

Why Choose Mediation?

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By

Aleshia Sipple

General Delivery Arras

Dawson Creek, BC V0C 1B0

Ph: 250. 843. 0002

Email: abcr@neonet.bc.ca

South Peace Secondary School

Grade 12

When a conflict arises there are legal options available, which bypass a formal trial. These substitutes are known as alternative dispute resolutions (ADR) and apply techniques which fall outside of the judicial system. Mediation is one of these innovative problem solvers that are gaining appreciation and popularity with the public.

Mediation is a form of ADR that solves disputes by using a neutral third party. The impartial third party is known as a mediator and works with the individuals or groups involved to reach a mutual agreement. In mediation, the mediator does not dictate or control the process, they are simply there to monitor the procedure and maintain amity. The mediator's aim is to improve communication between the disputants and assist them in reaching a settlement; they have no decision making powers. Mediation is beneficial to all of the parties involved and is considered to produce a "win-win" outcome. Unlike court, mediation solves disputes using a discussion process, which permits input from those concerned, rather than a judge or a jury making an executive decision. Mediation can be used to help resolve nearly anything, including commercial, legal, diplomatic, workplace and community disputes as well as family matters. Mediation helps to preserve relationships, is non adversarial and involves lower fees than most legal avenues.

Mediation is often considered a favourable option when relationships are to be preserved following a case. During a court trial, the animosity is often high between the involved parties and any preceding relationships can be destroyed or tainted. In court, there are no compromises; there is a winner and a loser. The parties have to "fight" each other because only one of them will win; mediation allows for constructive communication rather than harsh battling. A formal trial is costly, stressful and can cause permanent grudges between the people involved.

Family law and matters are particularly delicate and require careful proceedings. Since family is a sensitive subject, court can often be a traumatic experience, especially for children. To be fought over and torn between their parents is very difficult and unfair to their young impressionable minds. Since parents have to remain in touch, even after separation, it is important that a courteous relationship is maintained. Mediation is ideal for situations such as these because it does not force parents to face off in a tense and hostile trial. Mediation focuses on the best interests of the children and takes the centre of attention away from winning and towards settling. Parents who choose mediation during their divorce or custody disputes “have a chance of remaining amicable”(Key Benefits). Rather than being served and summoned to court, those involved participate voluntarily and want to solve the issue. One parent cannot be forced by the other parent into mediation and therefore there is a common will to have a concurrence. Not only is mediation completely consensual, if the subject becomes too emotional the participants can withdraw at anytime. It is a much quicker process that will not strain the families more than necessary. “The confidential nature of mediation preserves personal dignity and helps restore relationships” (Mediation Works), making it an optimum choice for families. Mediation is private, informal and much more flexible and suitable for preserving personal relations.

Mediation can also be useful for upholding business relationships after a dispute. Often times, when conflicts are solved through the adversarial system there are harsh feelings and bitterness when the final decision is made. When things end this way, there is a slim chance that any business will be continued. Losses such as these can be avoided when mediation is used. A fracture in business could be devastating and mean decreased or discontinued productivity. The diminishing output would produce a monetary loss. By reaching a resolution early, there is minimal financial strain and therefore hope for business to continue. Since mediation is a conversational solution, relations and communication are repaired and minimal resentment is left behind.

Relationships do not have to be sacrificed when mediation is used to address the issue.

A major benefit of mediation is the fact that it is non adversarial. The adversarial system places all the power and decision making privileges in the hands of a judge or jury. Trials are very strict, formal, and prohibit any contributions from the concerned parties. With this arrangement, there is never a tie or compromise made; the parties “fight” and there is a winner and a loser. Court dates can also takes months to years to attain, whereas mediation can begin immediately and produce a solution shortly. Mediation is much different from the adversarial system and therefore a more pleasant experience.

Mediation allows for open communication and direct conversations between the parties and the mediator. It is drastically less formal, therefore creating a safe and neutral environment for the concerned parties to express their expectations and limitations. The comforting and flexible methods of mediation reduce the tension usually associated with legal concerns. Mediation places responsibility upon the parties and allows them to work towards a solution that can be agreed upon by everyone. Mediation provides “the ability to resolve issues in a way that suits the clients best and enables them to directly affect the outcome”(Oafm). A very prominent difference between mediation and the adversarial system is that the majority of the management is within hands of the parties. The entire process, right down to the scheduling and outcome, is controlled by the parties affected. A mediator has no influence on the decisions made; they are simply there to maintain productivity and encourage dialogue. Since the authority belongs to the affected individuals or groups, very creative and unique solutions can be arranged.

Once a solution is decided, there is a greater satisfaction rate because all the parties have had input on the final outcome. In court, a judge makes the decision, that in the end you may feel is unjust but with mediation, you formulate the agreement yourself. People usually have a settlement

that they can be content with and do not feel wronged. People are also more likely to comply with the terms of an agreement made by themselves for themselves. Mediation allows the parties concerned to take an active role in the decision making and procedure of the case.

Mediation is also much more affordable than pursuing a case in court. Court can be a very lengthy and ridiculously expensive procedure. Litigation involves costly lawyers and lengthy tedious processes. A ludicrous amount of time can be spent to merely secure a trial date, and then court can drag out and increase the costs as well as emotional strain. Selecting mediation is a very economical choice, “mediation usually entails lower legal and preparatory costs, and fees and expenses of mediation are modest”(Finra). The quick nature of mediation guarantees a solution that is affordable and much more reasonable to attain. Mediation usually only requires one mediator rather than individual representation, meaning that the cost of his/her services can be split. Mediation conserves money due to its simple yet effective methods. The lower overall cost reduces financial and emotional stress already afflicting the parties seeking a solution. Mediation in contrast to litigation and court is much more affordable and conservative in regards to money.

Mediation is a successful form of ADR that can adapt to fit nearly any problem and demonstrates multiple appealing qualities. It can provide quicker solutions and settlements than litigation. The mediator is not similar to a judge; they simply guide the parties through the process and assist in them uncovering a mutual solution. It is preferred for family law because it is a much more compassionate and confidential process. The personalized discussion procedure opens communication and aids to repair and maintain personal or business relationships. In comparison to the adversarial system, mediation is a less stressful and informal process. This is a significant aspect of mediation, which means that the individuals affected by the problem have the ability to aid in creating the solution. Settlements are then more likely to be followed by the involved parties. Aside from it being a quick and unique method, it

is also affordable. Mediation has proved to be quite efficient and much less costly than court and litigation. Mediation is a superior substitute for dispute resolution and can resolve nearly any conflict without reaching court. These are the reasons why more people are choosing mediation.

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