



Conducting a Multicultural Mediation

In our multi-cultural society, disputes arise between individuals from different ethnic, racial and cultural backgrounds and between businesses, both domestic and international, run by these individuals. The cultural background of the parties to a litigated dispute plays an important role in how they approach dispute resolution generally and their comfort level with the negotiating process.

Many cultures around the world engaged in a form of mediation to resolve disputes long before the independence of the United States, let alone the current popular wave of mediation as a dispute resolution technique. At present time in these cultures, while lawyers may be consulted about a dispute, lawsuits are generally avoided and the dispute is resolved between the parties directly or with the assistance of a neutral. Whereas this is usually not the American way, it is important for a mediator to discuss the parties' views about dispute resolution and gain an understanding of how disputes are resolved in each party's community or country of origin. This also presents an opportunity for the mediator to discuss the litigation process in the U.S. to make sure that the parties are on the same page as to what to expect not only in terms of the mediation itself, but the future of the case if it is not resolved.

Another very important aspect of cultural differences affecting a mediation is the comfort level of the parties with the negotiation or bargaining process. In many cultures, bargaining is a daily experience involving the purchase of everything from food to clothing. Individuals from these cultures are very comfortable and patient with the bargaining process and actually enjoy it. Parties of U.S. origin may be very impatient with the negotiating process and usually want to get to the bottom line. In a mediation between the bargaining culture and the price tag culture, the mediator's challenge is to keep the sticker price folks in the room and open to considering the multiple offers and counteroffers received from the bargainers. In my experience, this can be done in part by discussing the bargainer's comfort level with the negotiating process. On the other hand, the mediator's challenge with the bargainers is to get them to pull the trigger and agree to settle at the point in the mediation when the parties have in the mediator's view gone as far as they can in resolving their differences.

– Bruce

Bruce A. Friedman is a mediator and arbitrator with an international practice. For more information on the mediation services that Bruce A. Friedman provides, check out his website at <http://www.FriedmanMediation.com>, his profile at ADRServices.org, or call him at (310) 201-0010.