

Directions to the Armorer

All right, armorer,
Make me a sword—
Not too sharp,
A bit hard to draw,
And of cardboard, preferably,
On second thought, stick
An eraser on the handle.
Somehow I always
Clobber the wrong guy.

Make me a shield with
Easy-to-change
Insignia. I'm often
A little vague
As to which side I'm on,
What battle I'm in.
And listen, make it
A trifle flimsy,
Not too hard to pierce.
I'm not absolutely sure
I want to win.

Make the armor itself
As tough as possible,
But on a reverse
Principle: Don't
Worry about its
Saving my hide;
Just fix it to give me
Some sort of protection –
Any sort of protection—
From a possible enemy
Inside.

--Elder Olson
(From the New Yorker, 11/59)

INTRODUCTION: THE THEORY AND PRACTICE OF MEDIATION

This handbook, like all handbooks on complex topics, is deceptive. The focus is on the “nuts and bolts” of mediation practice: how to structure and organize the overall process and each session. Some will be “taken in” by the illusion that competent mediation practice can be reduced to “cookbook” formulations.

I have participated in the “deception” nonetheless, out of the belief that to effectively learn new skills, practitioners need a firm structural basis with which to begin. Therefore, the materials have been organized to follow the format of the mediation process in complex, multi-issues that ought to be considered and addressed, graphics that are typically presented to clients to aid their understanding, the necessary forms that are used in practice, and other background material (demographic data) that may help a mediator to frame issues. The practice hints provide a conceptual framework and specific suggestions for approaching the various issues presented in mediation and in establishing a private practice. All of the materials have been developed, applied and endured the strains of an ongoing mediation practice over the last ten years plus.

There is a fervent hope that those who find this handbook of help do not rely on it. Once the basic structure of the mediation process is clear they should move on to the next level; to develop their own structure and style.

To the extent that this handbook is taken to suggest that effective practice is merely the application of a rational or analytical problem solving skills, it does a disservice. While analytical skills are equally important, interpersonal skills and intuition which are not as readily susceptible to description are equally important. Quality mediation requires “systematic intuition”, where the mediator must draw simultaneously upon both objective, analytical understanding and subjective, intuitive knowledge.

Finally, while this handbook focuses on the structure of the mediation process, the strains of the underlying theory should be apparent in the conceptual framework and organization of the materials. While it is beyond the scope of this book to elaborate, the importance of understanding the theoretical foundations of the mediation process can not be underestimated. Three theories in particular demand at least an oversimplified mention:

1: **Systems Theory** was originally formulated in scientific research and later applied to human organizations and families. The theory posits that each business and family organization has a unique integrated character where the whole of the system is greater than the sum of its parts. The system is in its own right an organism where each part relies upon and is in turn relied on by every other part of the system. This understanding is critical in mediation to

Appreciate that problem solving is an ongoing process, not merely the fixing of a malfunction, and that the whole system, legal, business and personal aspects must be addressed simultaneously.

2) **Communications Theory** posits that reality is created in large part by the use of words, language and metaphors. In mediation, there is no such thing as "mere semantics". Some of the most important skills and strategies employed in effective mediation practice requires the effective use of words and metaphors to reframe issues so that they are susceptible to being resolved. In effect, to understand how the parties have constructed their reality and beliefs in order to shift those realities just enough to allow the parties to consider other possible resolutions.

3) **Quantum Mechanics Theory** is drawn from scientific research into subatomic particles. This theory is important because it is reshaping our view of the world not only in science but in how we approach complex, matters in every profession. Quantum mechanics displaces old scientific notions that only objective, mathematically provable events and answers are valid. Where physical phenomenon and world events were once considered predictable, Quantum Mechanics theory undercuts that certainty and asserts instead that those phenomenon and events are at best ruled by guesstimates of tendencies and possibilities. Notions of truth and the right answer, and the myth of justice, rationality, finality and objectivity spawned by the principles of classical (Newtonian) physics and adopted by the professional disciplines of law, medicine and mental health are in the process of being questioned. Mediation as a process and profession has grown out of the increased awareness that complex issues cannot be effectively addressed by simplistic linear formulations and solved by "right/wrong" or win/lose determinations. Mediation, thus, requires a "paradigm shift" in our thinking process away from certainties toward a more integrated complex approach to problem solving.

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