

PROACTIVE MEDIATIONSM

An escalating dispute is like a toothache

Is an escalating dispute or a painful lawsuit endangering your organization? Wasting your time, cash, and people? Maybe it's a rival company, strategic partner, or even an unhappy employee or customer. Like a toothache, these situations drain your resources, paralyze you, and only get more expensive if you let it go on.

In your heart, you know that even if you win a lawsuit, you lose. When the lawyers cut-off communications between the parties, common sense and important business needs are overwhelmed by legal calculations. The real cost is not cash, it's the waste of precious opportunities with no control over the eventual outcome.

You may be feeling frustrated, attacked, and angry. Truth be told, you may also be feeling more than a little worried about circumstances you feel spinning out of control.

But often there is an alternative to an expensive lawsuit – whether the threat is just over the horizon or you're already up to your eyes in one. ***Here is a new strategy...***

Solve a dispute without sacrificing what's important

You can replace conflict with clarity, uncertainty with understanding, indecision with direction, so your organization or company can focus on effectively delivering its products and services. We've successfully solved crises and conflicts, and operated both profit and nonprofit companies. Genuine solutions often surprise and reward you because they come from:

- ◆ Focusing on solutions instead of problems – on issues rather than personalities
- ◆ Concentrating on the big-picture – on dollars, rather than pennies
- ◆ Putting you in control – so you can act, rather than just react
- ◆ Clearing obstacles so that you can achieve what you really need

Timely utilization of *Proactive Mediation* when issues arise, can produce a variety of negotiation, performance, and implementation rewards that maximize use of resources, control risks, and enhance relationships. Today, smart decision-makers also utilize mediation proactively to move past the inevitable sticking points in long-term relationships and to smooth relationship endings. For example:

- ◆ *Saving-the-day 5-minutes before a lawsuit is filed.* In your heart, you know that even if you win a lawsuit, you lose. When lawyers cut-off communication between the principals, important business needs become over-whelmed by legal calculations. The real cost is not cash, it's the waste of valuable resources for unpredictable outcomes. Don't wait for what someone else thinks is a "strategically" better time – the best time to solve a dispute is usually right before you jump off the litigation bridge, before the drain on money and other valuable resources begins.



- ◆ *Clarifying performance parameters.* *Proactive Mediation* can help strategic partners, including subcontractors, outsource manufacturers, and others optimize responsibilities and performance terms. After the deal is struck, and before the work begins, it's often advantageous for principals to sit together and delineate project goals, responsibilities, delivery criteria, or another key. Their process may also reveal unforeseen problems. Working through the issues will frequently increase buy-in and cooperation, as well as build better relationships.
- ◆ *Reorienting relationships under changed circumstances.* Your organization wants to move in a new direction. Perhaps your market or financial reality has shifted. But a contract limits your strategic mobility. It may be a contract related to equipment, manufacturing, inventory, IT, software, licensing, or with another type of vendor or strategic partner. You can reform the relationship and move forward.
- ◆ *Bringing peace to the Board, Shareholders, or Management.* You know conflict at the top can destroy an organization. Perhaps minority shareholders are stirring the waters. Or there may be a dispute among directors or with management about company direction, budgets, policy, succession, or the like. These disputes can monopolize attention and freeze the company.
- ◆ *Setting in place a means for ongoing problem solving.* Contracts are valuable for establishing what's, but they usually leave it to the parties to work out the how's. Naming an ongoing neutral mediator in a contract can establish trust and confidence for resolving developing differences quickly and without drama – often on video or the telephone.
- ◆ *Facilitating deadlocked and time-critical negotiations.* Experienced dealmakers know that even good deals may perish on the vine for any number of reasons. You've probably seen one person or a narrow-minded interest group block an advantageous deal. Perhaps you saw someone who built a company get cold feet and try to back out of the business sale, or members of a family that couldn't agree. Apparent problems may not be the real ones. Even seemingly dead deals can sometimes be brought back to life.

Why is conflict so popular if it's so bad for you?

Conflict is natural. But most people accept the pain of conflict as the price they must pay for doing business, being successful, or living in the modern world. They don't acknowledge the discomfort and conflict takes its toll. The stress of it damages the health of people and their organizations. Of course, a few

MEDIATION MYTHS
Contrary to popular myths,
mediation is *not* about...

- ◆ **Splitting the difference**
- ◆ **Being forced to give up something to get something**
- ◆ **Giving in or sacrificing what is truly important to you**

people like to suffer, or delight in making others suffer. And almost everyone resists change. Change is filled with uncertainty, inconvenience, and adjustments.

But you do have a choice. *Proactive Mediation* empowers participants. It provides escape from a reactive mentality by helping eliminate false obligations (such as guilt or a victim mentality) from the decision-making process. These mediations help to lessen any emotional charge and maximize exchange of information within both macro and micro-world contexts. More contextual information reveals unforeseen opportunities, makes advantageous decisions more likely, and expands the

probability for agreement. Really hearing the other side can also bring an empathetic understanding that reduces resistance and opens possibilities for creative solutions. Confidentiality, guaranteed by law in many states, helps participants feel safe.