

Mediation or Meditation: Where the Two Intersect

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Mediation is a form of alternative dispute resolution that has become increasingly important as a way to settle litigation. Litigation today is expensive and acrimonious. Due to budget cuts, courts are scheduling hearings and trial often years away from the filing of a complaint. Mediation is a relatively inexpensive process and a mediation session can often result in a settlement in a day.

Meditation, as defined by Wikipedia, is a practice in which an individual trains the mind or induces a mode of consciousness, either to realize some benefit or as an end in itself. The two concepts may be very closely related. An example can be found in a recent matter based on a true story with the facts changed a bit to protect the confidentiality of the mediation process.

Charles and Harry were engaged in a dispute about Harry's claim that Charles had sold Harry a defective product and Harry wanted his money back. Charles suggested that they engage in mediation to assist in reaching a resolution. Harry, who was unfamiliar with legal matters in general and mediation in particular, thought Charles had suggested "meditation."

They agreed to take the matter to the pastor of the church they both attended and a meeting was arranged. They each presented their side of the story and Harry asked when they were going to meditate. Charles and the pastor, with puzzled looks, asked Harry if he meant "mediate." Harry said he was confused because he thought they were going to think about the problem and reach a resolution by going into some kind of a process that would lead to a settlement and he thought that was meditation.

Maybe the two processes are not so far apart because they both require a way of thinking that removes from the process the anger and egocentric feelings that usually accompany disputes. In mediation the parties' goal is to reach a resolution that both can live with and go on about their lives. In meditation, the goal is to achieve peace of mind.

After discussing the mediation versus meditation philosophy, the pastor suggested that Harry and Charles go into separate rooms and think in a meditative way about how to resolve the dispute. They did so and returned an hour later. Each told the pastor they had given a lot of thought to the matter and after a brief discussion they agreed that Charles would replace the defective product with a new one and give Harry a refund for part of the purchase price to make up for the inconvenience.

Maybe mediation and meditation are not so different.