

Newsletter # 2

Now that the champagne has hit the hull on our inaugural Mediation Newsletter, it's time to set sail on our voyage of mediation discovery. A good place to begin is with a few more definitions. There are two primary types of mediators, evaluative and facilitative. Let's say you have a custody dispute and two mediators to choose from. One mediator is evaluative – we'll call him Phil. After both parties have had a chance to put forth their respective positions on the issue, Phil might say to one of the parties: "Your position is nonsense. There's no way a Court will back you up on that claim. Get real." Lorne the facilitative mediator might instead say: "Both of your positions are now on the table, let's get to work and try to reach a consensus on the issue".

One mediator directs the parties toward a solution, the other allows for discussion to hopefully get the parties themselves to discover a solution to the dispute. Both methods are valid. Both work. The former method might resolve the issue sooner (and cost less), or it might turn one or both of the parties off and thereby kill the mediation. The latter will generally take longer (and cost more – which might kill the mediation), but it might encourage the parties to buy in to the solution, since they will have created it.

Yet another approach, what I refer to as the hybrid method, allows for a bit of both - a facilitated discussion with some direction from the mediator when required. In this way, the parties will create the solution, but the process will not go on unnecessarily long or make the parties feel as though a solution has been either imposed upon or created for them. In the end, the goal is to ensure the parties keep negotiating, in order to achieve a solution. Speaking of goals, would someone please inform the Leafs that the winner isn't the team with the most goals against. On a happier note, baseball season is only days away.



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Warren Mediation Group provides Alternative Dispute Resolution, Family Mediation/Arbitration, Estate Law Mediation/Arbitration, Commercial Mediation/Arbitration and other ADR services in the Greater Toronto Area, York, Simcoe, Peel and Durham Regions.