

HOW TO COMMUNICATE THE ADR WAY

PRESIDENT'S MESSAGE

MARVIN HUBERMAN, LLB, LLM

“What we’ve got here ... is FAILURE to communicate.” – Cool Hand Luke (1967)

Most disputes are best resolved through effective use of Alternative/Appropriate Dispute Resolution (ADR) methods - negotiation, conciliation, mediation, arbitration or a hybrid process.

Although disputes occur for many reasons – inaccurate perceptions, strong emotions, misunderstandings and cultural differences between parties – most conflicts, especially international commercial disputes, emerge from difficulties in or failures of communication, a major barrier to dispute resolution.

It is therefore essential to understand how to communicate the “ADR way” – effectively – in order to diffuse/resolve existing disputes and to prevent future conflict.

This brings to mind the sage words of Hasdai Ibn Cresces:

“Each person was given two ears and one tongue, so that we may listen more than speak.”

Some Aboriginals have a valuable tradition of using a Talking Stick to give the person holding it the honour of speaking while all the others have the duty to listen. As the Native American proverb states:

“Listen or your tongue will keep you deaf.”

Communication the ADR way at a minimum involves:

- ✓ **Effective Listening** – with understanding and respect; giving the speaker your full attention; restating and summarizing the speaker’s words in your own words; asking questions to clarify what the speaker said.



- ✓ **Effective Speaking** – focussing on the problem, not the person; articulating your own thoughts, feelings, values and actions; giving details and concrete examples to support your perspective; looking for shared values, needs, interests, objectives, concerns and hopes; addressing what you would like to see in the future, instead of steadfastly arguing about the past and maintaining your demands and positions; trying to create shared options/solutions for mutual gain against objective standards such as being workable, equitable for both parties, fair, legal, ethical, within reasonable costs, being capable of implementation and durable.

If real impediments to agreement/resolution, including communication difficulties, are identified, understood, and effectively addressed by the parties, their representatives, and the ADR professionals involved in the dispute, the prospects of an expeditious, fair and durable resolution of the conflict will be maximized and the goals of ADR will be achieved.

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Marvin J. Huberman, LLM (ADR), C.Arb, FCI.Arb, is a Toronto barrister, mediator, arbitrator and the President of ADRIO.