The Definition of Mediation with an Emphasis on Family Mediation

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Abstract
Mediation, as used in law, is a form of alternative dispute resolution (ADR), a way of resolving disputes between two or more parties with concrete effects. Typically, a third party, the mediator, assists the parties to negotiate a settlement. Disputants may mediate disputes in a variety of domains, such as commercial, legal, diplomatic, workplace, community and family matters. The term "mediation" broadly refers to any instance in which a third party helps others reach agreement. More specifically, mediation has a structure, timetable, and dynamics that "ordinary" negotiation lacks. The process is private and confidential, possibly enforced by law. Participation is typically voluntary. The mediator acts as a neutral third party and facilitates rather than directs the process. Mediators use various techniques to open, or improve, dialogue and empathy between disputants, aiming to help the parties reach an agreement. Much depends on the mediator's skill and training.

Keywords: mediation, alternative dispute resolution, family

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Introduction

As used in law, mediation is a form of alternative dispute resolution (ADR), a way of resolving disputes between two or more parties with concrete effects. Typically, a third party, the mediator, assists the parties to negotiate a settlement. Disputants may mediate dispute in a variety of domains, such as commercial, legal, diplomatic, workplace, community and family matters.

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Mediation uses various techniques to open or improve, dialogue between disputants, aiming to help the parties reach an agreement. Much depends on the mediator's skill and training. As the practice gained popularity, training programs, certifications and licensing followed, producing trained, professional mediators committed to the discipline.

Mediation is one of several approaches to resolving disputes. It differs from adversarial resolution processes by virtue of its simplicity, informality, flexibility, and economy. Not all disputes lend themselves well to mediation. According to Menkel (1990, p. 761), success is unlikely unless:

- All parties' are ready and willing to participate.
- All (or no) parties have legal representation. Mediation includes no right to legal counsel.
- All parties are of legal age and are legally competent to make decisions.

Ratification and review provide safeguards for mediating parties. They also provide an opportunity for persons not privy to the mediation to undermine the result. Some mediated agreements require ratification by an external body—such as a board, council or cabinet. In some situations the sanctions of a court or other external authority must explicitly endorse a

mediation agreement. Thus if a grandparent or other non-parent is granted residence rights in a family dispute, a court counselor will be required to furnish a report to the court on merits of the proposed agreement to aid the court's ultimate disposition of the case. In other situations, it may be agreed to have agreements reviewed by lawyers, accountants or other professional advisers.

The implementation of mediated agreements must comply with the statues and regulations of the governing jurisdiction.

History

The activity of mediation appeared in very ancient times. Historians located early cases in Phoenician commerce. The practice developed in Ancient Greece (which knew the non-marital mediator as a *proxenetas*), then in Roman civilization. (Roman law, starting from Justinian's *Digest* of 530 - 533 CE) recognized mediation. The Romans called mediators by a variety of names, including *internuncios*, *medium*, *intercessor*, *philantropus*, *interpolator*, *conciliator*, *interlocutor*, *interpreters*, and finally *mediator*.

Some cultures regarded the mediator as a sacred figure, worthy of particular respect; and the role partly overlapped with that of traditional wise men or tribal chief. Members of peaceful communities frequently brought disputes before local leaders or wise men to resolve local conflicts.(Nyberg**,** 1992, p. 66**)** This peaceful method of resolving conflicts was particularly prevalent in communities of Confucians and Buddists (Nyberg**,** 1992, p. 67**).**

Benefits

Family and divorce mediation "family mediation" or "mediation" is a process in which a mediator, an impartial third party, facilitates the resolution of family disputes by promoting the participants' voluntary agreement. The family mediator assists communication, encourages understanding and focuses the participants on their individual and common interests. The family mediator works with the participants to explore options, make decisions and reach their own agreements.

Family mediation is not a substitute for the need for family members to obtain independent legal advice or counseling or therapy. Nor is it appropriate for all families. However, experience has established that family mediation is a valuable option for many families because it can:

1. increase the self-determination of participants and their ability to communicate;
2. promote the best interests of children; and
3. reduce the economic and emotional costs associated with the resolution of family disputes.

- **Cost**: While a mediator my charge a fee comparable to that of an attorney, the mediator process generally takes much less time than moving a case through standard legal channels. While a case in the hands of a lawyer or a court may take months or years to resolve. Mediation usually achieves a resolution in a matter of hours. Taking less time means expending less money on hourly fees and costs.
- **Confidentiality**: While court hearings are public, mediation remains strictly confidential. No one but the parties to the dispute and the mediator(s) know what happened. Confidentiality in mediation has such importance that in most cases the legal system cannot force a mediator to testify in court as to the content or progress of mediation. Many mediators destroy their notes taken during a mediation once that mediation has finished. The only exceptions to such strict confidentiality usually involve child abuse or actual or threatened criminal acts.
- **Control**: Mediation increases the control the parties have over the resolution. In a court case, the parties obtain a resolution, but control resides with the judge or jury. Often, a judge or jury cannot legally provide solutions that emerge in mediation. Thus, mediation is more likely to produce a result that is mutually agreeable for the parties.
- **Compliance**: Because the result is attained by the parties working together and is mutually agreeable, compliance with the mediated agreement is usually high. This further reduces costs, because the parties do not have to employ an attorney to force compliance with the agreement. The mediated agreement is, however, fully enforceable in a court of law.

- **Mutuality**: Parties to a mediation are typically ready to work mutually toward a resolution. In most circumstances the mere fact that parties are willing to mediate means that they are ready to "move" their position. The parties thus are more amenable to understanding the other party's side and work on underlying issues to the dispute. This has the added benefit of often preserving the relationship the parties had before the dispute.
- **Support**: Mediators are trained in working with difficult situations. The mediator acts as a neutral facilitator and guides the parties through the process. The mediator helps the parties think "outside of the box" for possible solutions to the dispute, broadening the range of possible solutions.

Workplace Matters

The implementation of human resource management (HRM) policies and practices has evolved to focus on the individual worker, and rejects all other third parties such as unions and AIRC (Folberg, 1984, p. 80). HRM together with the political and economic changes undertaken by Australia's Howard government created an environment where private ADR can be fostered in the workplace. (Robert, 1995, pp. 15-16).This part of act included:

- Wrongful termination
- Discrimination
- Harassment
- Grievances
- Labor management

A great variety of disputes occur in the workplace, including disputes between staff members, allegations of harassment, contractual disputes and workers compensation claims. (Moore, 1986, p. 35) At large, workplace disputes are between people who have an ongoing working relationship within a closed system, which indicate that mediation or a workplace investigation would be appropriate as dispute resolution processes. However the complexity of relationships, involving hierarchy, job security and competitiveness can complicate mediation (Moore, 1986, p. 37).

The decline of unionism and the rise of the individual encouraged the growth of mediation. This is demonstrated in the industries with the lowest unionization rates such as in the private business sector having the greatest growth of mediation. The 2006 Work Choices Act made further legislative changes to deregulate industrial relations. A key element of the new changes was to weaken the AIRC by encouraging competition with private mediation.

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Community Mediation

Disputes involving neighbors often have no official resolution mechanism. Community mediation centers generally focus on neighborhood conflict, with trained local volunteers serving as mediators. Such organizations often serve populations that cannot afford to utilize the courts or professional ADR-providers. Community programs typically provide mediation for disputes between landlords and tenants, members of homeowners associations and small businesses and consumers. Many community programs offer their services for free or at a nominal fee.

Experimental community mediation programs using volunteer mediators began in the early 1970s in several major U.S. cities. These proved to be so successful that hundreds of programs were founded throughout the country in the following two decades. In some jurisdictions, such as California, the parties have the option of making their agreement enforceable in court.

Peer Mediation

A peer mediator resembles the disputants, such as being of similar age, attending the same school or having similar status in a business. Purportedly,

peers can better relate to the disputants than an outsider. (Agardy, 2009, p. 135)

Peer mediation promotes social cohesion and aids development of protective factors that create positive school climates. (Leonard, 1994, p. 103) The National Healthy School Standard (Department for Education and Skills, 2004) highlighted the significance of this approach to reducing bullying and promoting pupil achievement (Agardy, 2009, p. 138) Schools adopting this process recruit and train interested students to prepare them.

Peer mediation helped reduce crime in schools, saved counselor and administrator time, enhanced self-esteem, improved attendance and encouraged development of leadership and problem-solving skills among students. Such conflict resolution programs increased in U.S. schools 40% between 1991 and 1999 (Imperati, 1997, p. 706).

The reductions included both verbal and physical conflict. Mediator knowledge made significant gains pertaining to conflict, conflict resolution and mediation, which was maintained at 3-month follow-up (Imperati, 1997, p. 708).

Commercial Disputes

Mediation was first applied to business and commerce and this domain remains the most common application, as measured by number of mediators and the total exchanged value. The result of business mediation is typically a bilateral contract.

Commercial mediation includes work in finance, insurance, ship-brokering, procurement and real estate. In some areas, mediators have specialized designations and typically operate under special laws. Generally, mediators cannot themselves practice commerce in markets for goods in which they work as mediators.

Procurement mediation comprises disputes between a public body and a private body. In common law jurisdictions only regulatory stipulations on creation of supply contracts that derive from the fields of State Aids (EU Law and domestic application) or general administrative guidelines extend ordinary laws of commerce. The general law of contract applies in the UK

accordingly. Procurement mediation occurs in circumstances after creation of the contract where a dispute arises in regard to the performance or payments. A Procurement mediator in the UK may choose to specialize in this type of contract or a public body may appoint an individual to a specific mediation panel (Dahl, 1998, p. 64).

Family Mediation

Family mediation is a process in which those involved in family breakdown, whether or not they or a couple or other family members, appoint an impartial third person to assist them to communicate better with one another and reach their own agreed and informed decisions concerning some, or all, of the issues relating to separation, divorce, children, finance or property by negotiation.

In addition to dispute resolution, mediation can function as a means of dispute prevention, such as facilitating the process of contract negotiation. Governments can use mediation to inform and to seek input from stakeholders in formulation or fact-seeking aspects of policy-making. Mediation is applicable to disputes in many areas, such as workplace, commercial and family. Family mediation, as predented by Alvin (1975, p. 35) can be seen as follow:

- Prenuptial/premarital agreements
- Financial or budget disagreements
- Separation
- Divorce
- Alimony
- Parenting plans(child custody and visitation)
- Eldercare
- Family businesses
- Adult sibling conflicts
- Parent(s)/adult children
- Estates

- Medical ethics and end-of-life

Family mediation, also known as alternative dispute resolution, collaborative negotiation, conflict resolution or conflict intervention, is increasingly used in making child protection, child placement and permanency decisions for children.

Effective mediation requires that the family mediator be qualified by training, experience and temperament; that the mediator be impartial; that the participants reach their decisions voluntarily; that their decisions be based on sufficient factual data; that the mediator be aware of the impact of culture and diversity; and that the best interests of children be taken into account. Further, the mediator should also be prepared to identify families whose history includes domestic abuse or child abuse (White, 1980, p. 926).

Aims and Objectives of Family Mediation

Each party in mediation rarely, if ever, knows whether another party has disclosed confidential information to the mediator; and if confidential information has been disclosed, the non-disclosing party never knows the specific content of that confidential information and whether and/or to what extent that confidential information has colored or otherwise affected communications coming to the non-disclosing party from the mediator. In this respect, each party in a mediation is an actual or potential victim of constant deception regarding confidential information -- granted, agreed deception -- but nonetheless deception. This is the central paradox of the caucused mediation process. The parties, and indeed even the mediator, agree to be deceived as a condition of participating in it in order to find a solution that the parties will find "valid" for their purposes (Boulle, 2005, p. 12).

Second, mediation rarely occurs absent deception because the parties (and their counsel) are normally engaged in the strategies and tactics of competitive bargaining during all or part of the mediation conference, and the goal of each party is to get the best deal for himself or herself (Cremin, 2007, p. 7).

These competitive bargaining strategies and tactics are layered and interlaced with the mediator's own strategies and tactics to get the best resolution possible for the parties -- or at least a resolution that they can accept. The confluence of these, initially anyway, unaligned strategies, tactics, and goals creates an environment rich in gamesmanship and intrigue, naturally conducive to the use of deceptive behaviors by the parties and their counsel, and even by mediators. Actually, even more so by mediators because they are the conductors -- the *orchestrators* -- of an information system specially designed for each dispute, a system with ambiguously defined or, in some situations, undefined disclosure rules in which the mediator is the Chief Information Officer who has near-absolute control over what non-confidential information, critical or otherwise, is *developed*, what is *withheld*, what is *disclosed*, and *when it is disclosed*. As mediation pioneer Christopher Moore has noted: "The ability to control, manipulate, suppress, or enhance data, or to initiate entirely new information, gives the mediator an inordinate level of influence over the parties"(Moore, 1986, p. 37).

Third, the information system manipulated by the mediator in any dispute context is itself imperfect. Parties, rarely, if ever, share with the mediator all the information relevant, or even necessary, to the achievement of the mediator's goal -- an agreed resolution of conflict (Charlton, 2000, p. 12).The parties' deceptive behavior in this regard -- jointly understood by the parties and the mediator in any mediation to fall within the agreed "rules of the game" -- sometimes causes mediations to fail or prevents optimal solutions from being achieved.

- Mediation aims to assist participants to reach the decisions they consider appropriate to their own particular circumstances.
- Mediation also aims to assist participants to communicate with one another now and in the future and to reduce the scope or intensity of dispute and conflict within the family.
- Where a marriage or relationship has irretrievably broken down, mediation has regard to the principles that the marriage or relationship soul be brought to an end in a way that:

a) Minimizes distress to the participants and to any children;

b) Promotes as good a relationship between the participants any children as is possible;

c) Remove or diminishes any risk of abuse to any of the participants or children from the other participants; and

d) Avoid any unnecessary cost to participants.

All in all, family mediation is a voluntary and confidential way to resolve disputes without giving the decision-making power to someone else (like a judge). It involves sitting down with the other side in the dispute and a third-party who is neutral and impartial (the mediator).The mediator helps the parties identify the important issues in the dispute and decide how they can resolve it themselves. The mediator does not tell them what to do, or make a judgment about who's right and who's wrong. Control over the outcome of the case stays with the parties.

The Role of a Social Worker as a Mediator

Social workers, by virtue of working in institutions and in a society caught between competing values, are asked to play the role of mediator every day. Child protective service workers, for instance, must bridge the gap between the value of protecting children and the value of keeping children in the home.

Social workers also play multiple roles – enforcer, investigator, case manager, counselor and service provider, to name a few – that demand specific and sometimes contradictory responses.

Human services professionals encounter many conflicts. Lack of resources, value conflicts and role conflicts often demand the social worker to play mediator, whether he or she knows it or not. There is a tension inherent in being caught in an either-or role, and conflict resolution, or mediation, can help the social worker break down the polarities that he or she feels and that the client is experiencing.

What the trained mediator brings to the conflict is four-pronged. The mediator brings skills: listening, the ability to refrain, articulation of

unfocused ideas, and management of data. The mediator brings structure: a defining force that changes the dynamic of an interaction, allowing people to communicate in ways they wouldn't ordinarily, especially freeing expressions of anger. The mediator also brings him or herself: humor, personality, compassion and sympathy. Finally, the mediator brings values and ethics: because there is no such thing as absolute neutrality, the mediator will inevitably work off of his or her value system, which could be of nondiscrimination, for example, or empowerment, but which will affect the outcome of the mediation.

According to above, one of the challenges of resolving conflict is to help the clients keep the problem in perspective. When people are in need of mediation, they often perceive their very survival as bring at stake, for instance, in a divorce situation, capable people with careers and family support really feel like they are going to end up destitute.

People participating in mediation also have identity needs. Their personal meaning, community, intimacy and autonomy are threatened by whatever conflict they are facing, and sometimes the resolution of a conflict, however necessary, equals scary loss of identity. In this regard, some standard models are used which are listed as follow:

Facilitative Mediation

In the 1960's and 1970's, there was only one type of mediation being taught and practiced, which is now being called "Facilitative Mediation". In facilitative mediation, the mediator structures a process to assist the parties in reaching a mutually agreeable resolution. The mediator asks questions; validates and normalizes parties' points of view; searches for interests underneath the positions taken by parties; and assists the parties in finding and analyzing options for resolution. The facilitative mediator does not make recommendations to the parties, give his or her own advice or opinion as to the outcome of the case, or predict what a court would do in the case. The mediator is in charge of the process, while the parties are in charge of the outcome.

In most states, mediation refers to a process in which the parties meet together with a neutral mediator, discuss the issues, develop potential solutions, and attempt to reach agreement on some or all of the issues in dispute in a cooperative, problem-solving environment. When used in Michigan, the tag ‘‘facilitative’’ has often been added to the term ‘‘mediation’’ to distinguish it from court rule mediation. Throughout the remainder of this article, the term ‘‘mediation,’’ standing alone, refers to facilitative mediation (Charlton, 2000, p. 23).

Facilitative mediators typically do not evaluate a case or direct the parties to a particular settlement. Instead, the Facilitative mediator facilitates the conversation. These mediators act as guardian of the process, not the content or the outcome. During a facilitative mediation session the parties in dispute control both what will be discussed and how their issues will be resolved. Unlike the transformative mediator, the facilitative mediator is focused on helping the parties find a resolution to their dispute and to that end; the facilitative mediator provides a structure and agenda for the discussion.

The goal of mediation is to increase understanding of both parties' needs, empower the parties to address those needs, and develop agreements that satisfy their needs to the maximum degree possible. The hope is that, by providing divorcing couples a process that allows them to obtain a divorce in a less adversarial manner, they will be better prepared to co-parent in the years ahead and be more inclined to adhere to their agreements (Charlton, 2000, p. 12).

Facilitative mediators want to ensure that parties come to agreements based on information and understanding. They predominantly hold joint sessions with all parties present so that the parties can hear each other's points of view, but hold caucuses regularly. They want the parties to have the major influence on decisions made, rather than the parties' attorneys.

Mediation is purely facilitative: the mediator has no advisory role. Instead, a mediator seeks to help parties to develop a shared understanding of the conflict and to work toward building a practical and lasting resolution (Wetlaufer, 1990, p. 75).

Facilitative mediation grew up in the era of volunteer dispute resolution centers, in which the volunteer mediators were not required to have substantive expertise concerning the area of the dispute, and in which most often there were no attorneys present. The volunteer mediators came from all backgrounds. These things are still true today, but in addition many professional mediators, with and without substantive expertise, also practice facilitative mediation.

Evaluative Mediation

Evaluative mediation is a process modeled on settlement conferences held by judges. An evaluative mediator assists the parties in reaching resolution by pointing out the weaknesses of their cases, and predicting what a judge or jury would be likely to do. An evaluative mediator might make formal or informal recommendations to the parties as to the outcome of the issues. Evaluative mediators are concerned with the legal rights of the parties rather than needs and interests, and evaluate based on legal concepts of fairness. Evaluative mediators meet most often in separate meetings with the parties and their attorneys, practicing "shuttle diplomacy". They help the parties and attorneys evaluate their legal position and the costs vs. the benefits of pursuing a legal resolution rather than settling in mediation. The evaluative mediator structures the process, and directly influences the outcome of mediation (Donner, 1995, p. 11).

Evaluative mediation is focused on providing the parties with an evaluation of their case and directing them toward settlement. During an evaluative mediation process, when the parties agree that the mediator should do so, the mediator will express a view on what might be a fair or reasonable settlement. The Evaluative mediator has somewhat of an advisory role in that s/he evaluates the strengths and weaknesses of each side's argument and makes some predictions about what would happen should they go to court. Facilitative and transformative mediators do not evaluate arguments or direct the parties to a particular settlement.

Evaluative mediation emerged in court-mandated or court-referred mediation. Attorneys normally work with the court to choose the mediator, and are active participants in the mediation. The parties are most often present in the mediation, but the mediator may meet with the attorneys alone as well as with the parties and their attorneys. There is an assumption in evaluative mediation that the mediator has substantive expertise or legal expertise in the substantive area of the dispute. Because of the connection between evaluative mediation and the courts, and because of their comfort level with settlement conferences, most evaluative mediators are attorneys.

Transformative Mediation

Transformative mediation is the newest concept of the three, named by Folger and Bush in their book *The Promise of Mediation* in 1994. Transformative mediation is based on the values of "empowerment" of each of the parties as much as possible, and "recognition" by each of the parties of the other parties' needs, interests, values and points of view. The potential for transformative mediation is that any or all parties or their relationships may be transformed during the mediation. Transformative mediators meet with parties together, since only they can give each other "recognition" (Baruch Bush & Folger, 1994, p. 34).

Success is not measured by settlement but by the parties' shifts toward (a) personal strength, (b) interpersonal responsiveness, (c) constructive interaction, (d) new understandings of themselves and their situation, (e) critically examining the possibilities, (f) feeling better about each other, and (g) making their own decisions. Those decisions can include settlement agreements or not. Transformative mediation practice is focused on supporting empowerment and recognition shifts, by allowing and encouraging deliberation, decision-making, and perspective-taking. A competent transformative mediator practices with a micro-focus on communication, identifying opportunities for empowerment and recognition as those opportunities appear in the parties' own conversations, and

responding in ways that provide an opening for parties to choose what, if anything, to do with them.

In some ways, the values of transformative mediation mirror those of early facilitative mediation, in its interest in empowering parties and transformation. Early facilitative mediators fully expected to transform society with these pro-peace techniques and they did. Modern transformative mediators want to continue that process by allowing and supporting the parties in mediation to determine the direction of their own process. In transformative mediation, the parties structure both the process and the outcome of mediation, and the mediator follows their lead.

Conclusion

Mediation is the process by which a neutral third party assists two or more people (or systems) in reaching a mutually agreed upon negotiated solution to a conflict. The mediator uses a variety of skills and techniques to help the parties, but not make a decision for them. Mediation is, in essence, negotiation with the addition of a third person who is knowledgeable in effective negotiation procedures.

Social work aims to enhance individual and collective well-being in practice, social workers promote problem solving, conflict resolution and the protection, empowerment and liberation of people. Theories of human behavior and social systems are applied to understand humanity in context of our environment. Principles of social justice and human right are fundamental in guiding the profession.

There is room in mediation practice for many styles, including facilitative, evaluative and transformative mediation. Each has its usefulness and its place in the pantheon of dispute resolution processes. Some mediators believe that most mediators use a combination of these styles, depending on the case and the parties in mediation, as well as their own main approach to mediation. Some sophisticated mediators advise clients and attorneys about the style they think would be most effective for their case. Some parties and attorneys are sophisticated enough to know the difference between types of mediation

and to ask mediators for a specific type in a specific case. It appears that it would be helpful for mediators at the very least, to articulate to parties and attorneys the style(s) they generally use, and the assumptions and values these styles are based on. This will allow clients to be better and more satisfied consumers, and the field of mediation to be clearer on what it is offering. It can only enhance the credibility and usefulness of mediation.

There seem to be more concerns about evaluative and transformative mediation than facilitative mediation. Facilitative mediation seems acceptable to almost everyone, although some find it less useful or more time consuming. However, much criticism has been leveled against evaluative mediation as being coercive, top-down, heavy-handed and not impartial. Transformative mediation is criticized for being too idealistic, not focused enough, and not useful for business or court matters. Evaluative and transformative mediators, of course, would challenge these characterizations. Another concern is that many attorneys and clients do not know what they may get when they end up in a mediator's office. Some people feel that mediators ought to disclose prior to clients appearing in their offices, or at least prior to their committing to mediation, which style or styles they use. Other mediators want the flexibility to decide which approach to use once they understand the needs of the particular case.

References

Agardy, P. (2009). Mediation and the insolvency practitioner. *Insolvency Law Journal*, *17*(3), 135 – 146.

Barton Bowyer, J. (1982). *Cheating: Deception in war and magic, games and sports, sex and religion, business and con games, politics and espionage, art and science.* New York: St. Martin's Press.

Baruch-Bush R. A., & Folger, J. P. (1994). *The promise of mediation*. New York: Jossey-Bass.

Boulle, L. (2005). *Mediation: Principles processes practice. Australia*: Butterworths.

Charlton, R. (2000). *Dispute resolution guidebook*. Erskineville NSW: Star Printery Ltd.

Cremin, H. (2007). *Peer mediation: Citizenship and social inclusion in action*. Maidenhead: Open University Press.

Dahl, S. (1989). Ethics on the Table: Stretching the Truth in Negotiation. *Review Litigation, 173,* 192-195.

Donner, T. A., & Crowe, B. L. (1995). *Attorney's Practice Guide to Negotiations* (2nd Ed.). New York: Clark Boardman Callaghan.

Folberg. J., & Taylor, A. (1984). Mediation: *A comprehensive guide to resolving conflicts without litigation*. San Francisco: Jossey-Bass Publishers.

Imperati, S. J. (1997). Mediator practice models: The intersection of ethics and stylistic practices in mediation, *Willamette Law Review, 33*(3).

Riskin, L. (1994). *Mediator orientations, strategies, and techniques*. Alternatives to the high cost of litigation.

Menkel -Meadow (1990). *Lying to Clients for Economic Gain or Paternalistic Judgment: A Proposal for a Golden Rule of Candor,* 138 U. Pa. L. Rev., 782.

Moore, C. M. (1986). The mediation process: Practical strategies for resolving conflict. San Francisco: Jossey Bass Publishers.

Nyberg, D. (1992). *The Varnished Truth: Truth Telling and Deceiving in Ordinary Life*.

Robert D. B. (1995). *The Constructive Uses of Deception: Skills, Strategies, and Techniques of the Folkloric Trickster Figure and Their Application by Mediators,* 13 Mediation Q. 3.

Rubin, A. B. (1975).A causerie on lawyers' ethics in negotiation. *Louisiana Law Review, 35*(3), 577- 589.

Ruth Fleet Thurman (1990). Chipping away at lawyer veracity: The ABA's turn toward situation ethics in negotiations. *Journal of Dispute Research, 103*, 115.

Wetlaufer, G. B. (1990). The Ethics of Lying in Negotiations. *Iowa Law Review, 75*, 1219- 1272.

White, J.J. (1980).*Machiavelli and the Bar: Ethical Limitations on Lying in Negotiation,* Am. B. Found. Res. J., 928.