

# Sotomayor Law

Rande S. Sotomayor, Esq.



Mediation, Arbitration and Business Dispute Services

## **Looking for a Great Mediator?**

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There are many factors that go into the selection of a mediator. In addition to objective qualifications such as track record and experience, there are personal qualities that can make a crucial difference between an effective mediation and a disappointing one.

I've spent a lot of time with other mediators lately. There have been conferences, social events, study groups, the ICC International Commercial Mediation Competition in Paris, partner presentations, and so forth. I've discovered a lot about the qualities of great mediators.

### **1. Mediators Are Inclusive.**

I'll admit it; I'm uncomfortable at parties, especially cocktail parties. And, I hate being alone at conferences, business dinners, and such. If you're ever lucky enough to go to such events with mediators, you'd be shocked. I have now gone to enough mediator-centric events to know that somehow, those little circles of people you see at these events magically open to welcome you.

Mediators are inclusive. It is our job to include everyone, especially new people, in a group. For great mediators, this ability comes naturally. It feels good to be welcome. That puts you at ease. You should go into mediation feeling at ease and confident.

### **2. Mediators Are Interested in You.**

Most people are interested mainly in themselves. We love to talk about ourselves. Really, it's only natural. Spend a little time with a really good mediator. He or she will look you directly in the eyes, and start asking questions about you, and what you think.

Great mediators *listen*. It is our job to discover what moves people. Great mediators really want to understand you. The next time you need to pick a mediator, think about those who really are interested in you and your problem.

### **3. Mediators Are Givers.**

Most lawyers I know genuinely want to help people solve their legal problems. The cost factor and the intellectual nature of that work sometimes intimidate people. And then there are those whom Shakespeare enticed the world to kill.

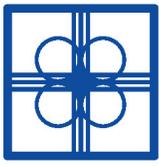
## **Sotomayor Law**

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Mediators, who help people (and lawyers) resolve their disputes, respect parties (and lawyers) and empower them to find their own solutions, without handing control over to a third party, such as a judge. This is power, and the mediator is handing it to participants in the process on the proverbial silver platter. Mediators *give* you your day in court when your needs might be greater than your legal rights or liabilities. Mediators *give* you the chance to find your way out.

And when you need something, anything, who is the first to jump in and help? Think about your friends and colleagues who are mediators, and the answer will reveal itself.

#### 4. Mediators Are Creative.

It's fascinating to meet "idea people." I have often heard from parties, lawyers, clients, and friends that they admire how I am able to "work magic." This comes from a powerful ability to dissect issues, connect with people on a personal level, determine what they need and want when a dispute arises, and help generate solutions step by step.

Mediation is an art. While successful mediators undertake tons of training and continuing education, there are some people whose "artwork," be it painting or mediating, inspires others to marvel. It's so refreshing to spend time with artists, especially when you feel you are stuck – whether it is in the daily grind or in a legal quagmire.

Select a mediator who is an "artist."

#### 5. Mediators Are Trustworthy.

Confidentiality is the backbone of mediation. The entire process allows parties and lawyers to explore options in the safety of knowing that whatever is said or done in mediation cannot be used against them later on.

There's almost nothing better than knowing that you can talk with someone with the confidence of knowing your discussion will go no further. A mediator who cannot inspire or maintain trust had better find some other line of work. That being said, if you make friends with mediators, you'll know your secrets are safe with them.

Select a mediator you genuinely trust. Consider selecting a mediator *your opponent* trusts.

#### 6. Great Mediators Build Relationships.

Part of the trust-building process in mediation is the mediator's desire and ability to develop rapport with all participants. How do we do that, when it is completely normal to be drawn to some

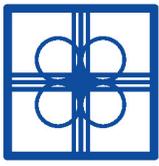
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people and not others? The secret is that a great mediator – unlike the stakeholders, whose mental, emotional and physical states are all aroused in a dispute - can engage completely, seeking and trusting the core nature of each “player” with the freedom of being truly neutral. There is an innocence in this; the process permits the mediator to enter your world with curiosity and kindness.

Relationships feed the mediator’s soul in connections that are as vital and stimulating as the electrical connections in the brain. In fact, at the core of most disputes are issues of relationships. Look for mediators who are perceptive about relationships and like to build them.

## 7. Mediators Are Patient.

I admit that in general, I do not see myself as a patient person. I like efficiency, and everyone knows that “time is money,” especially when you are paying professionals high hourly fees. I also do my best to be prepared in my work, and expect others to do the same in order to save time (and money).

But.

Disputes of all kinds involve lots of emotions, including business disputes, where that factor is often overlooked as soft or irrelevant. Nothing could be further from the truth. Moving people from “positions” based on their perceptions of “rights” is not an easy or quick thing to do.

Disputes also often involve the quest for information. Sometimes that can take a while.

When someone is patient with you, it is soothing and relaxing. It helps you think. It helps you make sound decisions.

## 8. Great Mediators Are Nimble.

Because great mediators are creative, we are open-minded (we have to work on that like everyone else, though) and like to try new things. We are adventuresome and have developed a comfort with taking risks. This agility helps us handle the unpredictable twists and turns a mediation can take. Every unexpected challenge is really a road to discovering something new, even a different path toward resolution.

Make friends with mediators. Doesn’t the mere idea of going on even the smallest new adventure spark some excitement deep inside? Practically speaking, bringing agility into mediation will make the process extremely productive.

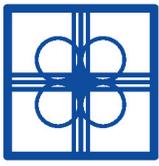
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### **9. Mediators Are Optimistic.**

A great mediator tackles disputes with confidence to engage with all interested players, to confront and manage turbulent relationships, and to break impasse. The ability to do this comes from the experience of helping people discover the enormous relief associated with dispute resolution. The more experience a mediator has with this kind of success, the more cheerful and hopeful the mediator becomes as a person.

Most people I know love to work with others who are optimistic. We all seek hope and a light at the end of dark tunnels we find ourselves in from time to time. This quality can be the key to resolving your matter. Some of a great mediator's optimism is likely to rub off on you. Your mind, emotions, and physical state will align to find the solution.

### **10. Mediators Care.**

Aren't you tired of hearing the phrase "Whatever ...." when people just don't care and want to drop the subject of conversation? The qualities in great mediators improve the lives of family, friends, business associates, and mere acquaintances around them. It's an energy you can actually feel.

Great mediators bring stamina to the proceeding. They care about the problem and want to see it through to the end. They'll feed you with empathy, compassion, and determination to help get you through.

A good meal helps too.

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