

PARTY-DIRECTED MEDIATION: FACILITATING DIALOGUE BETWEEN INDIVIDUALS

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PART IV – MEDIATION CASE STUDY

Introducing Nora and Rebecca



Nora



Rebecca

Nora, a microbiologist, and Rebecca, a chemist, have had a long-standing conflict. Both are degreed professionals employed by a medium-sized analytical laboratory near the California coastline. They occasionally need to work together on a project. Nora and Rebecca are co-workers supervised by Ken Matsushita, the laboratory manager who asked the author for help in resolving the conflict.

Over the years, the analytical lab has gained a reputation as an excellent employer. As a result, it has attracted some of the brightest in the field. A generally relaxed and collegial working atmosphere has prevailed at the lab. The downturn in the California economy in the late 1990s resulted in a sluggish business. Some of the professional staff had been asked to pitch in with tasks formerly carried out by employees no longer working for the business.

Rebecca and Nora are extremely bright individuals who have become deeply invested in their conflict—one which has lasted more than twenty years. On a more personal note, both women are sports- and outdoor-oriented, which is what attracted them to this particular firm’s location in the first place. Both have children of about the same age, and both have a passion for their chosen profession. They have much in common.

Rebecca is a people person. She is a close friend to all the other women in the lab, socializing with them outside of work hours. While Rebecca and Nora work at the same organizational level, Ken has



given Rebecca the additional responsibility of collecting data from all the other lab professionals, including Nora, for a year-end report. Rebecca feels that no matter what approach she tries, Nora does not cooperate with her. She seems too wrapped up in her work to respond to Rebecca’s requests. As a

result, Rebecca feels she has wasted much time trying to pry the information out of Nora.

On meeting Rebecca, we sense a person who is trying hard to keep emotion out of the interaction. Rebecca has been somewhat hurt by her past exchanges with Nora. She feels that Nora shouts at her. Rebecca points out that she is the only one Nora treats this way.

Nora is a task-oriented individual. She has been absorbed by her work and at first seems surprised at the mention of a dispute. Much of what Nora speaks of concerns how busy she is. Nora has so many ongoing projects that Ken has frequently assigned one or two people to assist her. Nora explains how the workload and the less-than-dependable help have made it difficult for her to respond to Rebecca’s requests.



Like Rebecca, Nora has kept her emotions in check. There is a very light tone to most of her comments, and Nora speaks with a smile much of the time during her pre-caucuses. Only when Nora relates feeling left out of conversations among the other professional women in the lab does it become clear that she also has been hurt by her interactions with Rebecca. Nora has a deep need to avoid being at odds with others.

During their pre-caucuses, each woman explains that she wants to be treated with respect by the other, but that she is not looking for friendship.

The next five chapters include an annotated dialogue from Nora and Rebecca's mediation. Some of the facts surrounding their case have purposely been kept vague or altered to protect confidentiality. For the sake of brevity, conversations have been abridged, mostly by deleting repetitive comments.

The conference room utilized for the pre-caucuses, as well as the joint session, is quite comfortable and has no distractions other than some pleasing oil paintings of California's stunning coastline.

Although the text refers to only one mediator, in this case the third-party role was carried out by a mediation team that included the author. The intention here is not so much to analyze the effectiveness of the mediator interventions, but rather to invite readers to observe PDM in action. Parties can do most of the talking and negotiating when they are allowed to do so.

It would be nice to rearrange the comments of the parties so they progress from one thought to another in a systematic way. But that would distort reality. Instead, the reader will often note that the discussion of a topic seems to be all but concluded when either Nora or Rebecca raises issues of concern again. One of the two might have finished describing her official stance on camera, but once the camera was turned off, she continued talking, sometimes really pouring her heart out. In a number of instances, the parties agreed to bring up an issue again, in front of the camera, so it could be properly captured.

As a mediator, facilitator, or reader, you are likely to have varied reactions to Nora and Rebecca. These impressions

probably will evolve as you join the pre-caucuses and then observe Rebecca and Nora during the joint session. Perhaps you will come to sympathize more with one than the other.

It is hoped that you will see the inherent good in both of these women as well as some of the challenges each has to face. Although we only allude to their background stories, each woman has had to overcome past abusive relationships.

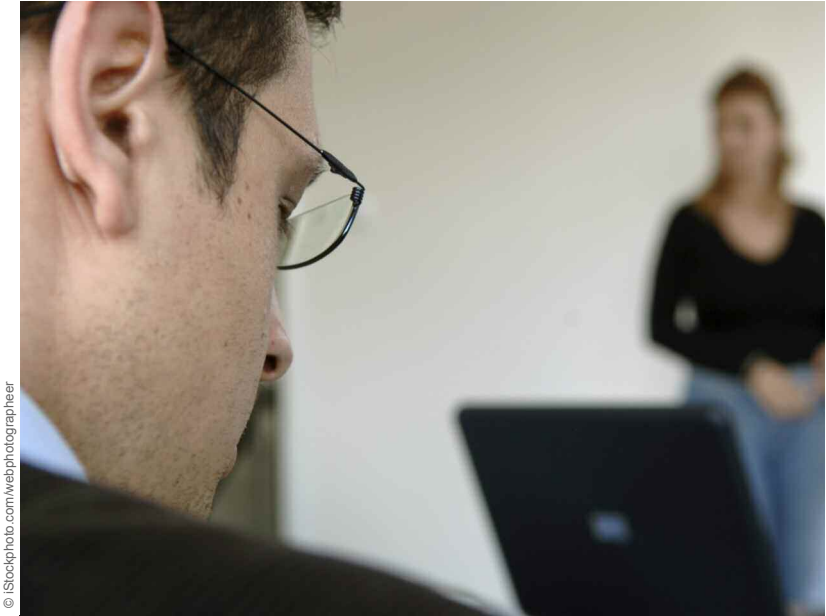
Partly because of your own experiences you may disagree with some of the analysis provided along with the dialogue. This last point deserves to be underscored: mediators *do* react to the individuals and *do* form impressions of them—and parties also react to mediators. Perceptions that are colored by these past experiences—sometimes unconsciously—are in psychology referred to as *transference* and *countertransference*.

In traditional mediation, neutrals wield much power and their opinions and biases may greatly affect outcomes. What becomes clear through PDM, however, is that when contenders have been adequately listened to and coached by the mediator, they then become capable of dialoguing with reduced interference from the neutral. And as a result, individuals build their own solutions and control the outcome. Mediators attempt to be *neutral* and *impartial*, but it is unlikely that people can fully achieve these lofty goals.

Instead, PDM allows parties to engage in effective dialogue in the joint session, and do it with less interference from the mediator's transference issues. As a result, the disputants generate their own solutions and control the outcomes.

I chose Nora and Rebecca's mediation to illustrate this book precisely because it was so difficult. I might instead have selected one of many mediations in which the parties, after the pre-caucuses, hardly needed the mediator in the joint session. But I think those examples would not have been as useful.

The passing of time has also allowed me to see this mediation more clearly. For example, it would have been better to add another series of pre-caucuses before moving on to the joint



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Through the phenomenon of transference and countertransference, mediators and parties may react to each other—sometimes unconsciously—when exposed to behaviors or situations that remind them of significant past events.

session. One of my main objectives has been to show that the parties can solve their relational issues without much interference by a mediator. Although this goal was achieved—and the final result could not be more positive—we took an unnecessary risk by not intervening earlier, when the parties needed it.

NOTE

When readers look over the transcripts, they may sometimes find it hard to mentally distinguish between Nora and Rebecca. The following table may be bookmarked for reference.



NORA



REBECCA

- | | |
|---|--|
| <ul style="list-style-type: none"> • Focused on her work • Feels the weight of too much work • Has multiple projects • Has been assigned assistants • Feels excluded from the group of women | <ul style="list-style-type: none"> • People-oriented • Needs Nora's cooperation • Feels Nora is always busy • Feels Nora screams at her • Friends with the other women at the lab |
|---|--|