

## **AUGUST 2006 - Resolving Disputes using Principle-Based Mediation**

*Speaker:* Mr. David T. Dorr, JD, PE, Law Offices of David Dorr

### **PRESENTATION SUMMARY**

To a room of about 45, David Dorr, JD, PE, of Law Offices of David Dorr, an attorney practicing in Houston TX, and also a licensed professional engineer holding a Bachelors of Science in Civil Engineering and a Masters in Structural Engineering, gave a presentation entitled, "Resolving Disputes using Principle-Based Mediation." Mr. Dorr, whose practice is primarily "in-house" counsel for companies without lawyers on staff, is an FPA member and sits on the FPA' Board of Directors, as well as the Structural Committee.



Mr. Dorr discussed the mediation method of resolving contractual or personal injury disputes, as an alternative to: a) litigation, which is slow, expensive and not final, and b) arbitration, which can be even more expensive and is non-reviewable. In both of these alternatives, the outcome of the dispute is decided by others, a judge or jury in the case of litigation, and an arbitrator in the case of arbitration.

Mediation on the other hand is fast, low-cost, final, and the parties get to decide the outcome (not the mediator). According to Mr. Dorr, the typical cost for mediation might run \$500/party/day. In Harris County, mediation is promoted in an effort to clear out the court rooms. The county offers free mediation if there are no more than three parties involved and if the claim is less than \$100,000. For further information, contact the "Dispute Resolution Center of Harris County", Tel. No. 713-755-8274. This offer allows the use of attorneys, though Mr. Dorr says that mediation works better if the parties do the talking rather than their attorneys.

Mr. Dorr said the most commonly used mediation method in Houston is the "Caucus" method, in which each party is in a separate room and the mediator bounces between rooms. However, he prefers to offer the "Principle-Based" method of mediation and has found it to be more effective. In this method, which should not be used for more than three parties, the parties remain in one room. He outlined the basic steps for Principle-Based mediation as:

1. Opening Statements
2. Discussion (to identify the principles, rather than positions)
3. Problem Statement (where the mediator states principles in form of questions)
4. Brainstorming (where the parties submit possible solutions to the problem statement)
5. Resolution (where the parties discuss a possible resolution)
6. Agreement (where the mediator hand-writes a contract and gets the parties to sign it at that time if their attorneys are present)

Mr. Dorr said Step 6 could be the final resolution to the claim or it could simply be a "narrowing of issues" resolution prior to going to arbitration or litigation. He suggested that mediation be added as a clause in contracts as a necessary first step in case of a dispute. If he is representing a party rather than mediating, Mr. Dorr will establish probabilities of success and perform statistical analyses to determine the expected values of the final settlement or exposure, and the dollar range his client might expect prior to going into mediation.

To download a copy of Mr. Dorr's presentation, [click here](#).

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