

Interactive Training Techniques: Three Expert Approaches

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THE SUPREME COURT *of* OHIO **2020**
Dispute Resolution
Conference

SEGMENT I: The “Always a Bridesmaid, Never a Bride” Conundrum

How to Get Experienced Mediators to Engage in Advanced
Training Exercises – as Mediators, rather than merely as
Parties or Participants.

(Zena Zumeta)

Presenter Demo:

- If you need a particular role play example, ask the group for it.
- Alternatively, provide a set of general role play facts. See slide below.

DAN AND ROSE Divorce Mediation Role Play

- DAN HOFFMAN: Age 46, Associate Professor of History at a local university. Salary: \$75,000 per year.
- ROSE HOFFMAN: Age 44, Part-time Secretary -\$1,000 per Month. Previously full-time homemaker
- CHILDREN: Lynn, age 13 and Jonathan, age 8
- MARRIAGE: Married 15 years. Separated 4 months.
- LIVING ARRANGEMENTS: Rose is in the family home. Dan is living with his girlfriend, Barbara, in an apartment nearby.
- SUPPORT: Dan is giving Rose \$700 per month in support. Rose says she has not been able to live on that and her income, and has been going into savings.
- CUSTODY: Both parents are interested in custody of Lynn and Jonathan.
- CURRENT SCHEDULE: Children are with Dan Wednesdays 5-8 pm; and every other weekend Saturday 10 am - 9 pm and Sunday noon – 5 pm.

The Technique Revealed:

- Do a fishbowl role play where the trainer is the first mediator.
- Ask the participants to call out what the mediator should do.
- When you do what they tell you, do it badly.
- Invite the participants to do it differently or better from their chairs.
- Invite the participants to come up and take your chair.

SEGMENT II: Preparing for Mediation in Guardianship Mediation Training

Initial Party Interviews / Necessary Parties

(Susan Butterwick)

The Case of Jane Whitmore Exercise

- Read the General Facts
- For this fishbowl demonstration, everyone is a mediator. Presenters will play the roles of the parties.
- Think about who you would want to call first, why, and what information you want to learn from that call.
- Demonstrate a call to the party you have selected.
- Debrief:
 - What did you learn?
 - Would anyone choose another party to begin with, and why?
- Repeat fishbowl demonstration for additional parties.

Jane Whitmore – General Facts

- When her husband died, Jane moved in with Robert and Mary. She has separate bedroom, sitting room, and bathroom, and private entrance, but shares meals and kitchen. She is paying rent for the rooms.
- Jane was in good health when she moved in, was active in volunteer work, and did a lot of cooking and cleaning for Robert and Mary. She has recently had health problems: her arthritis is flaring up, she gets “nervous” easily. Her doctor has prescribed pain medication and blood pressure medicine. Her family says she has developed memory problems as well.
- The mediator has just received a message from Dale Madison, a caseworker at Adult Protective Services, referring a family for mediation. The message says that the situation involves a woman, Jane Whitmore, who lives with her son and daughter-in-law, Robert and Mary Whitmore. She has another daughter, Sally Jones, who lives in the same town. Dale left phone numbers for all parties on the voice mail message.

The Case of Jane Whitmore – Cast of Possible Participants

FAMILY:

- *Jane Whitmore*, age 75, widowed three years ago. Has pension from husband. Assets consist of funds from sale of home after husband's death.
- *Robert Whitmore*, son (+wife *Mary*), age 50, no children, works as nuclear engineer. *Mary* is CEO of her own investment company. Own home.
- *Sally Jones*, daughter (+ husband *George*), age 47; 4 children, ages 20, 18, 16, 14 – two oldest in college; *Sally* was homemaker for many years, started working in clerical job when oldest child went to college; *George* is teacher in local high school. Own home.

OTHERS (non-family):

- *Dale Madison*, Adult Protective Services worker
- *Skyler Bitwell, MD*, *Sally's* family doctor

The Case of Jane Whitmore – Further Consideration

- This case is a pre-court case and did not involve attorneys or guardians ad litem.
- Would your initial calls / interviews be different if attorneys or GALs are involved? If so, how? If not, why?

SEGMENT III: Keeping a Party Focus in Basic General Civil Mediation Training

Initial Party Contact / Unsolicited Contact Exercise

(Barbara Johannessen)

The Group Exercise

1. Ask group “what parties might want to know” about mediation or the mediator. Chart responses.
2. Form participants into 2 equal lines. More sets of lines may be formed if class is large. Each set of lines should have its own “coach/trainer”.
3. Person in line 1 in a phone call with person in line 2 frames a question from the responses on the chart. E.g. “What is mediation going to cost me?”
4. Person in line 2 responds to the inquiry. (NOTE: Line 1 and Line 2 participants should have their backs to each other.)
5. Repeat process, shifting the inquiry and answer between line 1 and line 2 until everyone in group has had opportunity to ask and respond to a question.

As the Responding Mediator, (further instructions)

- You may answer the question with content in “mediator speak”.
- You may answer the question with a question that seeks to understand the basis of the inquiry further. And then deal with the response to your question in “mediator speak”.
- You may turn to the trainer, verbally unpack what you are thinking, and ask for assistance in framing the “mediator speak”.
- You should seek to build a connection with the party – without losing neutrality.
- You should seek to emphasize, where appropriate, the Party empowerment aspects of the mediation process.
- You should not misrepresent yourself, your qualifications, or the mediation process.

Sample Flip Chart: “What Parties May Want to Know”

- What Will it Cost Me?
- When Will it Be?
- How Will You Decide?
- Where Will it Be Held?
- Can I Bring ‘so-and-so’ With Me?
- Why Do I Have to Do This?
- How Long Will This Take?
- How Will You Make ‘the other’ Tell The Truth?
- What Experience Do You Have With My Type of Dispute?
- Why Does ‘the other’ Want You As The Mediator?
- Do I Need a Lawyer?

Additional Party Focus Exercises:

Consider what other exercises or techniques you would implement at each phase of a standard 6-step/stage mediation process to keep trainees focused on Parties:

1. Mediator Opening Statement
2. Party/Participant Information Sharing
3. Identifying Issues / Setting Agenda
4. Joint Negotiation Session
5. Separate Negotiation / Caucus Sessions
6. Agreement Writing / Closing a Mediation

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