

By Louise Phipps Senft

The negotiating table

Turning problems into opportunities

Mediation - Three Aspects of Recognition

One helpful aspect for anyone considering mediation is to request a transformative mediator. Why? Because transformative mediation offers what I like to call “settlement plus”. The plus is recognition. Most writers in the mediation field who have noticed the benefit of recognition have discussed two aspects of recognition. This article will discuss three.

In a broad sense, recognition involves better understanding of a person or a “side”, even if not agreeing. Generally speaking, it’s that quality of interactions when one party becomes more open or attentive to the other, regardless of agreeing with or not.

The first aspect of recognition has one party better understanding the other party in mediation. This comes about when, perhaps for the first time, the parties actually listen to each other, and the parties-- perhaps for the first time-- are encouraged to, and feel safe and comfortable about, speaking openly of their needs and concerns, their problems, their expectations, their disappointments, and what the conflict or dispute has cost them not only financially but mentally and emotionally including economic lost potential, business and personal distractions, wasted time, restructured resources and personal emotional energy. Prompted by open questions and reflections by the mediator, the words can come tumbling out. And they almost do for most business men and women, physicians and other healthcare providers and even the attorneys themselves from time to time. And because of the interaction by the mediator with the party speaking, the other party(ies) are given a safe distance from which to listen without having to respond. Understanding the other party makes it easier to create or accept remedies that can work towards resolving the problem. People, at least deep down, want to resolve serious conflicts; thus, making it easier to do this is of benefit to each party, including the one who better recognizes and understands the other.

The second aspect of recognition is the effect on the party who is now being understood. People with problems, concerns or hurts need to speak about them. It is a happy and beneficial happening when they are listened to and understood. It is empowering. It makes them more able to listen to and understand the other party. It provides more opportunity to be open to other ideas and possibilities that before had not been fully considered or even known. Mutual recognition can be the first big step in the parties inter-relating to each other in a productive manner and fashioning for themselves

answers to the conflict they are caught up in.

There is also an interesting third aspect of recognition where a party--in addition to giving recognition to the other party--begins to recognize *himself* or *herself*, again perhaps for the first time. An example of this would be a supervisor, spouse or person in authority (employer, attorney, prime negotiator of contract) over another who has been controlling or domineering without realizing it. Or has acted in a way that was not an accurate reflection of the person they see themselves as being. This can happen. On previous occasions people may have tried to tell the person about the situation but did not have a successful conversation. Especially when people feel they are being criticized or attacked, rather than being listened to and understood, they are more likely to get distracted "drafting" a response in their heads. Consumed by this, they may appear to be listening but are not fully, or they are only listening for selective things to dispute or to counter or to use as fuel for their response, rather than hearing the whole picture. When this happens, they regularly do not "recognize" themselves or their own shortcomings.

With the assistance of a trained and experienced mediator, this can change and a person can come to "recognize" himself or herself and see the role that he or she has played in the conflict or situation, and more importantly see how alienating it was not only from the other person or side but how alienating the behavior was from oneself. If this happens, will the person try to become less controlling or domineering? Maybe. Maybe not. It's not the mediator's job to decide or to force. But the likelihood is that people, when they are given a chance to step back, "go to the balcony", and have a bird's eye view of a situation are more likely to see all the faces of the conflict, including their own much more clearly. The mediator's job is to assist in fostering such moments and connecting them to decision making opportunities. What the parties do with these opportunities is up to the parties. But for sure, if a person remains unaware that change is needed, no change will happen.

When all three aspects of recognition occur, and they often do in mediations where the parties choose a transformative mediator, the stage is best set for the parties to do what they really want, resolve a troubling conflict on terms they fashion and can live with. The mediator is doing a professional service to the parties when the mediator fosters recognition opportunities with open-ended questions and supportive summaries and reflections, providing some oxygen and space for clearer thinking to prevail in otherwise difficult situations. Better Process..... Better outcome.

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