

Trust and Rapport- ODR Style!

One of the most important things a mediator must do- if not the most important- is to build trust and rapport with the parties. In pre-Covid days, this was a bit easier; the mediator could sit face to face with each party and schmooze.

Now, we are reduced to being a square highlighted in yellow/green on a computer screen. So, how do we build trust and rapport remotely? A recent blog post on Harvard's PONS (April 5, 2021) by Katie Shonk entitled "[Methods of Dispute Resolution: Building Trust in Online Mediation](#)" discusses a chapter in a forthcoming book by Creighton University Professor Noam Ebner on this point.

Professor Ebner discusses some methods that are nothing more than common sense. First and foremost, chances are, a party is not as familiar with online dispute resolution as you- the mediator- are. So, give the party a tour of the particular ODR platform you are using, taking time to explain all the features and how to use it so that the party feels comfortable with it when the mediation begins. Professor Ebner also makes a good point: acknowledge to the party that is quite normal to feel uncomfortable at first using this; everything we try the first time is always a bit awkward but with practice, we will begin to feel comfortable using it. (Id.)

One of the big issues with using ODR is that it is difficult to read body language or to pick up on those nonverbal cues. So, Professor Ebner suggests that we ask each party to be a lot more transparent with her thoughts and feelings: to try to be much clearer in what each is thinking and feeling. And along with this, the mediator should do a lot more restating to ensure that she heard correctly what each party is stating. (Id.)

Another use of transparency- which is critical in ODR- is to ensure that we attribute the right intent to a party based on what she is saying. Because we are limited in being able to detect the non-verbal cues, we may assume bad or evil intent where, in reality, none exists. The example given is that one party may appear to be obstinate in meeting a demand. Is she being mean spirited or is it something as benign as a lack of authority? To ensure that we do not assume the former, Professor Ebner suggests that we ask clarifying questions when we are uncertain of exactly what message is being delivered. (Id.)

Finally, Professor Ebner suggests something that mediators are prone to do at the start of every mediation – share some personal information and take some time to get to know the other folks in all those other little squares on your screen. This is something we do during an in-person mediation- tell stories, ask how the others are doing and generally share information. We should do the same online at the beginning. In this way, we share our humanity, show that we are all in this together and, thus, will start to build trust and rapport with our online comrades (at least from the waist up!).

... Just something to think about.

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