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TRANSFORMATIVE MEDIATION

Saying Thanks As I prepared for Thanksgiving, it occurred to me that helping clients say "thank you" has a place in the collaborative process. The give and take of four way meetings typically includes requesting and receiving information, clarification, and promises of future cooperation. As the conversation moves forward, a simple, "thank you," perhaps first from counsel, elevates the meeting from formal and static to a dynamic opportunity for creative problem-solving.

Collaborative practice requires a great deal from clients and lawyers. We have promised to help our clients assert individual interests while together we search for answers that meet the fundamental needs of both parties. Those underlying principals create a challenging balancing act during joint meetings. Often I struggle to find the right words to keep my clients on the collaborative path.

My prior training in the transformative mediation model has been helpful. As described in "The Promise of Mediation," by Robert A Baruch Bush and Joseph P. Folger, transformative mediation looks beyond settlement of a particular dispute toward a fundamental change in the parties' relationship. This becomes possible through "...mediation's capacity to generate two important effects, empowerment and recognition." In other words, a mediator's task is twofold: (1) to keep participants aware of their individual authority and self-determination; and (2) to help participants verbalize insight into the feelings and needs of the other.

I remember counseling a client during a break in a difficult meeting to put herself in her husband's shoes by honestly considering his needs as well as her own. I also asked that she consider acknowledging how difficult the decision-making task was for both of them and thank her husband for hanging in there with her. After the break, my client was able to clearly ask for what she needed while giving voice to her husband's interests, her husband was able to work with her, and the parties tackled their decision-making with renewed energy.

If we remain focused on what parties are saying and feeling during our meetings, we will find opportunities to foster each party's sense of his or her own strengths and abilities as well as each party's ability to empathize with the other. When we help parties achieve those insights, we further the collaborative goal of reaching a settlement that meets the fundamental needs of both parties. Saying thank you is a simple place to start.

Content provided by the Law Offices of Diane L. Mader. For more information about divorce mediation contact (608) 836-7667 or visit www.maderlaw.com