

ACR-GNY Roundtable Breakfast | March 4, 2021

ZOOM MEETING PUBLIC CHAT TRANSCRIPT

- 01:18:55 Isabel from Barcelona: Thanks for the information!
- 01:18:59 Niki Borofsky | JAMS, New York: This meeting is being recorded, and the video and public chat transcript will be available by next week on the ACR-GNY website at: <https://acrzny.org/RTB-Videos>
- 01:22:49 Niki Borofsky | JAMS, New York: More about today's speaker Lisa Pomerantz: <http://www.lisapom.com/>
- 01:22:54 Mary Martuscello (NYC): how can I get on the list serve?
- 01:23:53 Charlotte Okoro, NYC: Reach out to Maria Volpe
- 01:23:57 Maria Volpe - NYC: To subscribe to the NYC DR listserv, send me your email at mvolpe@jjay.cuny.edu and I will add you
- 01:28:27 Niki Borofsky | JAMS, New York: Lisa will be taking questions at the end of her presentation. Please feel free to ask "live" then, or write your questions/comments in the chat feed.
- 01:54:45 Maria Volpe - NYC: Feel free to raise questions in the chat in anticipation of the Q and A portion of the session....
- 01:55:54 Cheryl Agris: What about venting in caucus though?
- 01:56:32 Chuck Newman - NYC: What one means by "venting" is important.
- 01:57:22 Kishor Dere: What is the role of cell phones and other technological devices in vitiating the process?
- 01:57:52 Julie Kowitz Margolies: Occasionally, one runs into an attorney who is very resistant to sharing almost any information they perceive as damaging to their case, even in caucus. Even after encouraging transparency for all of the important reasons you've stated, they resist. What can the mediator do?
- 01:58:51 Bradley Roth - NYC: What about modeling/encouraging venting using "I" statements as opposed to "you" statements?
- 01:59:43 Chuck Newman - NYC: FLSA = wage & hour disputes

- 02:00:53 Kishor Dere: Doer the very presence of lawyers, guided by zero-sum mentality, in mediation and conciliation frustrate/defeat the very purpose of such processes?
- 02:01:27 Chuck Newman - NYC: @Kishor. Can do. But doesn't have to
- 02:01:44 Robin Beckhard - NYC: I agree, Bradley, "I" statements can help the other side understand the effect this conflict is having, potentially leading to empathy.
- 02:03:54 Niki Borofsky | JAMS, New York: More about the Karpman drama triangle: https://en.wikipedia.org/wiki/Karpman_drama_triangle
- 02:05:37 Donald Kravet: Lisa, you mentioned that you provide counsel with productive ways for them to prepare for the mediation. What do you tell counsel about preparation?
- 02:05:55 Maria Volpe - NYC: Since some asked me privately to define reactive devaluation.... in brief..it refers to the tendency of a party to disparage or see as less desirable a proposal offered by the other party
- 02:07:38 Wendy's iPad: lawyers are monetarily incentivized to prolong conflict. h
- 02:08:06 Wendy's iPad: how transparent can you be with the clients to point out that "conflict of interest?"
- 02:10:37 Chuck Newman - NYC: @Wendy. Lawyers who know that client satisfaction is impt to client retention and client referrals, which incentivizes toward early (but sensible) resolution. And eventually, lawyers realize clients are getting resistant to paying drawn out fees.
- 02:12:05 Robin Beckhard - NYC: Yes Chuck, well said. Though I've not always had the best experience with counsel in mediation, I still try to assume good intent from them.
- 02:12:58 Chuck Newman - NYC: @Robin: that assumption is one of the most impt things to getting the lawyers to behave that way!
- 02:14:12 Lewis Calderon- Queens NY: Great program but have to run off to do a court appearance. I look forward to seeing everyone next month
- 02:16:52 Mark Kleiman: Would you also suggest failure to further process? Wouldn't transparency dictate the framing some of these negative tendencies while together in proactive more positive ways? I understand the desire but it gets close to direction. It is a dilemma.
- 02:19:44 Elena Paraskevas-Thadani: what do your confidentiality agreements provide about workplace mediation? how much are you allowed to report back?

02:20:30 Chuck Newman - NYC: @Mark. Directive in process is diff from directive in outcome. Is "do what works" or "do what these people need right now" a good standard or touchstone for how directive of process the medr gets?

02:21:06 Barbara Odwak: Thank you for this program.

02:21:20 Jess Bunshaft | Synergist Mediation: Thanks for the presentation, Lisa!

02:21:27 Elena Paraskevas-Thadani: thanks Lisa great presentation

02:21:33 Marilyn Molina-ColumbiaU: Thank you Lisa for the presentation!

02:22:01 Robin Beckhard - NYC: @Elena, my question/concern as well, regarding reporting back to management while respecting confidentiality.

02:23:33 Frances Calafiore: Thank you for a very informative presentation!

02:23:34 Pierre de Ravel d'Esclapon NYC Amagansett: How do you deal with counsel who oversold the case to the client?

02:24:02 Shreya Shankar- Bangalore, India (she/her): Thank you so much for a great session!

02:24:16 Baila Kamman NY: Very useful information, thank you Lisa

02:24:42 Mark Kleiman: It's hard to differentiate process from content in the eyes of the parties. I agree these statements should be expressed and anchored in the process to try to eliminate the personal and focus

02:26:33 Maria Volpe - NYC: Email for Lisa is: lisa@lisapom.com

02:28:20 Halee Burg: As a divorce and adult family mediator, when dealing with venting, I would first acknowledge what I heard and most likely in separate session, ask the party what's happening for them right now. I might further explore what triggered them, or I might know that from an earlier identification of potential hot buttons. So often fear underlies a vent. Try to find out more about that. And it can also be helpful to discuss impact v. Intent as a concept early on with the parties, and potentially apply that concept to what is happening for the party right then.

02:28:25 Jess Bunshaft | Synergist Mediation: I have to agree with Will on that. It depends upon the case, but sometimes having a party vent lets them get over a hurdle so they can move off their opening positions.

Of course, that depends upon the case and the parties.

02:29:12 Ann Barber - NYC: Venting is best expressed as early as possible, so maybe initial caucusing helps to give time for party "to feel heard."

02:29:28 Frances Calafiore: Might you reframe the venting.... this is what I heard, is that correct? if yes, then, ask other party, if they also heard this or something similar.

02:30:14 Wendy's iPad: thank you so much for this morning

02:32:46 Michael Cassandra: I want to express appreciation for the "transparency" Lisa expressed about her talent in turning anger into productive use.

02:33:59 Elizabeth Donlon: Extremely valuable presentation. Thank you, Lisa.

02:35:39 HyacinthCharles Brooklyn NY: Very detailed and important presentation. Thank you

02:36:08 Mark Kleiman: Emotion is the clearest indicator of what is important to the parties. Acknowledgement as to its source is often the key to movement. It can indicate the personal or outrage as to the content. Of course it may reflect a character defect that can prove impossible to counter. There is a limit to our ability to protect the process. It appears Lisa is pushing positively against those limits.

02:37:31 Nan: Thank you for your own transparency

02:38:06 Marilyn Molina-ColumbiaU: Thank you Felicitas... I too would like to see your slides with the questions.

02:39:07 NYC: Thank you, I would also like to see Felicitas presentation

02:39:08 Mary Martuscello (NYC): me to felicitas

02:39:27 Niki Borofsky | JAMS, New York: Please share any resources that you think the community will find helpful.

02:39:39 Julie Denny-Princeton: We talk about going where the heat is. Transformative mediators embrace the conflict, as the root of issues.

02:39:44 Robin Beckhard - NYC: @MarkKleiman, I appreciate your comment re expression of emotion in mediation providing important insight into party's real interests.

02:39:45 Laura Dadagian-O'Rourke - MA: I agree with Nan—Thank you for your transparency about the types of mediations you prefer Lisa!

02:39:58 HyacinthCharles Brooklyn NY: anger can indicate a lot of pain (maybe abuse) and unresolved/unfinished business between parties that likely could never be resolved in a short mediation session

02:40:23 Halee Burg: When dealing with extreme anger and/or a party/ies with a high conflict personality, Bill Eddy's work on dealing with high conflict personalities can be very helpful. Offers another tool in the toolkit. Bill's approach is more structured than the

traditional facilitative interest based approach and focuses the parties much more quickly on proposals.

- 02:42:29 Niki Borofsky | JAMS, New York: From Felicitas: Venezuelan Association for the Advancement of behavioral and cognitive therapies www.felicitaskort.com
- 02:44:44 James Kinney NJSBM: thank you have a safe day!
- 02:46:59 Niki Borofsky | JAMS, New York: Sharing the full comment from @Felicitas Kort: Venezuelan Association for the Advancement of behavioral and cognitive therapies www.felicitaskort.com Twitter @Dra_kort Maria Volpe might have a copy of my presentation Violence Prevention Project Basically its a friendly to use program for the general public, not necessarily for very angry persons Thank you for your transparency Lisa , very nice presentation !!
- 02:47:12 Rich Brigham ACR WI: Do we have Lisa's email address?
- 02:48:37 Niki Borofsky | JAMS, New York: Lisa's email: lisa@lisapom.com
- 02:48:52 Gail Wright: With regard to diversity please note that CPR has a very cogent and forward looking process and pledge. In addition, Homer LaRue has created the Ray collet Art tat addresses this issue .
- 02:48:58 Nan: Thank you, Lisa for a very informative and practical presentation.