

FACILITATIVE MEDIATION, THE ALTERNATIVE

By: John F. Rohe, President, Northern Community Mediation

Our time-honored legal system assures that Constitutional rights are respected for everyone. It provides a forum, and an appellate process, to address emerging issues of public import.

The judicial process moves deliberately, cautiously, and with the utmost respect for the rights of all parties. Delays are built into the system. These delays can be detrimental in some cases. Legal expenses can also impart a power imbalance.

The judicial process is adversarial. As attorney fees increase, the parties become more polarized and entrenched. Meanwhile, settlement prospects dwindle.

Our legal system possesses a deep heritage. Rules of evidence and procedure have evolved over the ages. Legal processes in the courts are designed to deliver fairness and finality. All cases, however, are not cut from the same mold.

Litigants now find themselves entering the age of Alternate Dispute Resolution ("ADR"). Here, we strive to "fit the forum to the fuss." In other words, where judicial delays are unacceptable to the parties, or where another procedure might better suit the case, an alternate method of dispute resolution can be considered. The primary alternatives include arbitration and facilitative mediation. In arbitration, a third party is selected by the parties to make a final, binding decision with relaxed procedures in a swift and less formal setting.

Facilitative mediation is another alternative. Northern Community Mediation ("NCM") is now celebrating the 10th year of providing facilitative mediation through the services of trained mediators.

In facilitative mediation, the mediator does not decide the case. Rather, the mediator only "facilitates" an understanding between the parties. The process is confidential to encourage an open dialogue. In facilitative mediation, the parties are urged to explore their "interests," rather than their "positions."

When the interests, rather than the positions, are openly discussed, settlement options tend to emerge. This is the most fruitful aspect of facilitative mediation. Some mediators consider it a forum to creatively generate settlement options.

In facilitative mediation, the parties are obliged to address each other with dignity and respect. Sometimes an apology goes a long way toward bridging the gap. In this informal process, we beat swords into ploughshares. Relationships are mended. Unlike litigation, the parties are not adversaries here. Rather, they become colleagues in a problem-solving venture. And, it works. About 85% of the cases are resolved in facilitative mediation.

In northern Michigan, a number of charities are committed to maintaining the quality of life. Services of the Little Traverse Conservancy, the Tip of the Mitt Watershed Council, and the Mackinaw Forest Council come to mind. These organizations strive to protect a special place in which any of us can find seclusion, walk our dog, reflect on our surroundings, and preserve valued natural resources. Northern Community Mediation is also dedicated to the quality of life in the north. By restoring harmony and

conciliation where there was hardship and conflict, NCM meaningfully enhances the quality of life.

You might never have heard of NCM. When wounded relationships are healed with the commitment of NCM's volunteers, you will seldom know. There are no banners. No celebratory announcements. Just two people walking on the same side of the street. That's usually quite unremarkable.

You will likely start hearing about NCM. In its 10th year, NCM will respectfully request your support as state funding is beginning to wane. Hopefully you will join us in the quest to restore peace in conflicting relationships. For more information, please call Northern Community Mediation at (231)487-1771.