

Great Mediator Qualities

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Defining a great mediator: This workshop is aimed at commercial mediators. The market defines a great mediator. She or he is recommended and rehired without reservation. The four qualities possessed by all great mediators are: **Likeability, Killer Work Ethic, Improvises and Closes.**

The Zen of Mediation: To be a great mediator, you can't take it personally. But to be a great mediator, you have to take it personally.

Assumed qualities: As a baseline, all good mediators have solid mediation knowledge and skills, i.e., thorough preparation, active listening, re-framing, reality checking, negotiations coaching, presentable appearance, pleasant environment and subject matter expertise.

Are Great Mediator Traits Teachable/Learnable? Gifts or learned skills? Business schools and the military believe that

leadership can be taught. I agree. Great mediator traits are teachable/learnable. Hence, today's workshop.

Zen Note: You must always be your genuine, sincere, authentic self. Treat today's workshop like a cookbook. Try the recipes that resonate with you. Keep and adapt the ones that work for you. Do not try to be something you are not.

Overarching Theme: Trust Building and Influence: The four great mediator traits, Likeability, Killer Work Ethic, Improvises and Closes are the foundation of building trust. Every day, at every mediation, we exercise influence to do the job we were hired to do, get the case settled. Our influence is accepted and valued because we have built trust.

Zen Note: You must be committed to settlement, but not attached to it.

1. Likability:

- A. Be cheerful and friendly.
- B. Genuinely like parties and counsel.
- C. Don't be a big shot. Get coffee. Clear plates. Make copies. Be a great host.

D. Be inclusive. Pay attention to everyone and everything, especially where you sit. Not at head of table. Best seat to start, if at all possible in the middle seat with your back to window.

E. Talk less 30%, listen more 70%.

F. Only check email/texts and make calls in private.

2. Killer work ethic:

A. Be energetic all day. The parties and counsel watch you, your energy, optimism, facial expressions and body language, especially when you walk into the room.

B. Thorough preparation. Read everything.

C. Develop a Cast of Characters, Timeline and Issue Outline.

D. Ask specific fact and issue driven questions.

E. Pre-mediation phone calls and email.

F. Diligent and dogged follow up.

3. Improvises:

A. Opening must sound new every time. Your tone: you are talking to friends.

B. Be empathic and empathetic by turns. Read the room and the people. What emotions drive the process?

C. “Yes, and” not “Yes, but.” “**Yes, and**” keeps the conversation going. “**Yes, but**” terminates conversation.

D. Use “we” language. It builds community. “You” language is off putting and invites resistance and argument.

E. Ask questions that start with “what, how and tell me”. These questions invite discussion, reveal interests and develop options.

F. Emphasize areas of agreement. Build on them.

G. Change your seat, change your luck. Sit near influencers. “Who has the keys to the car?”

H. Fold everyone into the conversation. Those who sit quietly are often forgotten/ignored influencers.

4. Closes.

A. We are hired to do a job; Get the deal done.

B. Diligently work through impasses – exude optimism (or use despair) as needed.

Zen note: But not at all costs. It is better to have people leave happy with no deal, than to leave unhappy with a deal. Happy people rehire, unhappy don’t.

C. Let the deal come to you.

D. Review agreed deal points. Cascade of “yeses”.

E. What deal do you think could work for the other side?
How can we make that deal work for you?

F. Mediator's Proposal; Get process buy in. Do not make a proposal unless you have buy in on the process and a strong belief that your proposal will be accepted by all parties.