

The Victorious Employer:

EMPLOYMENT AND LABOR NEWS FOR
WINNING IN THE WORKPLACE



Managing Workplace Conflict Through Mediation

The Cost. The direct costs of workplace conflict are staggering: billions of dollars are lost each year for sick days, absenteeism, grievances, and litigation. Moreover, the "hidden" cost of workplace conflict is difficult to calculate, and includes a hostile work environment, the lack of employee buy-in to organizational goals, lost productivity, project avoidance, employee turnover, workers' compensation claims, and increased theft and vandalism.

A study of U.S. workplace conflict in 2008 by CPP Inc. found that most employees spent 2.8 unproductive hours each week due to conflict situations. Other studies show that unproductive work-related conflict is a decisive factor in 50% of employee turnover, and that it costs 70%-150% of annual salary to replace a departing employee – and even more for highly trained staff.

The Cause. It is common to find conflict in a project team, between colleagues, or between a manager and an employee. The genesis of these conflicts is miscommunication, typically characterized

by a focus upon an individual's expression of needs or wants that may appear to be outrageous or irrational. These expressions, however, often do not accurately reflect an individual's underlying issues, but rather are the result of limited communication skills or self-awareness. They "represent" the pain the employee feels, but to focus on these representations will almost never lead to a satisfactory resolution.

The real issue underlying workplace conflict is the violation of one's perception of relationship, identity, and process dynamics within and among the members of the organization. Something occurs that causes an employee to believe that his or her relationship with someone else or the organization itself has been trampled. He or she may feel that their identity is threatened, or that a process used to reach a decision is unfair: an employee may have expected collaboration, when instead they received direction without input, causing him or her to perceive an autonomy violation. Relationship,



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We are pleased to present the second issue of The Victorious Employer, our periodic employment law newsletter that covers a range of topics of interest to those with an interest in employer/employee interactions. This issue's article was written by David M. Doto, who is Of Counsel and serves as the Firm's ADR/Training Practice Group Leader. David has an LL.M. in Dispute Resolution from Pepperdine's prestigious Straus Institute, and has served as a litigator, business advisor, mediator, adjunct professor, and trainer during a career that has spanned three decades.

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identity, and process issues often lead to broken relationships, poor work performance and team dynamics, and legal claims of bullying, harassment, and more.

The Cure: Shifting the “Blame and Shame” Paradigm to Collaboration.

When things go wrong, we all share a tendency to point our fingers at others, rather than to look in the mirror and acknowledge our role in a dispute. “Blame and shame” causes co-workers to become defensive, shut down communication, and escalate conflict. In turn, the escalating conflict can spread like wildfire, sparking the myriad of woes identified above.

Mediation is often the best option when a fault-based process, such as a workplace investigation or fact-finding, is not otherwise mandated. A mediator can facilitate communication between and among all levels of an organization, and assist parties to shift the focus of a conflict from blame to collaborative problem-solving. Participants craft workable resolutions using a private, cost-effective, and creative process in which they are encouraged to identify underlying interests, maximize positive outcomes, and rapidly de-escalate problems

before they wreak internal havoc, drain organizational resources, or evolve into lawsuits. Moreover, a mediator trained in facilitative processes can help dynamic groups collaboratively set an agenda, determine how decisions will be made, identify common and divergent interests, clarify roles and responsibilities, and resolve difficult issues to achieve a comprehensive resolution or plan of action.

The Results. According to Mediate BC’s 2016 Business of Mediation Survey, mediators helped fully resolve 86% of workplace files, 82% of participants said they were satisfied with the process, and 79% were satisfied with the outcome. By guiding individuals through difficult conversations, a mediator can not only help resolve disputes, but also restore trust and relationships critical to productivity and a healthy work environment.

Conflicts and disputes in the workplace are inevitable. The lesson? It doesn’t often matter who is to blame. What matters is how the conflict is managed. A workplace mediator can help transform destructive conflict into a positive force for growth and change within an organization. ■

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