

SOCIAL CAPITAL

Tracey Wiltgen on the business of mediation



TINA YUEN

Tracey Wiltgen has been executive director of The Mediation Center of the Pacific for about two decades. So, to say that she has seen, or more appropriately, heard it all, would be an understatement.

Based in Honolulu, the center has been open since 1979 and currently serves more than 5,000 people annually through its community mediation and training programs. With 150 volunteer mediators, three mediation rooms including a virtual room, and 10 staff members, the center has gained popularity as a preferred way to resolve conflicts.

Wiltgen sat down with PBN to discuss the center and the business of mediation.

Why is mediation becoming a preferred alternative to taking lawsuits to court?

The most common reason is that it gets the matter resolved quickly. It's going to be less costly because the parties create their own solution that meets their particular needs and situation. It's about understanding each other's perspectives and needs and coming up with their own creative solution.

It's not about winning and losing, but just trying to understand where each person is coming from. It's not always going to be a win-win, but it can be. In Hawaii, relationships are so important; you can preserve that relationship by coming up with solutions. Going to court, there is a winner and a loser, and it will hurt that relationship.

What kinds of legal disputes are better resolved through mediation? For me, it's worth trying mediation in any type of dispute. If it doesn't work, you can always go that next step. You don't have a lot to lose by trying mediation first. In relationship-based cases like divorces you still need to negotiate and work out the terms and not make the situation worse. If you and your neighbors are in a dispute, you might

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Tracey Wiltgen

Executive Director: The Mediation Center of the Pacific

Not-for-profit agency that aims to provide high-quality mediation and dispute-resolution services that are affordable and accessible

Address: 245 N. Kukui St., Suite 206, Honolulu, HI 96817

Phone: (808) 521-6767

Website: www.mediatehawaii.org

want to preserve that relationship. If it's a co-worker dispute, it's not only about trying to work it out faster before it escalates, it gives you the opportunity to save that relationship.

What happens if mediation doesn't work?

Then you can go the next step, depending on the dispute. If you're in a business, you can still go to court. If you try to work it out yourself and go through mediation, you can still talk to an attorney. Even if mediation doesn't result in a final resolution, it generally will help clarify where each other is at or what the next step might be. Here at The Mediation Center of the Pacific, more than 92 percent of people who participate say they would use mediation the next time. There is value to the process even if there isn't a solution.

What is the center's mission? We provide high-quality mediation and dispute services that are affordable and accessible. People in the low-income bracket don't have lots of options. We try to make our services as accessible as possible. Over half of our clients are in the vulnerable population.

What challenges are you facing? Like any nonprofit, it's raising sufficient funds to

have our services remain viable and for us to provide quality services. Mediation has grown, and when we first started we were the first mediation organization in the state. The belief was that anybody who learned good mediation skills could make a good case. With the growth of mediation, it has gone more into the legal arena. The expectation has changed. It's much higher and people are wanting specialized knowledge. We do a lot more training for our mediators and target-recruit.

What background and traits do you look for in a mediator? Being a really good listener. Listening to understand why people do things differently. It's not about telling people what to do. You have to have people who have the skill-sets to work with people. There is an art to mediating. Knowing how to listen to people and understanding them and asking questions to help them come up with their own ideas to resolve it are keys. People who are really good listeners, flexible, understand the areas governed by law, who are comfortable with all kinds of people, who have an even temperament all make good mediators. It has to be someone who can stay calm and help people work through those issues.

What advice do you have for a business owner who is considering legal action? To try mediation first. You can always go to court. It will cost you a little bit of money and some time. There is a high rate of agreement and satisfaction, particularly if you want to salvage that relationship. We have a business rate. It's a flat fee per three-hour session. For businesses it ranges between \$250 and \$350. For individuals, it's based on household income, from a waived fee to a flat fee of \$200. There are a lot of businesses that use mediation. I think more businesses would benefit from using mediation and using it sooner.