



Judge Elaine Gordon (ret.)

A note from Judge Gordon

Thank you for the great feedback on our new scheduling calendar (see bottom of column for the link). Lawyers, paralegals and legal assistants alike say the calendar makes scheduling so much easier. Give it a test drive!

My column this month was inspired by my attendance at the semi-annual meeting of the International Academy of Mediators. IAM members are very generous with their ideas on what works and what doesn't work in their experience as world class Mediators.

The holiday season is upon us once again. It is that time of year to be grateful for all we have been given and to do our part to help those less fortunate. Gordon ADR is making its annual contribution to the Connecticut Food Bank in honor of all the lawyers we serve.

Happy Thanksgiving!



www.gordonadr.com/Calendar.html

Don't Step on Their Toes!

The Mediator and Lawyer/Client Relationship

Mediators must be sensitive to the delicacy of the lawyer/client relationship and the tension that surrounds the Mediator's intrusion into that dynamic. Mediators and lawyers don't often speak of this tension, but any lawyer who mediates has a view on how far a Mediator should go before becoming an unwelcome visitor to the relationship.

As the Mediator, I am the newcomer at the table and know the least about the case. It is my responsibility to show that I respect the often complex dynamic that exists between lawyer and client.

The lawyers with whom I work have expertise both in the relevant subject matter and in the dispute itself. In fact, many counsel have great negotiation and mediation skills that make my job much easier. I let them know how much I appreciate their skill. We are, after all, equal partners in the success or failure of the Mediation.

Here are the rules I try to follow:

1. What the lawyers and clients have to say is always more important than what I have to say.
2. I try to do the heavy lifting if the client is difficult, especially when delivering unwelcome news.
3. No matter how innocent it may seem, I save any observations or questions that might be viewed as criticism for a private meeting with counsel.
4. If the Mediation is successful, I make sure the lawyers get the credit. Because, most certainly, I could not have done it without them.
5. In the rare case, when the Mediation does not result in settlement, I take the responsibility. I make arrangements to continue settlement negotiations via phone conference or schedule another session to build on whatever progress was made.

After being on the bench for 23 years, it is a pleasure to sit at the table and watch lawyers work. Their responsibility, on behalf of their clients, is demanding. Part of my job, as the Mediator, is to help the day go a little easier.



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