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Upcoming Events



Compromise: It's Better to Give to Receive

By: Rhynette Hurd

Mediators will tell you it's essential for parties to approach mediation willing to compromise. For some lawyers and their clients, however, compromising means agreeing to settle only if they get everything they asked for in the first place. For others, "compromise" is a negative term that means being forced to give in to their detriment for the benefit of the other side. As difficult as it is to define "compromise," it's even more difficult to achieve it unless you come to the table open to patient and nonjudgmental listening and to the possibility of shifting your perspectives as warranted by what you hear. You've come to mediation to resolve a dispute, not advocate for your position. The right attitude counts. It's not the time to focus on sticking to your guns or drawing lines in the sand.

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In Mediation: Information is Power

By: Lorrie Ridder

Part One: Writing an Effective Mediation Statement

Every lawyer knows going into mediation that the mediator will not be deciding the case. Even so, many mediation statements are written from the point of view of the advocate. They often sound like an opening statement at trial: a recitation of the best view of the facts, along with the applicable law, and all the reasons the client should prevail. But who is the real audience here? It certainly cannot be opposing counsel, as he or she will not even read the powerfully persuasive prose. Do lawyers simply find it difficult to leave their role as advocate behind, to allow the client to see the case -warts and all?

Lawyers understand that before mediation, and thus before trial, the client must have a true appreciation of the risks and benefits inherent in going forward. In mediation, it is the client's decision whether to settle the case, and yet only a well-informed client can make a good decision on settlement.

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AWA Members Lisa Gill, Leah Hillis, and Mary Hamm enjoy the reception at the AWA fashion show.

Compromise: It's Better to Give to Receive (Continued)

By: Rhynette Hurd

For parties in litigation, compromise is especially difficult considering the parties' sustained inability to recognize the benefits of compromise probably contributed to their dispute. Certainly, if we think of compromising as placing something at risk or somehow reducing its value, it's not likely compromising is something we'd like to do. We are warned that bad habits will "compromise our health" and that we shouldn't "compromise our values." On the other hand, if we think of compromising as going hand in hand with reciprocity, with emphasis on the receiving as opposed to the giving part of the process, the concept is more palatable. To be open to compromise is to be willing to make some concessions with the expectation that the other side will do the same. Something must be given, but giving means getting something in return.

For parties to be willing to compromise, they must honestly evaluate their case to understand what will most likely happen if they can't reach settlement. The goal is for the parties to end with something that is better than or equal to their realistic expectation if the case went to trial. The beauty is both parties can achieve that goal – that's the win-win of mediation. When both parties view compromising not as placing something at risk but instead as avoiding the risks of a trial, settlement is more likely. Your decision to compromise means you, not a judge or jury, determine the result.

Whether compromise ultimately occurs in mediation, willingness to compromise is important. The most successful mediations are those that end with all sides feeling they gave something but got what they wanted as a result. There should be no losers after a successful mediation. Entering the mediation in the spirit of true compromise is an important factor in achieving that goal. Lawyers should remember that coaching their clients to come to mediation willing to give a little doesn't mean putting their clients in a compromising position. It means instead positioning their clients to be willing to compromise . . . and that's a good thing. ♦

Inexpensive Ways to Reduce Stress

By: Christy F. Washington

1. Walk, run or bike the Greenline.
2. Picnic at a local park or Shelby Farms.
3. Attend a yoga, pilates or tai chi class or watch a DVD or online video about yoga, pilates, or tai chi.
4. Attend a free outdoor concert at the Levitt Shell at Overton Park : (<http://www.levittshell.org>) or at the Collierville Square (<http://mainstreetcollierville.org/event.htm>).
5. Go to the Farmers Market, meet local farmers and shoppers, and exchange recipes.
6. Go to an art museum: Brooks, Dixon Gallery and Gardens, or Pink Palace on their free days.
7. Volunteer at a local animal shelter and walk dogs or play with cats.
8. Volunteer at a local food pantry/shelter.
9. Attend a free community event at the public library
http://www.memphislibrary.org/calendar_list.
10. Fly a kite at Shelby Farms.
11. Create art out of found objects with family and friends.
12. Have a movie night or game night with friends and/or family and make your own sundaes, smoothies, salads, etc.
13. Host a barbeque or meet at a local park and barbeque.
14. Go hiking at Shelby Forest.
15. Start a book club, wine club, dinner club, knitting circle, camping/hiking club, etc.
16. Go to bed 15 minutes early; sleep 15 minutes later.
17. Host a theme party.
18. Tour Memphis as if you were a tourist and see it through the lens of your camera.
19. Eat at a local restaurant and talk to the owner.
20. Walk along the Mississippi River at sunrise or sunset and skip rocks.

In Mediation: Information is Power (Continued)

By: Lorrie Ridder

The true audience for the mediation statement then is not the mediator: it is the client. The best information available, good and bad, should be made a part of the mediation statement, including objective views of relevant factual disputes, expert reports, and the applicable law. Lawyers should discuss with their clients possible outcomes of significant issues that can be resolved only at trial or by later motion, such key evidentiary rulings by a judge. The most important point is to be candid. While lawyers often believe there may be a "smoking gun" they want to keep from the other side, I have rarely found that to be the case. During mediation sessions, I typically hear about the supposed "smoking gun" in both rooms as a red flagged issue. Lawyers who are honest about their cases and who can talk about the cases realistically with their clients get cases settled.

One way to facilitate this kind of effective mediation statement is to include the client in its preparation. Doing so also will help prepare the client for the mediation session. This is the time for the client to examine the other side's positions, to understand them as much as possible, and for the lawyer to explain the difference between the viewpoints.

Information is power. Armed with the best information possible, from the most objective viewpoint - this kind of mediation statement will be the most effective tool for the client, the lawyer and the mediator. A candid mediation statement is the first step towards a successful resolution of any case. ♦

AWA Fashion Show



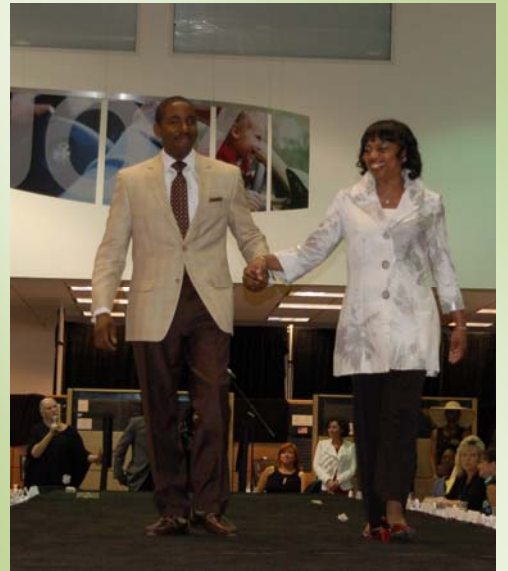


2011 AWA Fashion Show
@
Roadshow BMW
Mini
with clothes by
Christine and
Shelton Clothiers

Thank you to all who came and supported AWA!



Thank you to special guest
"Lucille" Ballin



Upcoming Events

- **Dec. 1: AWA 2011 Judicial Reception**
Cocktails and Hors D'oeuvres will be served
 - Time: 5pm – 7pm
 - Place: 154 N. Perkins Road, Memphis, TN 38117
 - RSVP: Mary McGinnis at (901) 322-6013 or marymcginnis11@hotmail.com
 - Valet Parking Available
- **Nov. 18: MBA and AWA sponsored CLE**
*Negotiation Skills for Women:
Getting Results for you and your Clients*
 - Time: 1:30-4:45 (registration begins at 1pm)
 - 3.0 Hours General CLE credit
 - Go to memphisbar.org for more information, fees, and registration materials.
 - See registration form below.



Negotiation Skills for Women: Getting Results for You and Your Clients

Fee:	Early (on or before 11/16)	Late (after 11/16)
MBA or AWA member:	<input type="checkbox"/> \$75	<input type="checkbox"/> \$85
Non Member:	<input type="checkbox"/> \$90	<input type="checkbox"/> \$100
Law Student:	<input type="checkbox"/> No charge	<input type="checkbox"/> No charge

Method of payment: Check Invoice me Visa or M/Card Dues Discount

Card #: _____ Exp Date: _____

3 digit security code: _____ Signature: _____

Billing Address: _____

Name: _____ BPR # _____

Address: _____

Phone: _____ Email: _____

No refunds will be issued after 11/16/11, substitutes will be allowed.

Send payment and form to:
Memphis Bar Association , 80 Monroe Ave., #220 , Memphis, TN 38103
More information and registration materials on www.memphisbar.org