

Dignity & Respect in Mediation

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Sorry (as we Canadians tend to say a lot). I'm a few days late with this post as I've been vacationing in London U.K. with my wife and 14-year old daughter. (Wonderful time, thanks). Today is my first day back in the office after the two weeks away and I'm sure readers will know what that's like. Thankfully I have a week before I start a full schedule of mediations starting in September. But already the Briefs are piling up and there's a predictable increase of emails from anxious legal assistants.

On top of that today is my 60th birthday. They say it's the new 40 but I'm not so sure about that. As you'd expect the prospect of the busy fall schedule combined with a change in the first number of my age prompts more than a tad of personal reflection. Some of that reflection has been on the question of what are the core elements of my mediation practice that I want to re-enforce and strengthen as I head into a new season and a new decade. That, in turn, prompts me to make this brief post on the concepts of "dignity" and "respect".

My view, as I close in on 3,000 mediations conducted, is that nothing is more important to my work as a commercial mediator than the linked concepts of dignity and respect. Respect is what I do (or, sadly, sometimes don't do) to others. Dignity is the sense of well-being that others have as a result of being treated with respect.

In previous posts I have described how, for me, mediation is all about parties making "good decisions, all things considered". In my experience, it is unrealistic to expect a person to make a good decision if their dignity is in tatters. I well-remember an early mediation I conducted more than a decade and a half ago in which a female personal injury claimant with an "interesting" personal history was lectured for twenty minutes by defence counsel, going through each and every element of her checkered history and speculating how that would be viewed by the jury hearing the case. By the time we got to caucus she was emotionally distraught, crying out to me, "He's treating me like trailer park trash!"

No settlement that day, or many other days like it, when a participant in mediation, be it lawyer or client, felt it necessary to demonstrate just how much they disrespected someone else involved in the process.

Obviously it is beyond my ability to make parties and counsel treat each other with respect during a mediation. What I can do myself is bring a deep reservoir of **respect** to each mediation – for everyone – in the hope that by liberally doing it out during the session the dignity of each participant will be strengthened thus providing a firmer foundation for making the difficult decision to settle their dispute.

For mediators interested in enhancing their effectiveness the question arises: what can I do to demonstrate respect and thereby help a participant maintain their dignity?

A little digging brought me to the U.K. website of the Social Care Institute for Excellence and its discussion of [The Dignity Factors](#). There it is asserted that, "Research indicates that there are eight main factors that promote dignity in care. Each of these Dignity Factors contributes to a person's sense of self respect, and they should all be present in care." A mediator could do worse than spend some time on this site and consider how his or her practice might be improved by attending, with greater focus, to these dignity factors.

I hope all readers have enjoyed a wonderful summer (well, in the northern part of the planet anyway) and I wish everyone much success in September.