formal complaints.



*Mrs. Pittman's search for a better approach to create a positive work environment required her to improve inclusion at all levels of the organization*

### **Best practices**

Futuristic insight on Mrs. Pittman's part was changing the name of the local EEO Program Manager to Inclusion Program Manager. Her thought behind this change was to focus on the unique value individuals bring to the organization rather than focusing on what makes them different. Also, managers utilize team building services and sensitivity training.



**Conflict is an unavoidable part of life and an opportunity for growth.**

## Seven Mediator Musts cont.

Kathy Fragnoli has been licensed to practice law in Texas since 1979 and has more than a decade of mediation and arbitration experience.

Her company, The Resolution Group, is a woman-owned business located in Dallas, Texas. The Resolution Group specializes in conflict resolution training and services for businesses and government agencies. All instructors, mediators and arbitrators are attorneys with extensive experience in conflict resolution.

Ms. Fragnoli recently entered into a contract with the Department of Veterans Affairs to provide mediation, facilitation, and conflict coaching services for EEO, workplace, and labor-management issues in the Texas, Arizona, New Mexico and California areas.

## Basic Conflict Resolution Principles

### 1. Conflict is not good or bad, it just is.

Treat conflict as (a) a part of life, unavoidable, neither good or evil and (b) an opportunity for positive change and growth.

### 2. Don't get mad, don't get even, get what you want.

Focus on your interests.

### 3. Separate the people from the problems.

Don't make it personal.

### 4. The four A's.

(a) Active listening; showing that you understand by restating; (b) Acknowledgment of the other party; (c) Agreeing with the other party where you can, (d)

Apologizing wherever possible.

### 5. Make "I" statements instead of "you" statements.

"I feel...when you..." instead of "you're a jerk."

### 6. Instead of "but..." say "yes and..."

Move from an argument to acknowledgment and refocusing on the problem.

### 7. Don't react.

De-escalate by taking time to think rather than voicing anger in a reflexive, defensive manner. Refocus on the problem rather than responding to each argument.

### 8. Ask "why," "what if," "what makes that fair"

Ask open-ended questions concerning the other party's positions and their fairness.

### 9. Ask about alternatives to reaching a mutual agreement.

What will happen if you take the conflict to the next level?

### 10. Negotiate even when you can "win."

Preserve relationships, you may need their help and support one day.

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# How Can Facilitation Work For Us?



Dear Mediator:

I am having problems with my former co-worker now that I am her Team Leader. She believes I treat her differently since my promotion

and rarely speaks to me. When we do speak our conversations often lead to raised voices. It is especially difficult when we are working on a team project. I need to do something about this situation but I don't know what. How can I get this matter resolved without going through a long drawn out formal process?

Answer:

Facilitation is an alternative dispute resolution (ADR) process that involves a neu-

tral third party, called a facilitator. The goal of facilitation is to open lines of communication; promote awareness and understanding, and prevent or resolve disputes between individuals. Facilitation is less formal than mediation and can address concerns before they lead to personnel actions or more tangible issues. For additional information contact your local ADR coordinator. The list of VA ADR coordinators is located at the following website: [http://vaww1.va.gov/adr/docs/ADR\\_Coordinators\\_List.pdf](http://vaww1.va.gov/adr/docs/ADR_Coordinators_List.pdf)

## Upcoming Conferences

### **Federal Dispute Resolution (FDR) Conference—August 3—7, 2008**

The Annual FDR Conference provides training for all professionals working in the human resources, labor and employee relations, EEO/Diversity and employment law fields, including supervisors and executives. FDR crosses disciplines and provides all the awareness, knowledge and skills necessary for every facet of federal employee management. The conference consists of high level keynotes, innovative breakout sessions, and numerous networking opportunities. This year, the conference will be held at the Caribe Royale Hotel in Orlando, Florida. Become a part of the FDR family so that you too can discuss best practices and achieve success through innovative solutions.

Visit [http://fdrconferences.org/conference\\_brochure/12.pdf](http://fdrconferences.org/conference_brochure/12.pdf) for more information.

### **Equal Employment Opportunity Commission (EEOC) Training Institute 11th Annual EXCEL Conference - August 17 – 21, 2008**

Examining Conflicts in Employment Law (EXCEL) is the premier training conference for Federal managers, supervisors and EEO practitioners. This annual EEO conference is sponsored by the U.S. Equal Employment Opportunity Commission (EEOC), the agency responsible for enforcement of EEO laws in the Federal and private sectors. In keeping with its history, this conference features top-level officials from the EEOC, other federal agencies and nationally known EEO professionals. This year's conference will be held in Chicago, Illinois, at the Chicago Hilton Hotel, and is being held in partnership with the National Council of Hispanic Employment Program Managers.

Visit <http://www.eeotraining.eeoc.gov/profile/web/index.cfm?PKwebID=0x79919e0> for conference agenda, workshop descriptions and other information.



## Workplace ADR Program

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**Mediation: A Solution to  
Workplace Disputes**

The Workplace ADR Program solicits articles for VA's quarterly ADR newsletter. The purpose of the newsletter is to communicate information relating to the use of ADR in workplace disputes and serve as a resource for those interested in learning more about ADR and its application within VA. We invite you to submit ideas and articles for the newsletter through your respective administrations: VHA to Rita Reese (10A2E), VBA to Johnny Logan (20M42), NCA to Nicole Maldon (40A), VACO staff offices to your VACO ADR Liaison, and labor organizations to your ADR Council Representative. We are looking for ideas and articles on ADR-related topics, noteworthy activities, initiatives, accomplishments, best practices, or other items designed to educate and inform VA employees and managers on ADR and its benefits in addressing workplace disputes. We hope the VA community will find the newsletters a useful resource for obtaining interesting and helpful information representing ADR activity throughout VA. For more information, visit our website below.



## ADR at the Movies: The Godfather

Submitted by Gregory Burke

ADR's role in the movies can provide case studies on positive and negative dispute resolution.

**Case:** In "The Godfather," the 1970's classic, Michael Corleone, Godfather of the Corleone Mafia family, makes an offer to buy a casino from Mo Green, a casino official sponsored by another mob family. When Mo's "discussion with Michael becomes heated, Fredo Corleone, Michael's brother, attempts to intervene telling Michael, you just don't talk to Mo Green like that. Michael rejects Fredo's intervention and fails to settle his dispute with Mo Green amicably. Mo Green gets whacked.

**Lessons:** Fredo's intervention was ill-timed: He chose to intervene during the middle of a public dispute. Fredo's intervention was not accepted by at least one party to the dispute. Michael told Fredo he had a conflict of interest and should not be taking sides "against the family." If Fredo had chosen to "coach" Mo, he might have caused him to do a reality check, i.e. accept Michael's offer for the casino, because, in fact, Mo's options were sell or be whacked.

**Summary:** Choose your dispute resolution forums and times carefully. Obtain all parties buy-in before proceeding. Avoid conflicts of interest. Identify party interests and realistic options as soon as possible once the parties begin discussions.



**Ill-timed interventions may result in communication break down.**