

It's A Matter of Trust

by Judge Elaine Gordon, (ret.)

Billy Joel was right and not just about love. A successful mediation is often just a matter trust. It's almost impossible to settle a case in an atmosphere of doubt and suspicion.



Judge Elaine Gordon (ret.)

My column this month is about a very important aspect of a mediation. I hope you find the topic of "trust" interesting as well as a chance to be reminded how fragile it is.

Thank you for using the calendar on the Gordon ADR website to help schedule your cases. Many of you have commented how handy it is and it certainly makes it easier for us to be sure you get the date you want.

Here is the link:

<http://www.gordonadr.com/Calendar.html>

As is our custom, Gordon ADR is making its annual donation to the Connecticut Food Bank in honor of all the lawyers and staff we were privileged to serve this year. Please keep in mind those less fortunate as you celebrate the Thanksgiving holiday.

Last month, at its fall conference, the International Academy of Mediators dedicated its entire program to the subject of trust. For two and a half days, we explored its genesis, nuances and fragility. All of us in attendance had experienced the toll litigation takes on trust. We understood that when a mediation is scheduled, often near the end of litigation, success depends upon rebuilding trust that might have been lost.

Trust rests on three basic elements: competence, reliability and sincerity. When any of these are compromised, trust is diminished. While it is imperative for a mediator to demonstrate these qualities, it is also necessary for lawyers to show that they can be trusted as well.

Assuming competence, counsel's demonstration of reliability and sincerity makes a huge difference. Reliability means you can be trusted to keep your word. Seemingly small things matter. For example, my experience, in over a thousand cases, has shown that lawyers who arrive late for a mediation spend much of the day trying to regain the trust they lost. Similarly, if a lawyer has not provided something that was promised, whether consequential or not, trust is the first casualty.

Sincerity is the hardest part of trust to build, and it's integral to our decision to extend our own trust. It's also what takes the biggest bruising in litigation. Imagine how sincerity and integrity might be questioned after a grueling deposition or the exchange of confrontational pleadings.



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