

Mediation Offers 'Win-Win Situation'

Couples, Businesses Can Use Dispute Technique

By EMILY VAN CLEVE
For the Journal

Santa Fe mediator Philip Crump thinks Samuel Clemens summed up communication problems between people well when he said, "if we were supposed to talk more than listen, we'd have two mouths and one ear."

Mediation is all about getting disputing parties to listen to each other so they can resolve their differences without going to court.

"It's a growing profession in New Mexico, says JoEllen Howarth, the president of the New Mexico Mediation Association (www.nmma.info). "In the past 10 years, membership in the organization has grown significantly. Our members are practicing mediators and people interested in mediation. We have 37 members in Santa Fe alone. Many professional mediators have completed dozens to hundreds of hours of mediation training, but it's always best to ask about training and experience before hiring a mediator."

Mediation is not the same as arbitration, moderated settlement conferences or counseling. While arbitrators make binding decisions, moderators in settlement conferences can offer legal opinions and counselors provide counseling services, mediators help people articulate problems so they can make their own decisions.

"Mediators create a safe place in which conflicting parties can say what they need to say to each other and get heard," explains Crump.

"Unlike arbitration or litigation, mediation parties have all the decision-making power. The mediator helps each person express perspectives and needs in ways that help others hear and understand them. When people really understand what each other's issues or needs are, they

Working out problems

Tips on conflict resolution from Phillip Crump:

- Listen carefully and try to understand the other person.
- Speak from your own experience.
- Talk about your needs rather than what the other person should do for you.
- Recognize that both parties may share the problem.
- Model the behavior you want to see in the world around you.
- Don't take anything personally.

often are more able to respond positively to those needs.

"Mediators help people distinguish what they want from why they want them."

Among the issues that mediators deal with are divorce, child custody, neighborhood, land and workplace disputes, property settlements and family conflicts. The cardinal rule in all mediation, says Crump, is for the mediator to remain neutral.

"Being neutral doesn't mean I sit there like a rug and say nothing," he says. "I don't take sides. Everyone enters mediation in some kind of anxious or upset state, and the last thing they may want to do is sit down with the person they're upset with and talk."

When Santa Fe mediator Kathleen Oweegon works with clients, she likes to schedule them for an entire afternoon or day so they have a chance to resolve their dispute by the end of the session.

"We could be in a critical place after one or two hours, so I wouldn't want to stop at that point," says Oweegon, who owns the business Bridges of Peace. "Yes, the sessions can be intense. But I watch carefully

to make sure everyone feels fine physically and emotionally. We'll take breaks when necessary. Everyone has to feel well or the session will be counterproductive."

Some of Oweegon's most recent clients are couples who are having marital problems but don't want to divorce or go to counseling.

"They may not want to spend a lot of time looking at the past, and particularly childhood issues," she explains. "I spend time looking at the past to see how things haven't been working, but 60 percent of the time is spent talking about how they can have a better future together. In some cases, I may recommend counseling or legal support.

"Everything is very individual."

Crump, who has a background in construction, is occasionally asked to do a form of mediation called "partnering" at the beginning of a commercial construction project. He brings together all the key people involved in a project to determine the common goals, individual responsibilities of the players and paths of communication that will prevent problems during the course of the project.

"Project managers and contractors decide how and when they're going to talk with each other," explains Crump. "In some projects, the construction contract includes a clause which states that, in the event of a dispute, parties will try mediation first before entering into arbitration or going to court."

Mediation is often less expensive than other alternatives. Fees in the Santa Fe area range from \$80 to \$120 per hour.

"If you're involved in a continuing relationship with someone, you may be best served by mediation because it's a win-win situation," says Oweegon. "If both parties feel they've won, they're going to have an easier time relating to each other in the future. In court, someone always loses."