

The Milton H. Erickson Foundation
Brief Therapy Conference
December 6 – 9, 2018
Hyatt Regency San Francisco Airport
Burlingame, California

Short Course (SC#19)
BRIEF THERAPY AND MEDIATION
George Ferrick, MA, MFT
December 6, 2018, 1:15 – 2:45 pm

This workshop will describe strategies and approaches adapted from brief and solution focused therapy. These enhance mediation with creative ways to set a tone and reduce anxiety and resistance; to give voice to participants while getting to the heart of the matter; to unlock narrow positions, break through impasses, move to broader viewpoints, and co-create solutions.

Educational Objectives:

1. Demonstrate how to set a tone at the beginning of mediation/brief psychotherapy.
2. Illustrate approaches for eliciting movement and flexibility in situations of impasse.
3. Present approaches for fostering empowerment and mutual recognition in conflicted situations.

Learning Objectives: Attendees shall be able to:

1. Describe at least two ways to set a positive solution-oriented tone.
2. Utilize 3 approaches to guiding clients in effectively communicating their issues.
3. Employ 3 strategies to assist clients to break through impasse.

Outline

Welcome

1. Setting a tone

Mediation

Context

Participants

Mediator

Attentiveness

Micro motor behaviors

- Microfocus
- Mediation ring
- Professional amnesia
- Neutrality Impartiality Bipartiality
- Bias, appearance of bias, countertransference

Introducing mediation to the participants

- Positive suggestion
- Compliment
- Trance
- "You are the decision makers"
- Confidential
- Preempt
- Metaphors of mediation

- AAA
- Iceberg
- Orchestrate
- Elicitive
- Conversation
- Narrative
- Acupuncture

Paradox of mediation

- Two perspectives
- Transformative Mediation
- Edward De Bono

Objective

- Mutually acceptable
- Not to leave worse

"Language is our tool"

- Connotations

Energy

- Trance
- Centeredness
- Calm
- Expressive

Conjoint / individual segments

2. Eliciting movement and flexibility

Timeline

Genogram

Issues

Visual auditory kinesthetic

Perspectives

 Temperature

 Sculpture

Threesome, triad

Solution focused

 80/20 Pareto's rule

Guiding the conversation

 Equity

 Shorter sentence paragraph

 Pacing and leading

 Timer

Accusing / blaming

 Anger

 Psychodrama technique

 Objectifying

 Normalizing

 Naming the problem

Impasse

 Exceptions

 "Ahrons spectrum"

 "1 to 10" scale

 Strength based

 "As if"

- 3. Fostering Empowerment and recognition
 - Transformative Mediation (TM) approach
 - Empowerment
 - Recognition
 - Taking the “me” out of mediation
 - Whose mediation is it?
 - Conversation patterns
 - Triangular interaction / communication
 - Input / feedback qualifying
 - Teachable moments
 - Bank account
 - Iceberg
 - Use of kinesthetic approaches
 - The art of asking questions (mediator as acupuncturist)
 - “The map is not the territory”
 - Change model (Prochaska & DiClemente)
 - Co-creating solutions
 - Partial solutions
 - SNT single negotiation text
 - Evaluative mediation
 - The reflective practitioner
 - Future dimensions
- Buddhist psychology based approaches
 - Feeling based

Milton Erickson Foundation's **Brief Therapy Conference**, Dec 6 – 9, 2018, Burlingame, California
Short course **Brief Therapy and Mediation**, George Ferrick, M.A., M.F.T.

Bibliography

- Augsburger, David W., *Conflict Mediation Across Cultures: Pathways and Patterns*, Westminster Press, 1992.
- Baker-Jackson, Maxine, Vahan Hovsepien, and George Ferrick, "Common Problems in the Mediation of Child Custody Disputes," *Family Court Review*, Vol 22, Issue 2, Dec 1984.
- Bandler, Richard, John Grinder, *Reframing*, Real People Press, 1982.
- Bateson, *Steps to an Ecology of Mind*, Ballantine, 1972.
- Bush, Robert A. Baruch, and Joseph P. Folger, *The Promise of Mediation*, Responding to Conflict Through Empowerment and Recognition, Jossey-Bass, 1994.
- Bush, Robert A. Baruch, "What Do We Need a Mediator For?": Mediation's "Value-Added" for Negotiators, in *The Ohio State Journal on Dispute Resolution*, Vol 12 Number 1, 1996.
- Cobb, Sara, *Speaking of Violence: The Politics and Poetics of Narrative in Conflict Resolution* (Explorations in Narrative Psychology), Oxford U. Press, 2013.
- De Bono, Edward, *Conflicts*, A Better Way to Resolve Them, Penguin, 1991.
- De Jong, Peter, and Insoo Kim Berg, *Interviewing for Solutions*, Thomson, 2002.
- DiClemente, Carlo C., and James O. Prochaska, "Toward a Comprehensive, Transtheoretical Model of Change: Stages of Change and Addictive Behavior," in W. R. Miller & N. Heather (Eds.), *Treating Addictive Behaviors*, 2nd ed., Plenum Press, 1998.
- Edwards, Judge Leonard (ret), "Comments on the Miller Commission Report: A California Perspective," *Pace Law Review*, Vol 27, Summer 2007, Number 4, p 627-676.
- Edwards, Judge Leonard (ret), "The Mediation Miracle," *California Courts Review*, Spring 2006.
- Erickson, Milton, *The Nature of Hypnosis and Suggestion*, The Collected Papers, Vol 1, edited by Ernest Rossi, Irvington Publishers, 1980.
- Erickson, Milton, *Innovative Hypnotherapy*, The Collected Papers, Vol IV, ed by Ernest Rossi, Irvington Publishers, 1980.
- Ferrick, George, "Three Crucial Questions, What are the Benefits of Mandatory Mediation?" in *Conflict Resolution Quarterly*, Vol 1986, Issue 13, pages 61-68.
- Folberg, Jay, Ann Milne, and Peter Salem, ed., *Divorce and Family Mediation*, Models, Techniques, and Applications, Guilford, 2004.
- Gilligan, Carol, *In a Different Voice: Psychological Theory and Women's Development*, Harvard U. Press, 1993.
- Glasser, William, *Stations of the Mind*, Harper and Row, 1981.
- Gottman, John, *What Predicts Divorce*, Lawrence Erlbaum Assoc., 1994.
- Haley, Jay, *Uncommon Therapy*, Norton, Norton, 1993.
- Hamilton, Diane Musho, *Everything is Workable, A Zen Approach to Conflict Resolution*, Shambala, 2013.
- Herrman, Margaret S., ed., *The Blackwell Handbook of Mediation*, Bridging Theory, Research, and Practice, Blackwell, 2006.
- Hoyt, Michael, et. al., *Single-Session Therapy by Walk-In or Appointment*, 1st edition, Routledge, 2018.
- Huber, Charles H., and Barbara A. Backlund, *The Twenty Minute Counselor, Transforming Brief Conversations into Effective Helping Experiences*, Continuum Publishing, 1991.
- Kandel, Randy Frances, "Power Plays: A Sociolinguistic Study of Inequality in Child Custody Mediation and a Hearsay Analog Solution," in *Arizona Law Review*, Vol 36, Number 4, 1994.

Kimsey, William D., et. al., *Mediator Communication Competencies, Problem Solving and Transformative Practices*, Pearson, 2005.

Lankton, Stephen R., and Carol H. Lankton, *The Answer Within*, Brunner/Mazel, 1983.

Lederach, John Paul, *Preparing for Peace: Conflict Transformation Across Cultures*, Syracuse University Press, 1996.

Mayer, Bernard, *Beyond Neutrality: Confronting the Crisis in Conflict Resolution*, Jossey-Bass, 2004.

McIsaac, Hugh, "Mandatory Conciliation Custody/Visitation Matter: California's Bold Stroke," in *Family Court Review*, Vol. 19, Issue 2, December 1981.

Monk, Gerald, John Winslade, Kathie Crockett, David Epston, *Narrative Therapy in Practice, The Archaeology of Hope*, Jossey-Bass, 1997.

Richardson, Jerry, and Joel Margulis, *The Magic of Rapport*, Harbor/Putnam, 1981.

Rosen, Sidney, *My Voice Will Go With You*, The Teaching Tales of Milton H. Erickson, Norton, 1974.

Saposnek, Donald, *Mediating Child Custody Disputes, A Strategic Approach*, Revised Edition, Jossey-Bass, 1998.

Satir, Virginia, *Conjoint Family Therapy*, Science and Behavior Books, 1968.

Satir, Virginia, *The New Peoplemaking*, Science and Behavior Books, 1984.

Satir, Virginia, and Monica Baldwin, *Satir Step by Step*, Science and Behavior Books, 1983.

Steibel, David, *When Talking Makes Things Worse*, Whitehall & Nolton, 1997.

Talmon, Moshe, *Single Session Solutions*, Addison Wesley, 1993.

Vaughan, Diane, *Uncoupling, Turning Points in Intimate Relationships*, Oxford U Press, 1986.

Watzlawick, Paul, John Weakland, and Richard Fisch, *Change, Principles of Problem Formation and Problem Resolution*, Foreword by Milton H. Erickson, M.D., Norton, 1974.

Watzlawick, Paul, and Janet Beavin, Don Jackson, *Pragmatics of Human Communication*, Norton, 1967.

Watzlawick, Paul, *The Situation Is Hopeless, But Not Serious*, Norton, 1983.

Wiseman, Janet Miller, *Mediation Therapy, Short-Term Decision Making for Couples and Families in Crisis*, Lexington Books, 1990.

Zimmerman, Jeffrey L., and Victoria C. Dickerson, *If Problems Talked, Narrative Therapy in Action*, Guilford, 1996.

Relevant links:

Academy of Professional Family Mediators: <https://apfmnet.org/>

Association for Conflict Resolution: <https://acrnet.org/>

Association of Family and Conciliation Courts: <https://www.afccnet.org/>

Mediate.com: <https://www.mediate.com/>

Transformative Mediation: <https://www.transformative-mediation.com/>

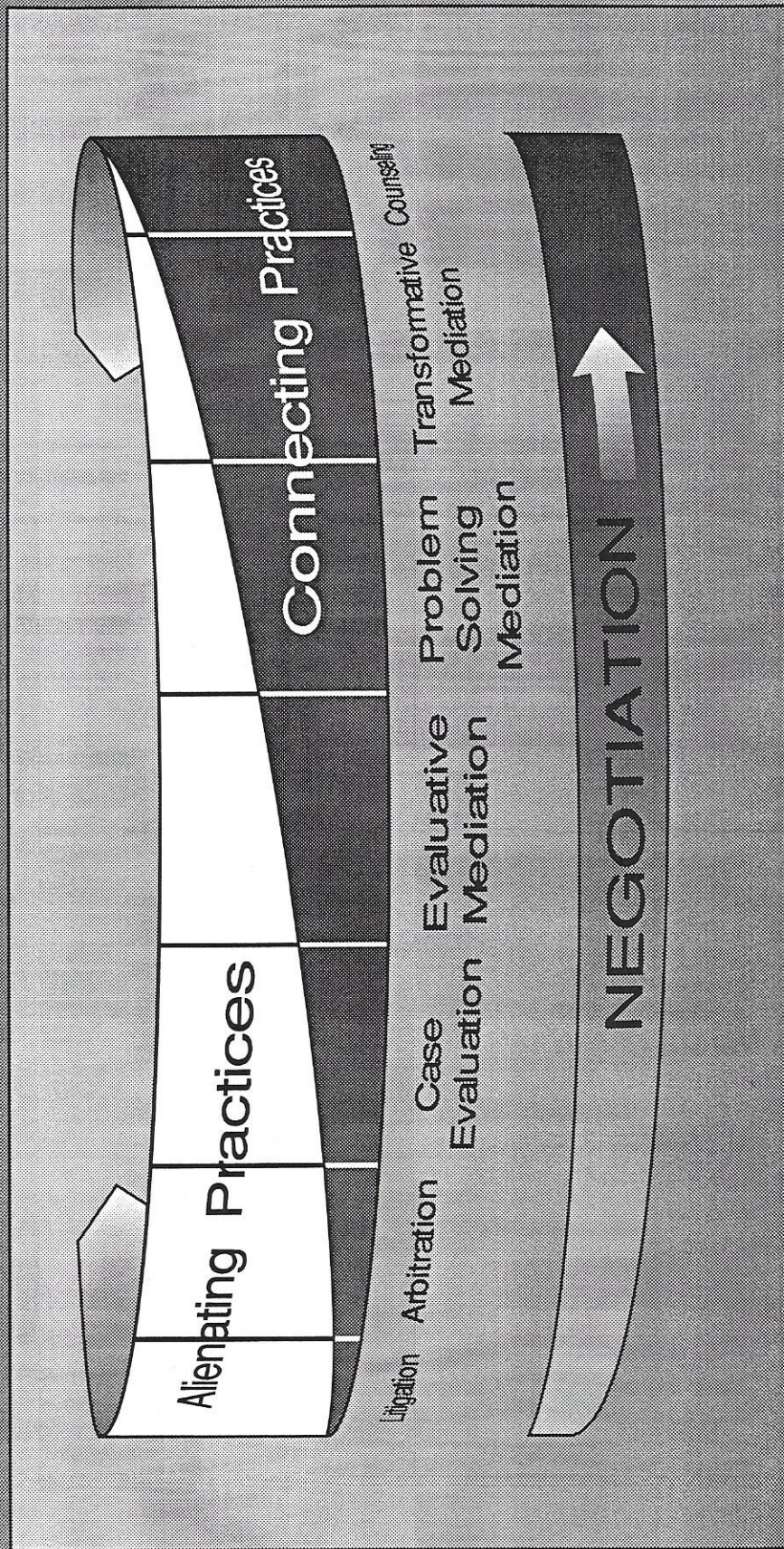
Judge Leonard Edwards: <http://judgeleonardedwards.com/>

Audiotapes/transcripts of oral history interviews with three prominent figures in California's court-connected mediation (Los Angeles Superior Court): Meyer Elkin; Hugh McIsaac; David Kuroda:

<https://libraries.usc.edu/california-social-welfare-archives-oral-history-catalog/meyer-elkin>
<https://libraries.usc.edu/california-social-welfare-archives-oral-history-catalog/hugh-mcisaac>
<https://libraries.usc.edu/california-social-welfare-archives-oral-history-catalog/david-kuroda>

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A RESOLUTION CONTINUUM



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Transformative Mediation
and Third Party Intervention:
Ten Hallmarks of a Transformative Approach to Practice

Joseph P. Folger and Robert A. Baruch Bush

Each of the ten points describes, in part, what the work of a mediator implementing the transformative framework "looks like", and what attitudes and mindset she or he carries into practice. In considering each of these points, mediators interested in the transformative approach can ask themselves: If I watched myself practicing, would I see myself consistently following these habits of practice? If asked about the mindset and premises that my practice is based on, would I respond with the kind of statements that introduce (and summarize) the points described below?

1. "The Opening Statement Says it All": Describing the Mediator's Role and Objectives in terms based on Empowerment and Recognition.

2. "It's Ultimately the Parties' Choice": Leaving Responsibility for Outcome With the Parties.

3. "The Parties Know Best": Consciously Refusing to Be Judgmental about the Parties' Views and Decisions.

4. "The Parties Have What it Takes": Taking an Optimistic View of Parties' Competence and Motives.

5. "There Are Facts in the Feelings": Allowing and Being Responsive to Parties' Expression of Emotions.

6. "Clarity Emerges from Confusion": Allowing For and Exploring Parties' Uncertainty.

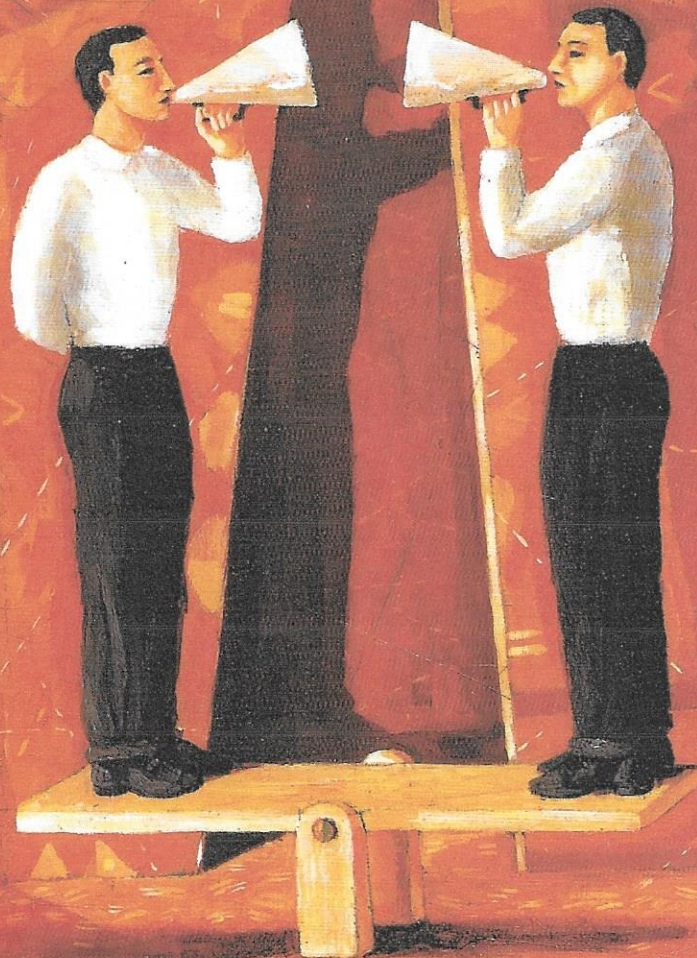
7. "The Action is 'In the Room'": Remaining Focused on the Here and Now of the Conflict Interaction.

8. "Discussing the Past Has Value to the Present": Being Responsive to Parties' Statements about Past Events.

9. "Conflict Can Be a Long-Term Affair": Viewing an Intervention as One Point in a Larger Sequence of Conflict Interaction.

10. "Small Steps Count": Feeling a Sense of Success when Empowerment and Recognition Occur, even in Small Degrees.

EDWARD DE BONO



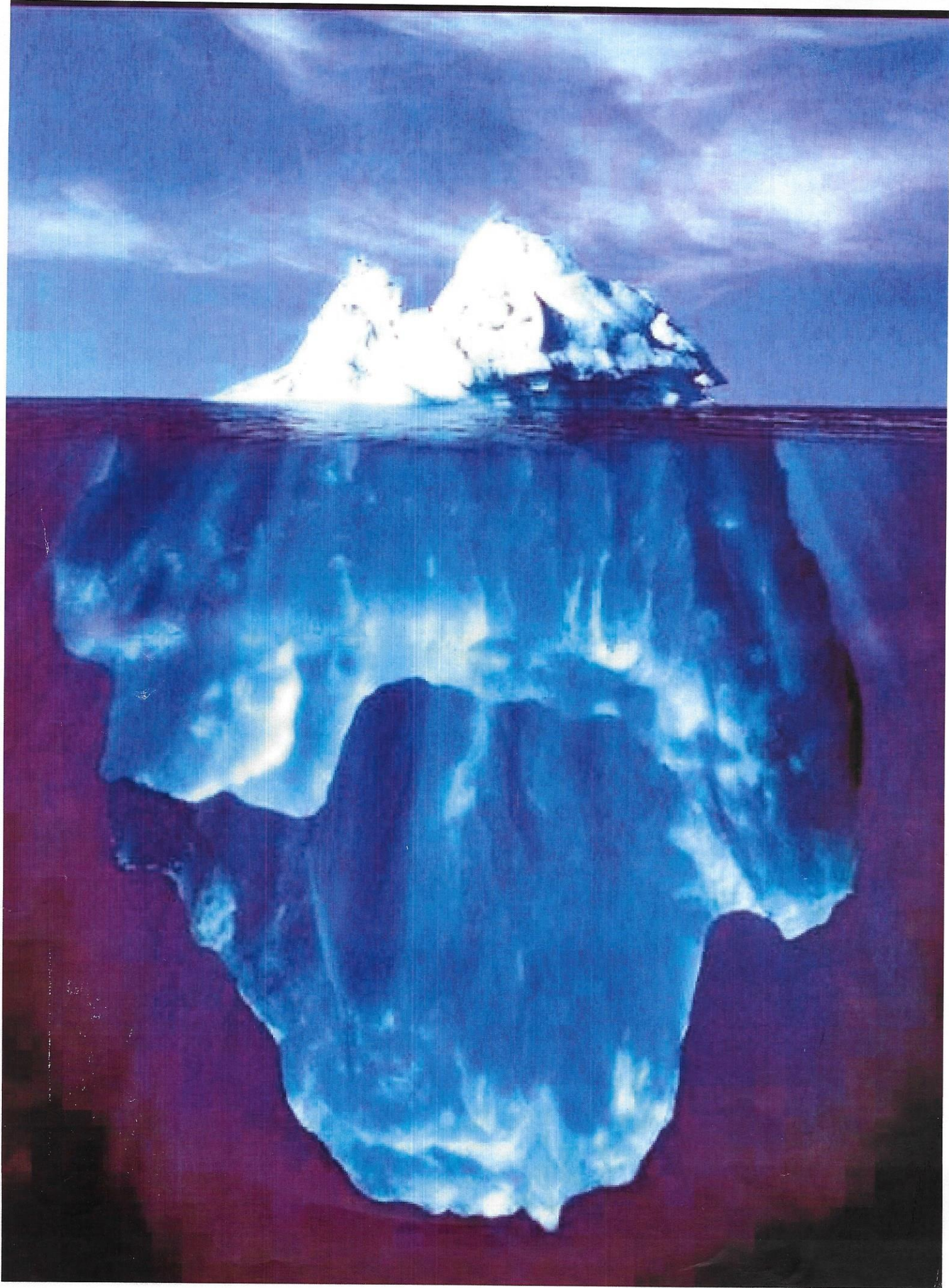
CONFLICTS A BETTER WAY TO RESOLVE THEM

CHAPTER 10

WHY DISPUTANTS ARE IN THE WORST POSITION TO SOLVE THEIR DISPUTE

It is natural to assume that the parties involved in a conflict should settle their conflict. It is their business. Their interests are at stake. They started it anyway.

Unfortunately, the parties involved in a dispute happen to be in the worst possible position to settle that dispute. That creates an awkward dilemma. It is as if the only person in the position to rescue a drowning person is someone who cannot swim. Or as if the only people motivated to be engineers are those incapable of doing mathematics.





An equi
conver

“Parenting Spectrum”

Fiery	Angry	Parallel	Cooperative	Perfect
Foes	Associates	Partners	Colleagues	Pals

“Fiery Foes, Angry Associates, Cooperative Colleagues, Perfect Pals”: from a workshop presentation by Connie Ahrons, cf. her book *The Good Divorce*, Harper Collins, 1994.

“Parallel Partners”: from Furstenberg, F. (1987). The new extended family: The experience of parents and children after remarriage. In K. Pasley & M. Ihinger-Tallman (Eds.), *Remarriage and stepparenting: Current research and theory* (pp. 42-61). New York: Guilford.

Adapted for use in family/child custody mediation by gferrick@gmail.com

CHANGE MODEL

By Jay Lebow

Transformation Now! (Or Maybe Later)

Client change is not an all-or-nothing proposition

ACCORDING TO conventional wisdom, people enter therapy to actively resolve their problems, reduce their symptoms and retool their lives. That's a dangerous assumption, say research psychologists James Prochaska and Carlo DiClemente. Their large-scale studies suggest that people progress through several predictable, well-defined stages on the way to change, and are apt to take resolute action only toward the tail end of the process. This means that only a small percentage of new therapy clients are ready to actively resolve their difficulties—a reality that clinicians can't afford to ignore, the researchers say. They urge clinicians to assess each client's readiness to change and to tailor therapy accordingly, or risk alienating clients who may conclude that the therapist is clueless about their needs.

Prochaska, professor of psychology at the University of Rhode Island; and DiClemente, professor of psychology at the University of Maryland, have examined the stages of change that people traverse in dealing with such problems as depression, anxiety and panic disorders, marital discord, eating disorders, smoking, alcoholism and delinquency. In cross-sectional studies (studies that take place only once) involving more than 3,000 individuals, they asked people to identify their major problems, their plans for change and the specific actions they were taking to bring change about. Most of these subjects came from household samples, while others were in treatment for medical or mental health problems. Regardless of their family and cultural background, the nature of the problem they faced and whether they had enlisted professional help, Prochaska and DiClemente found that, across studies, people negotiated five discrete stages as they progressed toward change:

Precontemplation. In this initial stage, individuals are largely unaware of their problems and have no intention of changing their behavior. People who go into therapy at this stage typically do so in response to pressure from others—a spouse who threatens to leave them, an employer who threatens to fire them, a court that threatens to jail them or parents who threaten severe consequences. Precontemplators often wish other people would change, as in: "How can I get my wife to quit nagging me?"

Contemplation. Contemplators are aware that they face problems and are seriously thinking about grappling with them within the next six months. But they have not yet made a commitment to take action, usually because they still feel daunted by the effort required to overcome the problem; or because they still feel positively about some aspect of their troublesome behavior. Bad habits die harder than we may realize: when Prochaska and DiClemente followed 200 contemplators who were considering quitting smoking, most of them were still "thinking about it" two years later.

Preparation. Individuals at this stage intend to take action within the next month. Preparers may have already made some small attempts to modify their behavior—such as trying relaxation exercises when they feel anxious—but these attempts typically have been sporadic and only partially effective. They may be developing strategies for a more committed program of change, such as mapping out an action plan, going public with their intention to behave differently and getting social support. Most still feel twinges of ambivalence about taking the plunge.

Action. In this stage, individuals are taking concrete steps to change their behavior, experiences or environment in order to overcome their problems. Actors endorse statements such as "Anyone can talk about changing, but I am actually doing something about it." Because action often brings up feelings of guilt, failure, coercion and yearning to resume the old behavior, clients typically need a lot of support during this period. A sobering statistic: At any given

time; only 10 to 15 percent of people in the process of change are engaged in the action stage.

Maintenance. During this stage, people work to consolidate their gains and prevent relapse. For some problems, such as alcohol abuse or recurring depression, maintenance might last a lifetime. Remaining free of the problem and behaving in ways incompatible with the problem—such as engaging in positive self-talk or calling a friend when one begins to feel blue—are key signs that a person has reached this stage.

Prochaska and DiClemente believe that any clinician, regardless of approach, can offer better-targeted and more effective therapy by observing the following principles:

- **Don't assume that all clients are at the action stage—or want to be.** Therapists often design excellent action-oriented treatments, only to discover that the client is not yet ready to embrace change. As a result, clinicians may label the client "resistant" and become quickly frustrated with the case. Remember, only 10 to 15 percent of people are in the action stage.

- **Assess the client's stage of change.** This need not be complicated. You might simply ask: "Do you think that any particular behavior is a problem for you now?" Once the client has identified a behavior, follow up with: "When do you intend to change that?"

- **Go slowly.** Rather than rushing straight toward action, help your clients to move only one stage further along the continuum—for example, from precontemplation to contemplation, from feeling it's someone else's problem to thinking about trying to do something about it themselves in the next few months. The researchers found that when people progressed from one stage to the next during the first month of treatment, they doubled their chances of taking action within the next six months.

- **Anticipate backsliding.** While the term "stages of change" suggests that change marches forward in a step-by-step, linear fashion, it actually occurs in a spiral pattern, which encompasses both forward and backward movement. Some people successfully move into action only to relapse and slide all the way back to the precontemplation stage. Therapists should educate

clients about the spiraling nature of change to help counteract shame and discouragement about regressing to earlier stages. To minimize backsliding, relapse prevention should be a key part of any treatment plan.

- **Do the right thing at the right time.** An intervention that is effective at one stage might not work at another. For example, precontemplators typically aren't prepared to take in a lot of information and are best helped by observations and interpretations that gently raise their awareness of their difficulties. By contrast, those in the action stage respond best to specific, behavior-change interventions coupled with steadfast support from the therapist.

- **Avoid inappropriate interventions.** One of the most frequent mistakes therapists make is to deliver insight to an individual who is in the action stage—for example, devoting sessions to the impact of a client's family-of-origin on his marriage at a time when he is actually ready to change his spousal relationship. The likely result: a bored, frustrated client. Another common mismatch arises when clinicians offer action interventions to precontemplators or contemplators, which can leave them feeling inadequate and even hopeless. In both cases, clients are likely to feel deeply misunderstood—and misunderstood clients are more apt to drop out of therapy.

- **Honor every stage of change.** Because the changes that clients make during the action stage tend to be the most visible and dramatic, clinicians often equate change with action. But Prochaska and DiClemente's research illuminates the fact that each stage is a critical element of the change process, and that negotiating each one requires substantial effort and courage on the part of clients. To help people make enduring change, we must be willing to invest considerable energy and patience in each stage—and to validate our clients as they take each small, significant step toward their goals. ■

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RESOURCES

Prochaska, James O., Carlo C. DiClemente and John Norcross, "Stages of Change: Prescriptive Guidelines for Behavioral Medicine and Psychotherapy," in *Psychologist's Desk Reference* (New York: Oxford University Press, 1998), 230-35.

_____, *Changing for Good* (New York: Avon Books, 1995).

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