

# Agreeable Disagreements

*In the business world, when a failure to communicate arises, mediators often are called*

BY TODD MATTHEWS

**W**orkplace conflicts and disputes can stymie a company's growth. When that happens, differing parties might turn to a mediator — an impartial person who, instead of serving as a judicial decision-maker, acts as an active facilitator and listener — to achieve more-expeditious, less-expensive resolutions without draping a pall over company operations.

In 1984, the Washington State Legislature authorized funding from court fees and other public sources to create Dispute Resolution Centers (DRCs) to alleviate workloads at county courthouses. Today, nearly two dozen DRCs in 25 counties are staffed

with mediators who offer services at little to no cost to participants.

Mediation can be provided by a law firm, retired judge, or anyone who seeks training. Many law schools offer mediation courses as part of their curriculum.

Between 2013 and 2018, Resolution Washington, the member association for Washington's DRCs, mediated 34,109 cases; of that number, 7,209, or roughly 21 percent, accounted for business/workplace remediation. Disputes were successfully settled in 75 percent of those instances.

Similarly, since the Foreclosure Fairness Act in Washington state was passed in 2011, DRCs have facilitated more than 3,600 cases involving borrowers facing foreclosure and their lenders.

Could mediation help your workplace situation? In the pages that follow, we hear from two Eastside mediators, compile a shortlist of resources, and mine the data to help answer that question.

## **Matt Turetsky:**

Mediators don't simply pass settlement offers back and forth or magically propose a solution that meets everyone's needs. A good mediator facilitates a process, listens carefully to the people about how the dispute arose and the reasons for their position. The mediator must also understand the human factors impacting the dispute, including the decision-making processes used by the businesses and the personalities and behavioral factors that have led to impasse.

Mediations have a much higher likelihood of success when the business leaders have a genuine interest in resolution and are willing to make compromises in order to achieve their most important goals. When the parties are willing to work thoughtfully and think creatively, any problem can be solved. In contrast, when one or both of the parties want to win or punish the other party, it makes resolution more difficult. Business leaders should recognize that litigation that lasts for years rarely benefits anyone except the lawyers. Focusing on your own success, rather than trying to

## Matt Turetsky

**Company:** Matt Turetsky Mediation / Arbitration (Newcastle)

**Background:** As a trial lawyer at Schwabe, Williamson & Wyatt in downtown Seattle, Matt Turetsky helped business owners navigate a wide range of disputes.

All along, Turetsky said, he sought a more creative, cooperative, and less costly approach to resolving litigation "without the warring mentality."

"I spent an inordinate amount of time trying to help my clients avoid litigation altogether, or to find a way out of it

before the legal fees mounted," he added. "I built a reputation for reaching good settlements and creative deal-making. But there are many cases in which the parties are so entrenched in their positions, and their mutual distrust runs so deep, that it takes a neutral party to facilitate the negotiation. In those cases, my clients turned to a mediator to help settle the lawsuits."

Earlier this year, Turetsky left the law firm, where he worked for 25 years, to become a full-time mediator who helps business owners settle thorny disputes.

Turetsky shared his insights into what makes for a successful mediation, and how differing parties can amicably resolve disputes.

**"Focusing on your own success, rather than trying to inflict harm on the other side, will invariably lead to better outcomes."**

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Because litigation can be a toxic experience for the parties, I'm seeing more and more that lawyers at law firms steer their clients toward mediation as a better option to avoid litigation in the first place.

— As told to Todd Matthews