

THE BEAUTY OF MEDIATION

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After reading this title you are probably thinking, Kim, beauty is not a mediation; you might be thinking beauty is a fragrant red rose from my garden or beauty is a lot of zeros after the balance in my checking account, but not mediation. However, I am challenging you to see the beauty in mediation as well. If you had the foresight to include a mediation clause in your agreements, you have agreed to mediate your disputes before turning to arbitration or the courthouse to resolve those disputes. This is a beautiful thing in and of itself because you planned for the future and are more easily able to bring the parties to the table to begin talking. However, the first and foremost reason mediation is beautiful is because it works; it is a non-adversarial process which brings together the parties; their lawyers, if requested by the parties; and a neutral trained mediator who listens, guides and suggests ways the parties could resolve the dispute. Mediation has a high success rate and I can attest to successfully mediating disputes that the parties thought would never settle.

Another beautiful aspect of mediation is the relief or catharsis that occurs during mediation. All of my mediations begin with a group assembly of all the parties, lawyers and decision makers and each side must sit and listen to the points made by the other. The complaining party is heard and a sense of catharsis occurs. This catharsis takes place for all of the parties and once they feel heard, they begin to feel validated and they can take the first steps toward putting their anger behind them and moving toward a workable resolution.

Equally beautiful in the mediation process is its voluntary nature. Once the mediation has begun, the parties act on their own volition and decide what offers to make and ultimately what settlement to agree upon. It is all voluntary. The court is not imposing a decision. The mediator cannot force the parties to act. The mediator can be persuasive and make suggestions, but cannot force a party to do anything he/she does not want to do. Oftentimes, parties enter mediation with an open mind thinking "Well I cannot get hurt too badly, after all it is just mediation and I have to agree with any final arrangement."

If you find yourself in a serious dispute, I urge you to try mediation. It is beautifully explained on the US Arbitration and Mediation, Inc. website including the forms necessary to start the process at: <http://www.usam-midwest.com/index.html>.

About the Author: Attorney Kim L. Kirn is an approved mediator/arbitrator with the Greater Gateway Association of Realtors and can be accessed through <http://www.gatewayrealtors.com/wp-content/uploads/mediator-list.pdf>.

