

## WHAT MEDIATION CAN DO FOR YOUR BUSINESS

*The cost of a thing is the amount of life which is required to be exchanged for it, immediately or in the long run.* – Henry David Thoreau, *Walden* (1856)

All business ventures are shared learning experiences. Cost-effective communication and negotiation are an essential tool of any successful business and business person. Mediation is the fastest growing resource for business dispute prevention and resolution, and a tool no business, no matter how small, can afford not to develop and use on an ongoing basis.

### Why:

- to detect, properly investigate and resolve disputes and problems within, between and among businesses **before** they become significant disruptions, expenses, delays and lawsuits and damage working relationships, reputations and morale inside and outside the business;
- to help those in business relationships learn to spot and resolve conflicts themselves, privately and in ways that help do that better on an ongoing basis and attain win-win solutions with mutual benefits and reduction of risks and losses to all sides of disputes and problems;
- to make spotting and quickly, effectively and privately resolving disputes and differences part of every business manager and leader's tool kit;
- to maximize business people's awareness of and their time, work, energy and thoughts on the business's key interests, priorities and productivity;
- to build the trust and teamwork that enable businesses to succeed in what they do;
- to teach the problem solving awarenesses, knowledge, skills and attitudes that help people communicate more constructively and enable businesses and their people to work productively, effectively and harmoniously.

### When:

- whenever a dispute, conflict or problem is sensed or detected that could disrupt and harm working relationships, reputation, morale, productivity and the successful functioning of the business and its people;
- whenever behavior, words, attitudes or actions that could disrupt, offend or harm the business or any of its people are noticed;

- whenever a problem arises that provides a need and opportunity to improve the way a business and its people communicate, work and treat each other.

Who:

- all those involved in or affected by the dispute or problem,
- all those with management or leadership responsibility for the dispute, problem or those involved in it or affected by it; and
- an impartial person (whether inside or outside the business) whose background and experience have been checked out and who is sufficiently well trained and qualified as a mediator and sufficiently respected by those involved in or affected by the dispute or problem, and their managers and leaders, to be able to mediate the dispute or problem to an agreement that will be accepted as fair, lasting and enforceable.

How:

- by a clearly defined, openly known and available and consistently applied process to identify and resolve business disputes and problems through impartial mediation (whether with a person inside or outside the business serving as mediator) with clear ground rules, protections of the privacy and confidentiality of those involved and the involvement and support of all levels of the business, including management and leadership, to make it a known, used and enforced part of the business's operations and functioning;
- by such a process developed by the business with the assistance, guidance and training of a person or organization such as Dispute Prevention & Resolution, Inc. or the Mediation Center of the Pacific that is appropriately experienced and qualified in setting up, implementing and administering the detection, prevention and resolution of business disputes and problems through impartial mediation.

Where:

- in as neutral and private an environment as can be arranged to foster openness, honesty, candor, trust and reliability in the detection, investigation, mediation and resolution of business disputes and problems;
- in a location sufficiently neutral, convenient and comfortable for those involved to be viewed as a fair, accessible and level playing field.

For more information or questions or help arranging programs or training, some sources here are:

- Dispute Prevention & Resolution, Inc. (523-1234), CEO Keith Hunter;
- Mediation Center of the Pacific (521-6767), Exec. Director Tracey Wiltgen;
- Hawai'i State Bar Association's Alternative Dispute Resolution Section, Co-Chairs Chuck Crumpton (535-8400), Tracey Wiltgen (521-6767 ext. 223) and John Barkai (956-6546).



Author:

Charles W. Crumpton

TOPA Financial Center, Bishop Street Tower, Suite 2100

700 Bishop Street

Honolulu, Hawai'i 96813

PH: 808-535-8400 (firm)

808-535-8404 (direct)

FAX: 808-535-8444

E-mail: [crumpton@paclawteam.com](mailto:crumpton@paclawteam.com)

- Attorney for 26 years and mediator and arbitrator for over 20 years appointed by the courts, parties, their attorneys and dispute resolution organizations in over 1000 cases involving insurance, accidents, products, business and commercial matters, construction, employment, real estate and professional negligence (legal, medical, real estate, construction and other professions); resolution rate: over 95%
  - Teacher of alternative dispute resolution at Hawai'i Pacific University and of civil ADR and litigation topics at seminars and training programs in Hawaii, the mainland and other countries
  - Fellow, American College of Civil Trial Mediators
  - Co-Chair, Hawaii State Bar Association Alternative Dispute Resolution Section
  - Committee Member, U.S. District Court for the District of Hawaii Mediation program and U.S. Bankruptcy Court for the District of Hawaii Mediation program
  - Lawyer as Problem Solver award recipient, Mediation Center of the Pacific, 2005
- \$ Languages: English and Vietnamese