



Steven Shapiro (left) and Erik Johnson (right), both of Kentlands, work together to help mediate disputes. Johnson is the founder of Creative Dispute Resolutions.

Photo: Krista Brick

Mediators Negotiate Compromises in Kentlands

BY KRISTA BRICK

The drama of a courtroom plays out in many living rooms each night on shows like “Law & Order” and “The Practice,” but often the most dramatic thing about a real life court battle is its cost. A group of local attorneys and judges are working together to provide an alternative for businesses, individuals, organizations and agencies to resolve their disputes before they decide to head to the courtroom.

Attorney Erik Johnson of Kentlands formed Creative Dispute Resolutions Inc. this summer after spending 10 years doing employment law litigation and noting a need to find a way to get parties to resolve their difference without relying on the courts.

“The legal system is time consuming [and] expensive, and judges are constrained by what they can do. I really believe in the dispute resolution process,” Johnson said.

Johnson specializes in labor and employment-related disputes but has put together a team of mediators that have expertise and experience in all areas of the law including: personal injury, family law, real estate, malpractice and insurance. This unique assembly of mediators ensures those entering the process that they have someone directing the discussion who has specific knowledge on that particular area of law.

Attorney Steven Shapiro, with an expertise in business, commercial construction and energy industry disputes, is one of the mediators working with Creative Dispute Resolutions, LLC. Shapiro also lives in Kentlands.

“There are many in the field who consider this a calling as it combines the skills and strengths of not only an attorney but often that of therapist, rabbi or minister. And that is exactly how I relate to it today,” Shapiro said. Shapiro is president of the firm Resolutions Matters, Inc. along with working with Johnson.

The way it works is by having both sides of a conflict voluntarily meet with a mediator to discuss the grievances in the case. It is the mediator’s job to get the dialogue started between the parties and flush out the issues under contention. The mediator also meets separately with each party to provide information on the case.

Mediators cost from \$250 to \$400 an hour depending on the type of case and attorney requested. While pricey, the total cost pales in comparison to taking the issue

to the courtroom. According to Johnson, arguing an employment law case in federal court costs each side an estimated \$200,000 in legal fees in addition to the time spent by those involved in the case. The average mediation, if entered into early on in the dispute, takes about eight hours, Johnson said.

Eighty percent of the cases that do voluntarily meet with a mediator early in the dispute go on to settle outside of the courtroom. Settlement agreements drawn up and signed by the parties are legally binding. Johnson said that settlement is also more likely to be followed through because both parties had a hand in crafting it.

“If you voluntarily agree to the process you are more likely to actually live up to the agreement because you had a part of fashioning it,” Johnson said.

Cases that are not settled still benefit from the process. They are able to narrow the issues for litigation, they gain insight into the other side’s case, and they possibly increase the chance of one more opportunity for settlement on the court house steps, Shapiro said.

David Yaffe, attorney with VanNess Feldman of Georgetown, has used Shapiro as a mediator for a number of clients.

“Steve’s approach to help sort out the issues and reach a resolution based on respective interests makes a lot of sense,” Yaffe said.

One of the cases involved Long Island Power Authority vs. Cross Sound Cable that involved a major underwater transmission line buried across Long Island sound between Connecticut and Long Island. The issue dealt with involved construction delay and differing site conditions claimed by Cross Sound Cable — largely associated with environmental permitting problems on the Connecticut side of the project. It also involved an emergency order issued by the Department of Energy to activate the cable and a question of due compensation for that period of time.

“[Alternative dispute resolution] works best in a structured environment where parties have a business interest in resolving the matter. The mediator sorts out once the shouting stops what is a feasible outcome,” Yaffe said.

In addition to the mediation services, Creative Dispute Resolutions, LLC also offers arbitration, neutral case evaluation, settlement conference and summary jury trial services.

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