

Leanne Rebantad



People

Fighting Like **Cats** and **Dogs**

Disputes between wild animals are usually settled quickly, with the more powerful animal winning by destroying the loser.

Disputes between people in our current adversarial litigation system are not usually settled quickly; the winner is often the party with the most financial resources. Litigation is like war, with money being the equivalent of weapons. Money equals power.

You may have heard the old saying about people “fighting like cats and dogs.” Cats and dogs do not usually like each other, yet are quite often found living together in the same residence with their human owner.

Why do some cats and dogs co-exist peacefully and others do not? Perhaps it is because of the intervention of a third party neutral—the human. Think of the cat and dog as the parties in a dispute. They both have a common interest—both want to live inside the house and have an ongoing relationship as members of their household.

It is unlikely they will settle their conflict without the intervention of a third party neutral. After several skirmishes with wins and losses for each side, the human owner may decide to intervene.

**Litigation is like war,
with money being the
equivalent of weapons.
Money equals power.**

If their human owner acts as an *arbitrator*, the result may be: “The cat shall now reside inside the house and the dog shall reside outside.” Sounds like litigation. Is that the best result for both parties? The cat might think so.

If the human owner acts as a *mediator*, more possibilities open up to the parties. By discovering the true interests of the parties, the end result can be more satisfying and possibly longer lasting.

Both cat and dog want to live in the house. By exploring their individual interests, the parties find the cat wants to

sleep by the fireplace and the dog wants to sit by the big window overlooking the street. The parties have reached their own agreement with the assistance of a mediator.

One advantage of mediation is that the session is conducted in a private room and you are negotiating face to face with the other party in the presence of the mediator. The confidential setting as opposed to a public courtroom can be of benefit to both parties. Small-town courtrooms often have several local citizens who look forward to attending each court session so they can share the details with friends and neighbours. They consider it real-life television. That can be damaging to personal and business reputations in a small town.

You may attend mediation with or without your lawyer. You should first consult with your lawyer as to your legal rights. If you do not communicate well, it may be advisable that you attend the mediation with your lawyer.

Mediation is not always successful. The parties should have a desire to settle their disagreement. Some people, like animals, use aggression to dominate and take what they want.

**No one likes to be told
what to do. We all like to
have input.**

Most of us will experience at some point in our lives a conflict we just can't resolve.

- Maybe you are forced to work with someone you don't like and the situation has escalated to a union grievance or a decision to quit your job.
- Perhaps a dispute with a neighbour has caused you to consider moving.
- Maybe you are unhappy with your new home purchase because you feel the seller did not disclose some problems with the home.

No one likes to be told what to do. We all like to have input. If you are unable to work out a disagreement directly with the other party, try mediation before proceeding to litigation. You have nothing to lose, other than a few hours of your time.

Not every cat and dog can live together. Sometimes the decision must be made to separate them. If the mediation does not work out, then take it to arbitration or litigation.

Many trained mediators are available. For information and assistance, please contact the BC Arbitration and Mediation Institute (www.amibc.org) and the BC Mediator Roster Society (www.mediator-roster.bc.ca).

Remember: mediation can give you some control over the resolution of your dispute. ▲

Leanne Rebantad is an experienced Provincial Court Mediator and arbitrator who practises as a Notary in Powell River on BC's Sunshine Coast. She is a member of BC Arbitration and Mediation Institute and is on the Civil Roster of the BC Mediator Roster Society.

rebantad@notaries.bc.ca