

# CLEVELAND MEDIATOR

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### The power of listening at Mediation

Somewhere I read an old Native American proverb that said that the reason a person has two ears and one tongue is so they can listen twice as much as they talk. At mediation, as in many forums with groups of individuals, people often want to talk instead of listening. Even when someone is quiet and appears to be listening, they are often judging the other party’s perspective, thinking about their rebuttal or what they are going to say next.

Effective listening requires you to focus on the real interests and needs of the speaker. It is not only important that a person listen to what is being said but also that the speaker believe that they have been listened to and understood by the listener. There are various techniques that can be used to accomplish these objectives such as active listening, acknowledgement, open-ended questions and looping.

The power of effective listening can be easily appreciated. A good listener makes the speaker feel that they have been heard. During your next conversations at home or in a business setting, try some active listening techniques and see how it works. Paraphrase back to the speaker what they said or what you think they were feeling about their situation using their own words. Ask neutral open-ended questions to encourage the speaker to reveal more information.

Often, a party at mediation just wants to feel heard. A person who does not feel they are being listened to often becomes threatened, frustrated or emotional. When this occurs, it creates a barrier to resolution because it prevents the person from thinking rationally. Effective listening can help a person off this irrational mountain to the plane of rational thinking. Once a person feels understood and acknowledged, they are ready to listen to the other participants at mediation.

### QUESTION OF THE MONTH

#### WHY DO JOINT CAUCUSES AT MEDIATION?

Although joint caucuses can be problematic, there are certain advantages that can result from them. Joint meetings gives each party an opportunity to hear and be heard by each other with unfiltered content which can lead to a better understanding of each other. This understanding can go beyond a recitation of the facts of the claim. Joint caucuses can include conversations about the law, legal risks, practicalities and interests. Furthermore, often in joint caucus the parties begin to have conversations about what is important to them and what is at stake. Certainly mediators need the active support and agreement for joint meetings to be successful. However, lawyers and parties can have more control over the outcome and process and observe both verbal and nonverbal communication in joint meetings.

#### NEWSWORTHY

The Ohio Supreme Court has offered two mediators to mediate the South Euclid parking ticket case involving the processing of parking tickets. The Court has also appointed mediators to mediate several public record disputes that have been filed throughout the state.

#### RECENT CASE LAW

The dismissal of a complaint was reversed where the judge considered privileged communications from a mediation in making their ruling. *Kuhn v. 21st Century Insurance*, Stark App. No. 2011CA 00232, 2012-Ohio-2598

#### QUOTABLE

“Everything exposed to the light becomes visible”. Federal Judge Michael Hogan who mediated the sexual abuse cases for the Spokane Washington Catholic diocese.