

by Samuel Dinnar



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If you are an experienced mediator who has mediated many disputes to a successful agreement, then you have probably established a reputation and feel confident in your mediation skills. But when was the last time you really challenged yourself, challenged your way of doing things, or thought strategically with other experienced mediators about how you can continue to build your practice and revitalize yourself?

Here are five tips for improving your services and self-satisfaction:

1. Reflect on your Practice

Take some time to describe your practice in a neutral (non-marketing) voice. Think about the type of cases you handle and which ones you would refuse to handle. Revisit your intake process, mediation agreement and opening statements: are they still reflective of who you are and who you want to be? Have you articulated to yourself and others how you deal with the ethical dilemmas that often arise in mediation? Are you clear about what situations would cause you to call a halt to a mediation?

2. Role-play

Find situations where you can safely participate in simulated mediations. Mediation is a practice that requires practice, and as such it is good to simulate some extreme situations where you are forced out of your comfort zone. Doing so with like-minded colleagues can help you reflect together to identify things that worked-well and things that could have been done better. This is where most new learning occurs. As an experienced mediator you will learn a lot by playing the role of a party, or by putting yourself in the shoes of the attorney in a simulated dispute. Experiencing things viscerally from the other perspectives provides invaluable insights!

3. Improve your self-awareness

Whether through the help of observers or through your own self-reflection, you should

constantly improve your efforts to be self-aware of your own habits, triggers, intuitive-reactions and biases. This is especially important if the last time you made this conscious effort was many years ago. Do you really know how you behave and how you are perceived? Can you tell when you are emotionally “triggered” and how that impacts your body and your mediator’s mind? What can you do to improve your ability to “go to the balcony” and remain centered in mediation? Improving these skills will help you perform better as well as feel better, both at the table and during the rest of your day.

4. Find a peer support person or network

Mediation can be a lonely profession. The people around us (litigators, associates, spouses and others) may not understand what we are dealing with, and may not be able to provide us the advice and support we need. Finding a peer mentor, a “buddy” or a support network is especially valuable when facing surprising challenges and tough “burn-out” moments. But it is even more useful when used to implement continued learning and making your practice more fun. Imagine how you would benefit from implementing a regular monthly call with a colleague where you would both trade stories about one major “win”, one major “challenge” and your “milestone progress”. This will provide you both with peer support, an independent perspective, improved learning and an increased commitment to growth.

5. Develop your Theory of Practice

By reflecting on your actions (using the tips above) you can find some useful lessons-learned. You will be able to identify mistakes that you made, or nearly made, and how you may have prevented them with increased self-awareness. Continuously using what we call the Entrepreneurial Negotiation Loop of learning (prevent- detect & respond – reflect), you will be able to develop your own Theory of Practice: a collection of tips-to-self about how you conduct your practice, and how you aspire to be as a mediator.

Following the above five tips will help you take your mediation practice to the next level, no matter where in the world you mediate and no matter what type of dispute you specialize in. As a matter of fact, I believe that the level of reflection and learning is increased when openly comparing and contrasting different cultures, contexts and norms of mediation.

To help expert mediators from around the globe, a few years ago I helped create the Harvard Negotiation Institute’s Advanced Mediation Workshop, a one-week immersive experience for dozens of professional mediators hosted by the Program on Negotiation at Harvard Law School. Participants participate in simulations, examine different kinds of conflict, and explore some unique challenges such as principal-agent tensions, clashing values, heightened emotion, multi-party problems, and mediating public matters. Mediation professionals gain an expanded toolkit, forge life-long friendships and join a growing global circle of alumni advanced mediators with a renewed energy. We designed the course around the five tips mentioned above.

Whether through an organized program or through your own local initiative, your mediation practice will be greatly improved if you increase your self-reflection and self-awareness, participate in role-play simulations, find the support of other mediators and continuously develop your own mediation theory of practice.

Biography

Samuel Dinnar is a business mediator, instructor at the Program on Negotiation at Harvard Law School and a faculty member of the Advanced Mediation Workshop at the Harvard Negotiation Institute (along with distinguished mediators David Hoffman, Larry Susskind, Susan Podziba and Audrey Lee). As founder and President of Meedance, Dinnar provides global consulting services and serves as a mediator specializing in business conflicts that involve founders, executives, investors, and board members. Dinnar is the co-author of the award-winning book “Entrepreneurial Negotiation” with Larry Susskind.

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