

Rick and Carol Evans

Co-Mediating Couple Encourages Peace *and* Harmony

My wife Carol and I first became interested in mediation in the late 1990s after two expensive and painful divorces.

We learned that litigation can bring out the worst in all of us and began seeking a process that would allow people in conflict to express their feelings, work through issues in a constructive manner, and come to a resolution that would meet the needs of all those involved. Although mediation was unsuccessful in our case, we were impressed by what we had experienced and in 1999 enrolled in mediation training for ourselves.

I was in the first class of BC Notaries trained by Sharon Sutherland through The Society of Notaries Public. I enjoyed it very much and encouraged Carol to sign up for the introductory Conflict Resolution course through the Justice Institute at our local college. Carol eventually obtained a Certificate in Conflict Resolution through the Justice Institute in August of 2002.

Our next step was to become Provincial Court (Civil) Mediators [PC(C)Ms] through the Court Mediation Program, which provides a roster of mediators in five registries in British Columbia. We took our practicum training in the Vancouver

and Surrey registries, which involved our being mentored by experienced mediators in 10 mediations in Small Claims Court. These mediations also provided us with the required number of mediations to apply to become mediators on the British Columbia Civil Roster, which we have since done.

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When we graduated from the program, Carol and I were told that if we applied to co-mediate, we stood a better chance of being accepted than if we applied as sole mediators. Upon hearing this, we were both a bit disappointed. After reframing this suggestion in our best mediator fashion, however, we realized that for us, co-mediation was a good fit.

There are many reasons why co-mediation appeals to Carol and me. Because some mediations involve many parties, it is obviously preferable to have more than one person controlling the process. If the dispute is settled, one of us can chat with the parties, while the other person draws up the agreement. Then we can change roles, to ensure nothing has been missed or overlooked by the person doing the drafting.



And of course after the mediation, we can debrief what happened and, especially if it didn't settle, talk about what we could have tried that might have been more successful.

For us, however, the most beneficial part of co-mediating is that while one person is in charge of the "work" of the mediation—asking questions, paraphrasing answers, and checking details—the other person can be watching body language and paying attention to non-verbal clues. That information can provide valuable insights into the dispute and help us find the key to unlock the door that can lead to a settlement.

We work well together, have different strengths and "growing edges," and enjoy teamwork. We both passed the written exam and in October of 2000 began to mediate in Small Claims Court in the Nanaimo Registry. At the present time, Carol and I are one of only two co-mediator couples qualified as PC(C)Ms.

With the exception of ICBC cases, most files on Vancouver Island under \$10,000 are scheduled for mandatory mediation in Nanaimo. If the parties settle the dispute, we and the disputing parties are given 2 hours to discuss the issues, come to resolution, and draw up an agreement.

As co-mediators, we share the introduction process and the signing of

the Agreement to Mediate and share the air time during the mediation. Should the parties settle, my background as a Notary Public assists in the drafting of the mediation agreement.

Carol's background is in counselling and family systems, so she is better at uncovering the unfinished business between and among the parties and dealing with feelings and inconsistencies in a story.

Mediators are taught to provide a balance between honesty and empathy. Contrary to what people expect from men and women, I tend to be better at empathy and Carol seeks out and expects honesty.

We did one mediation in which the defendant was an Aboriginal man who, at the end of the session, described Carol as "fire" and me as "air." At first I was somewhat offended, but later was able to laugh and acknowledge there was a grain of truth to the man's insight, especially since, sometimes, Carol is a little too fiery and I am called upon to put out the flames.

Because the Small Claims Court does not allow for pre-mediation sessions, one of the important features of these mediations are caucuses or private sessions—short periods of time in which we meet with both or all parties separately to delve a little deeper into the circumstances that brought them to the point of filing a claim and to do a little reality checking about proceeding further in the court system.

During one case, a clue provided by one of the participants led to Carol's being inspired to ask a seemingly irrelevant question that resulted in a quick and easy settlement.

A company had done work for a man who now refused to pay the invoice; he had written "Costs Too Much" in several places on the reply form. The dispute didn't make sense to us because he admitted that the company had responded quickly to his call, the work

was done well and in a timely fashion, and the invoice didn't seem out of line.

Carol had been watching the defendant while Rick spoke to him in the private session; she sensed an underlying factor that had nothing to do with the current dispute.

She asked what his profession had been before he retired. He said he had been a professional in a large firm. He was now helping his wife in a home-based business and was clearly frustrated and unhappy in his new "job."

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When he was given credit for his professional knowledge, his attitude changed from hostility to acceptance. The claimant reduced his invoice in acknowledgment of some shared responsibility in the dispute and the defendant happily paid.

The two men shook hands and left feeling good about themselves and each other. Those "transformative" mediations are the ones that keep us hooked on the process of conflict resolution.

We have also worked together on estate, parent-teen, and divorce disputes, but since I am still busy with my Notary practice, we tend to limit our co-mediations to Small Claims Court. While not well paid, they are endlessly fascinating and satisfying. They provide us with the opportunity to work together to encourage people to find new ways of resolving conflict and living in peace and harmony. ▲

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