

Choosing to Enjoy Mediation

By: Martin I. Reisig, Esq.

What if we came to mediations determined to enjoy the experience? What if we were determined to look at the other side as our closest, indeed our only, partner in resolving a disagreement? What if we were willing to smile and acknowledge that we also contributed in some way to the dispute? Heck, what if we as lawyers and clients could be more open to sincere apologies? In other words, what if we preferred peace, harmony and resolution over proving our case and our righteousness? Perhaps I'm having a mediator's fantasy, but perhaps not. In many ways what I am suggesting takes more focus and determination than simply waging battle with the other side.

Recently I read "My Stroke of Insight" by Jill Bolte Taylor, Ph. D. She had the "benefit" of losing the left side of her brain and then slowly regaining it over a strenuous six-year period. A brilliant neuroscientist, she came away from her stroke with insights that could serve all of us who live in a "conflict" environment. The right side of our brain has so much to offer. Losing her left side for six years opened her up to all of the benefits of her right hemisphere.

"The really exciting news about acknowledging my right and left characters is that I always have an alternative way of looking at any situation – is my glass half-full or half-empty? If you approach me with anger and frustration, then I make the choice to either reflect your anger and engage in argument (left brain), or be empathetic and approach you with a compassionate heart (right brain). What most of us don't realize is that we are unconsciously making choices about how we respond all the time."¹

As attorneys and mediators we can develop the right hemisphere of our brain, or at least pay more attention to it, so that we can bring more peace to our clients and to ourselves. I do not mean that we ignore law; I do mean that in mediations we can put positions and legal interpretations in perspective. A compassionate approach may feel much more rewarding than a legal victory and or the potential stress of a major loss.

My favorite book title is "Bringing Peace into the Room" by David Hoffman and Daniel Bowling. It contains stories by various mediators who all advocate slightly different styles of mediation. Yet underlying their different approaches is the understanding that we feel better when we reach resolutions or to some extent find a little more peace.

When we always insist on being right, are we enjoying the limited time we have here? This is not too big a question to be asking and from my perspective it is a most important consideration. Are we attending to our well-being and the well-being of those with whom we share this earth? Are these strange questions for a lawyer of 42 years experience to be asking? I once enjoyed the adrenaline rush when in trial; now I appreciate those trial lessons, but think that maturity has led me on a different path.

Mediations really can be an opportunity to slow down, take a deep breath and allow ourselves the pleasure of resolving difficult situations. Dr. Taylor brilliantly uses her left brain, but now also engages her right brain to "...ask myself repeatedly, how does it feel to be here doing this?"²

As mediators and lawyers I think that we often best serve our clients when we appreciate our left brain (organized, analytical), but emphasize our right brain's ability to see the bigger picture and to seek peace and resolution. We can come closer to enjoying mediations when we allow ourselves to skip the minutia and see the bigger picture.

"Most important, however our desire for peace must be stronger than our attachment to our misery, our ego, or our need to be right. I love that old saying, 'do you want to be right, or do you want to be happy?'"³

We have the ability to consciously choose our approach to problems. Generally, aggression and hostility do not feel as good as compassion and understanding. From a practical perspective, less gets accomplished when hostility is allowed to dominate a mediation. Of course we can reach settlements in hostile situations, but we can do and feel much better when we allow compassion and understanding in the room.

I recommend reading "My Stroke of Insight." I'd be interested in knowing your thoughts and feelings on how we can best incorporate some amazing insights into our careers as lawyers and mediators.



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