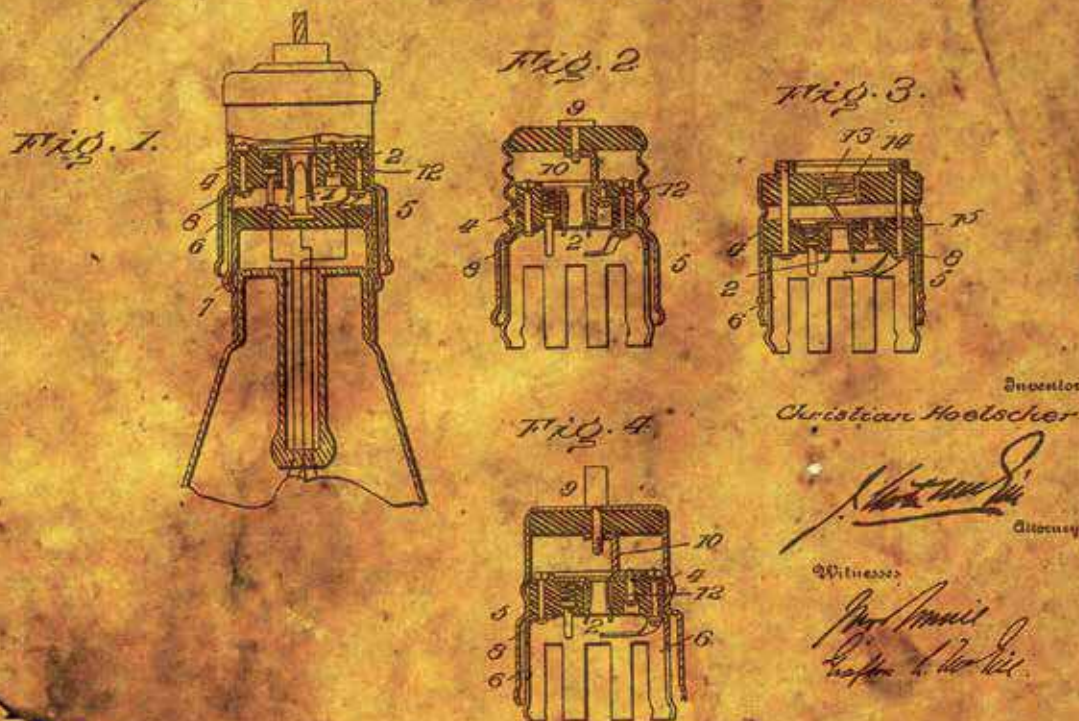


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Beyond Mediation Toward Peacemaking

By Forrest S. Mosten*

When I opened my mediation practice in 1979, I was something of a pioneer. My storefront office was located between a pet shop and a beauty salon, within walking distance of the Los Angeles International Airport—not exactly the unsettled prairie. But I felt like a pioneer because I was doing something new and innovative. My mediator colleagues and I dreamed of the day when mediation would be as well-known and used by the public as the courthouse or the lawyer consultation. We dreamed that mediation would be in every corner of our society and would model an interdisciplinary and consumer-oriented approach. That hasn't quite happened, but mediation is broadly accepted now, and what was once innovative, even radical, is now mainstream.

For almost thirty-five years I have been lucky enough to work in a job I love, one that has made me get up every morning eager to get to the office. The work is intellectually challenging, and it helps people and makes a difference to their lives. I have seen an enormous expansion in the number of skilled mediation practitioners, and I am gratified to have trained many of them.

I still believe strongly in the value of mediation. But I think there's a need for further innovation in what we do. Specifically, I think we need to develop a practice of *peacemaking* that augments our mediation work. Peacemaking differs from mediation in its impact on the people we serve and on us as conflict resolution professionals.

Peacemaking is not a process but a set of values, personal attributes, goals and behaviors that guide our work.

Mediation is a process. It may look very different in a variety of settings. Mediations that take place in a courthouse with mandatory participation are different from mediations that take place by condominium homeowners' associations, between gang members and police at a local park, or among family members or business partners in their homes or offices. The purposes of mediation range from clearing judges' calendars, to blowing off steam between employers and staff, to attempting to clarify and resolve public policy issues. But all mediations are fundamentally a process, with a beginning and an end.

Peacemaking is not a process but a set of values, personal attributes, goals and behaviors that guide our work. Many mediators are peacemakers; many are not. Many peacemakers are mediators; others have very different roles, many of which are not neutral. Peacemakers can be litigators, teachers, prisoners, gang members or combat soldiers.

Peacemaking means creating a sense of peace and mindfulness within our own lives and in our work by harnessing our core values and best personal attributes. It means making a commitment, and using our skills, to impact the colleagues and institutions with which we work as well as those in our wider professional communities and beyond. It means devoting our mediation efforts to the improvement and repair of the parties' individual lives, repair of their relationships, and prevention of future conflict.

*This article is adapted and expanded from the author's keynote address at the 2011 ACR annual conference.

Creating a Sense of Peace and Mindfulness Through Core Values

Peacemakers attempt to create a sense of personal peace and mindfulness and harness their core values and strongest personal attributes. Over twenty-five years ago, Leonard Riskin wrote his groundbreaking book on ADR and lawyers. While he has made many other important contributions to our field, perhaps his most far-reaching hallmark is his work on mindfulness. He has written and trained mediators and lawyers worldwide on the importance of being personally authentic and congruent in order to model transparency and caring to clients and colleagues.

Another of our field's most inspirational thinkers, Nan Waller Burnett, hails from the mental health field. Her groundbreaking book, *Calm in the Face of the Storm*, written by a peacemaker for other peacemakers, devotes each of its 365 chapters to highlighting a peacemaking value, how to better understand that value, and how to apply that value in our work.

Looking at these values and creating a peacemaking signature are concrete steps to determine which core values and personal attributes best fit your sense of mediation work.

Examples of Use of Key Core Values:

Empowerment — People should have control over their own destiny and reduce their dependence on professionals, courts, and other experts.

Cooperation — People work more effectively and are more satisfied when they are working together.

Fairness — People should get a fair shake out of life and that human action and institutions should be designed with fairness as an outcome.

Satisfaction — While the customer may not always be right, what clients say and feel about their satisfaction is important in evaluating professional service.

Options — People do better with choice. Do you take the time and try to make sure that you and those around have choices, from what to have for breakfast to how to obtain and finance healthcare?

Creativity — The process of carving out time and devoting energy to create new ideas and opportunities is a value in and of itself.

Hope — Having a belief in the possible and believing it is important to share that hope with others who are paralyzed with fear and pessimism.

Reconciliation — Actively seek out to apologize to others or to accept a heartfelt apology from someone who has hurt you or someone you care for.

Transformation — Believing that you and others can change for the better. In the divorcing context, such transformation can be facilitated and accelerated by the way their divorce is resolved.

Rational Problem Solving — People can actually find solutions through thinking through and talking about difficult issues.

Peacemaking — Peace and acting in a peaceful way toward those in pain and conflict are values in themselves to which you would devote time and energy.

Repairing Lives and Relationships

Indira Gandhi, former Prime Minister of India, once said: "You cannot shake hands with a clenched fist." Peacemaking means taking concrete, proactive steps to help parties unclench their fists, improve their relationships and prevent conflict.

No one is born as a party to a mediation. Being a mediation participant is not within our basic DNA or generally even taught in childhood. People need to learn how to be their "best selves" as mediation participants, and mediators need to teach them. We need to provide educational resources, supportive professionals, and agreement-readiness design. These peacemaker roles go beyond sitting down with the parties and trying to help facilitate an agreement. These roles require strategic planning and a commitment to carve out time and space to make the fist-unclenching process work.

Perhaps the greatest difference peacemakers can make is by adding **conflict prevention** into their mediation work. When people enter a formal mediation process, there has already been a failure because a dispute (informal, claim, or actual law suit) has ripened to the point that requires a mediator's intervention. Just as doctors try to prevent recurrence of disease and to maximize future medical health when treating the symptoms of illness or disease, I believe it is our duty and opportunity to help mediation participants minimize future recurrence of conflict and maximize harmony in their lives. We can do that using tools such as dispute resolution clauses in contracts between the parties; agreement-implementation calendars to remind parties about what they have agreed to (and find out if additional facilitation is necessary); and conflict-wellness checkups (for examples, see <http://www.mostenmediation.com/legal/wellness.html>).

We often suggest to the parties that we serve that they consider the "next steps" they will take to implement their agreement. A pledge to take "next steps," especially when they are specific and concrete, is an essential key to making key changes. Here are some next steps that can be taken to transform your mediation work into peacemaking:

1. Make peacemaking your life's work. Talk about it, study it, create a personal mission statement. Create a career plan and have a vision of your role in the field—five, ten, twenty and thirty years from now.
2. Perform a peacemaker-impact study in the work you do. Test every projected plan to gain skills, help your clients, or build your practice by how such plan is consistent with peacemaking.
3. Add new roles or services within your current job or practice to enhance peacemaking. For example, if you are doing conciliation work within your organization, think about how to educate members of your organization about peacemaking or consider developing a coaching program to help individuals going through disputes within your organization or in their personal lives.
4. Become a preventive conflict-wellness thinker and provider.
5. Constantly reflect on your own professional behavior and monitor your humility and openness to new approaches.
6. Embrace others through collaboration and implementation of peacemaking values.

Conclusion

A mediator who uses a transformative approach and one who is directive and evaluative; someone who works with parties with lower income and diverse ethnic populations and someone who practices in a high-end area of town with a clientele of rich corporate executives; someone who works with individuals in the private sector and a staff person in a governmental agency or large corporation; someone who resolves day-to-day problems and someone who designs dispute resolution systems or tackles large policy issues; someone who works as a neutral and someone who represents, coaches, or is a resource to one side of a conflict—any of them can be a peacemaker.

It is not the type of work you do, the population that you serve, or your area of concentration that is more or less peace-worthy. It is your commitment to improve yourself and those whom you touch, as well as to use your work to make a broader difference in people's lives. These are the defining characteristics of a peacemaker.

While difficult to measure, the impact of moving beyond mediation to peacemaking is significant, both to the participants and to you, both professionally and personally. The parties benefit from a true resolution to a dispute rather than a narrow settlement of dollars. Of course, a settlement of any sort will clear a case from a court docket and let parties move on with their lives. Sometimes that is all the parties want or are capable of achieving. Yet when you offer a peacemaking approach that includes a broader exploration of possible future relationship repair, possible systemic reform, and

Peacemaking can be integrated into your mediation work regardless of which models of mediation that you practice.

even elements of apology, the participants may go much farther, with the possibility of greater satisfaction with the result of the mediation and the process that made such result a reality. And a byproduct of peacemaking is not just increased mediation skills and perspectives for mediators, but increased personal satisfaction in our important life's work.

Our quest and work for deeper peace and a long term impact on the participants *can* take place in the mediation room—when mediators become peacemakers too.

About The Author



Forrest (Woody) Mosten has been in private mediation practice since 1979 in Los Angeles. He is a Certified Family Law Specialist who also represents clients in interdisciplinary and unbundled models. Woody serves as a keynote presenter to conflict resolution organizations worldwide and offers training and supervision to peacemakers on all levels. He has been Adjunct Professor of Law at UCLA since 2002 and is the Chair of the International Client Consultation Competition that bears his name (www.brownmosten.com). He is the author of four books and numerous articles and has been honored by the ABA with its prestigious Lawyer as Problem Solver Award and Lifetime Award for Legal Access. Woody can be reached at www.MostenMediation.com

