

Kluwer Mediation Blog

By Trial and Mostly Error: Mistakes Can Be the Best Teacher

Diane Levin (Diane Levin LLC) · Monday, August 27th, 2012

Earlier this month, [Charlie Irvine](#), a mediator based in Glasgow, wrote one of the best essays I've read in a good long while on the taboo subject of mistakes in mediation practice. He spoke eloquently of the educational role that mistakes can play in our professional development, and lamented the absence of examples of these mistakes in so much of the literature in our field. Charlie writes,



It would be refreshing for any professional to speak about failure...So, I am not suggesting that we downplay the fantastic impact that mediation can have, nor the incredible skills and instincts that many people bring to the table. But a little honesty would be a pleasant counterweight in a world where we are surrounded by tales of success. I'm sure there are lots of tales of failure out there: good, honest attempts to do the right thing that simply didn't work, through to outright blunders, breaches of ethics, or ineptitude. There must be fantastic richness and insight in these stories.

Amen, Charlie, and bravo for making the case so well.

As a mediator and trainer of mediators, I see lasting value in discussing with people entering the profession the gamut of mistakes that can be made – from a clumsily phrased question to an ethical breach. I agree with Charlie that of real practical help are the stories of error and the lessons to be drawn from them – what happened, what to do different next time, and how to avoid it in future.

Here in the US where I live and work, the private practice of mediation is unregulated by the state, so believe me when I say that mediator error is a concern. No public licensing boards oversee or regulate the private practice of mediation. Barriers to entry into the profession are virtually non-existent; no degree, no experience, no training is required before you order the business cards that declare you a mediator. Mediation training programs regularly churn out certificate-carrying mediator-hopefuls, some of whom set up shop immediately following the conclusion of their brief training program, practicing mediation without supervision or oversight. As one might imagine, mistakes are made. Preparing mediators to deal with error is essential.

Talking publicly about one's own mistakes is difficult, as Charlie acknowledges in his essay. The expectation of participants in a mediation training is calibrated high; they expect to learn from a talented, competent professional whose practice is beyond peer and reproach. Each time I have to wrestle my self-doubt to the ground when I prepare to discuss with them my own challenges at the mediation table. I preface my personal war stories by saying, "I tell you about my own mistakes here so you can learn from them and avoid repeating them. Sooner or later we all make mistakes; what you do about it is what's important."

What gives me the confidence in sharing these anecdotes of professional missteps is the memory of an attorney I worked with many years ago who missed an important filing deadline. He immediately notified the senior partner about his error, and then apologized and discussed the error with the client, coming up with a plan for going forward, ultimately saving the day. He insisted that I be present for all the discussions, and I remember feeling great admiration for his character and honesty in owning up to and then fixing the mistake. It took guts. All these years later, of all the lessons I learned from working with this attorney, that was the one that has stuck with me. The example he set for me in transparency and courage still inspires me.

We mediators are skilled at reframing. James Joyce, who was evidently a dab hand at reframing himself, once wrote, "A man's errors are his portals of discovery." Perhaps if we can reshape our thinking about our mistakes, our feelings about them, and our reticence in sharing them, we can come to see our errors for the portals of discovery they present to us and to those we teach. In time perhaps there may be room on the mediator's bookshelf for works that will explore mediator error; with anticipation I look forward to the publication one day of "Getting to Oops".

With thanks to Charlie Irvine for [initiating this delightful conversation](#).

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