IMPROVING COMMUNICATION PRACTICES IN MEDIATION: A STUDY IN AGE, GENDER, AND ETHNICITY

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OVERVIEW

• **Who I am**
• **Basics of Communication (Verbal and Non-verbal)**
• **Age, Gender, and Ethnicity**
• **Rules and tips throughout**
• **Questions to audience**
HAVE YOU EVER EXPERIENCED AN ISSUE WITH COMMUNICATION IN A MEDIATION?
THE ROLE OF THE MEDIATOR IS TO REDUCE OBSTACLES TO COMMUNICATION, ASSIST IN THE IDENTIFICATION OF ISSUES AND EXPLORATION OF ALTERNATIVES, AND OTHERWISE FACILITATE VOLUNTARY AGREEMENTS RESOLVING THE DISPUTE.
NON VERBAL COMMUNICATION

- Non Verbal: 55%
- Tone of voice: 38%
- Spoken words: 7%
TYPES

- Vocalics
- Chronemics
- Oculesics
- Haptics
- Kinesics
- Objectics
- Proxemics
• Words are powerful
• Non-verbal communication is powerful
• Intentional or unintentional
• Ambiguous
• Culture
FLORIDA STATUTE 44.405(1)

• EXCEPT AS PROVIDED IN THIS SECTION, ALL MEDIATION COMMUNICATIONS SHALL BE CONFIDENTIAL
“Mediation communication” means an oral or written statement, or nonverbal conduct intended to make an assertion, by or to a mediation participant made during the course of a mediation, or prior to mediation if made in furtherance of a mediation.
At a mediation and parties constantly type on laptops. Mediator asked them not to type as parties told mediator they feel intimidated by the constant clacking of keys.
WHAT WOULD YOU DO IN THIS SITUATION?
MEAC RECOMMENDATION

• MEDIATOR HAS AUTHORITY TO ADJOURN OR TERMINATE MEDIATION IF THEY PARTIES CANNOT RESOLVE THEIR DIFFERENCES REGARDING THE REASONS FOR AND USE OF LAPTOPS
WHAT OTHER NON-VERBAL SIGNALS HAVE YOU SEEN IN MEDIATION?
TIPS

• **Be mindful of your nonverbal communication and what it is saying**
• **Maintain confidentiality and understand what it means**
• **Know mediation rules**
COMMUNICATION STYLES IN MEDIATION

• AGE
• GENDER
• ETHNICITY
The Generations

- Matures
- Baby Boomers
- Generation X
- Generation Y or “Millennials”
MATURES (1900-1945)

- Self control
- Sacrifice
- Respect for authority
- Timeliness
- Productivity
BABY BOOMERS (1945-1964)

- Social reform
- Optimistic
- Can do belief in themselves
- Used to getting their way
GENERATION X (1965-1982)

- Explore what is desirable for themselves as individuals
- Adept with technology
- Skeptical and independent
- Good work/life balance
GENERATION Y (1982-2000)

- Global
- Digital natives
- Like to learn by doing
- Multi-tasking but may ignore what does not interest them
HAVE YOU EVER SEEN PARTIES FROM DIFFERENT GENERATIONS STRUGGLE TO COMMUNICATE?
• Patience
• Open mindedness
• Variety of assignments
• Praise
• Technology use
GENDER SPEECH

- **Masculine language**
  - Report
- **Feminine language**
  - Rapport
HOW WOULD YOU HANDLE A SITUATION WHERE YOU HAVE A YOUNG FEMALE ATTORNEY ACCUSING AN OLDER MALE ATTORNEY OF SEXISM AND AGEISM IN A MEDIATION?
ETHNICITY

• CULTURAL DIFFERENCES
• SOCIO-ECONOMIC FACTORS
• TOLERANCE FOR CONFLICT
• NON-VERBAL SIGNALS
• ...Accordingly, a mediator’s responsibility to the parties includes honoring their right of self-determination; acting with impartiality; and avoiding coercion, improper influence, and conflicts of interest
A MEDIATOR SHALL: ADJOURN OR TERMINATE THE MEDIATION IF THE MEDIATOR BELIEVES THE CASE IS UNSUITABLE FOR MEDIATION OR ANY PARTY IS UNABLE OR UNWILLING TO PARTICIPATE MEANINGFULLY IN THE PROCESS.
HOW DO YOU MAKE SURE PARTICIPANTS PARTICIPATE MEANINGFULLY IN THE PROCESS OR CONFIDENTIALITY WHEN THERE IS A CULTURAL BARRIER?
A mediator shall promote mutual respect among the mediation participants throughout the mediation process and encourage the participants to conduct themselves in a collaborative, non-coercive, and non-adversarial manner.
A mediator is prohibited from taking on the dual role of mediator and interpreter or translator.
QUESTIONS?
IN SUM

- THEORY
- STATUTES/RULES
- AGE, GENDER, ETHNICITY

THANKS FOR LISTENING
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