Gratitude is the most exquisite form of courtesy.
—Jacques Maritain

No one who achieves success does so without the help of others. The wise and confident acknowledge this help with gratitude.
—Alfred North Whitehead

What is gratitude?

Positive psychology views gratitude as an emotion, and not just an action embodied in expressing thankfulness. It is also a pro-social internal emotion that acknowledges the things external to us which are healthy and beneficial to our physical and mental being.

Gratitude can be a deep appreciation for someone or something that has lasting effect, and may also help people connect to something larger than oneself. It can include the appreciation of what is personally valuable and meaningful.

Prominent social scientist Robert Emmons states:

Gratitude has been conceptualized as an emotion, a virtue, a moral sentiment, a motive, a coping response, a skill, and an attitude. It is all of these and more. Minimally, gratitude is an emotional response to a gift. It is the appreciation felt after one has been the beneficiary of an altruistic act.

Gratitude is core to faith and spiritual beliefs, with the religions of the Book (Christianity, Islam, and Judaism) embracing gratitude as a necessary virtue for a good and just life. Buddhism views gratitude as connecting people with their pasts, and in conjunction with karma, propelling philanthropic and altruistic service. Hindus honor Saraswati, the Goddess of Gratitude, Grace and Growth. Prayer is a common form of expression of gratitude among religious practices.

Whether gratitude is approached from a spiritual, social, or psychological perspective, there is consensus that it is essential for individual satisfaction and well-being, as well as for strengthening interpersonal and communal relationships.

Some synonyms for gratitude are acknowledgement, appreciativeness, grace, gratefulness, praise, recognition and thankfulness. Some antonyms are censure, condemnation, condemnation, reprobation, and thanklessness.

Gratitude may form a core element of a disputant's identity, which drives major decisions.

MEDIATION ROLE

Acts of gratitude are integral to apology, making amends, forgiving, reconciling, and closure. Therefore, expressions or actions of gratitude may spur reciprocity and create a pattern of proposals or concessions to move the substance of the dispute closer to resolution.

In addition, people may self-identify with gratitude as a character strength, virtue, or core faith-based belief that motivates and guides conduct.

When participants voice gratitude, mediators must empower them as part of the self-determination dynamics of holistic decision-making present in the process.

Gratitude is intertwined with hope and optimism, which are core platforms for successful mediation. See Robert A. Creo, “How

THE THEME

Master Mediator Columnist Bob Creo is in the midst of a long-running series on emotions in mediation. Emotions are present in all participants in a mediation session, including the mediator. The dynamics of the overwhelming majority of litigated cases and interpersonal claims involve negative emotions. Many of these columns have focused on the negatives. (You can read these columns with a subscription at http://bit.ly/1BUALop.) But in more than three decades of serving as a neutral, notes Creo, there have been bright and shining moments of joy, serenity, hope, gratitude, grace, humility, kindness, humor, and cheerfulness. The examination of positive emotions continues here with a focus on gratitude.
Mediation

(continued from front page)

deal was that Defendant A would give to the
Plaintiff certain evidence against Defendant B,
my client, that had not come out in discovery.

Parenthetically, note that the Plaintiff and
Defendant A do not trigger these ethical
questions if they announce that they see no chance
of an overall settlement and are going home—
without disclosing that they intend to start
separate negotiations.

The Master Mediator

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Hope Can Confront Even the Most Hellish of Problems,” 35 Alternatives 163 (December

Expressing gratitude can also be integral to
apology, forgiveness, and reconciliation. For the
apology to be complete and the building block of
a future relationship or closure of past griev-
avances, the receiver should extend acknowledge-
ment and thanks to the apologizer. The giver
should be grateful that the apology is accepted
and that the relationship and interests are being
furtherted in a positive manner.

GRATITUDE IN ACTION

I witnessed one of the most effective expres-
sions of gratitude in mediation in a medical
malpractice case in the University of Pitts-
burgh Medical Center case resolution program
developed a few decades ago by the center’s
general counsel and risk managers.

My late colleague, former Pennsylvania state
court judge and renowned mediator David Ward
Murphy and I helped establish the program and
mediated the first few dozen claims success-
fully to resolution. It was common practice for
defense advocates to express appreciation and
gratitude to the attorneys and claimants for par-
ticipating in the mediation process.

Attorney Richard Kidwell was hired spe-
cifically to process claims via an expanded
mediation initiative. Rick—who is UPMC’s
senior associate counsel and vice president of
risk management—has been extremely effec-
tive in resolving complex claims in mediation
using a humanistic approach.

One extraordinary exchange occurred in
the initial joint session of a serious claim involv-
ing a young woman of color. After she provided
her narrative of how she had been affected by
the alleged acts of malpractice, Rick sat across
from her, looked at her directly in a compa-

Giving Thanks

The positive emotion examined
here: Gratitude.

The aspiration: Mediation process-
es, actions, results and outcomes
recognize and promote appreciation,
which in turn invokes empathy and
better settlements.

The bottom line: Gratitude is central to
effective decision making.

Of course, that leaves open the question
whether, if they later ask the mediator to
broker a deal between the two of them,
the mediator can take on that assignment without
notifying Defendant B that he or she is doing
so. More about that below.

QUESTION 1:
APPLICABLE PRINCIPLES

Answering Question 1 depends upon resolving
tension between Standards V.A (“Confidential-
ity”) and VI.A.4 (“Quality of the Process”) of
the Model Standards of Conduct for Media-
tors. Standard V.A provides:

A mediator shall maintain the confidential-
tiality of all information obtained by the
mediator in mediation, unless otherwise
agreed to by the parties or required by
applicable law.

If the Plaintiff and Defendant A instruct
the mediator not to disclose to Defendant B
that they have begun separate negotiations, the
standard would appear to be a clear prohibition

SUMMARY
AND CHECKLIST

Here is a brief checklist for the practitioner.

1. Gratitude, even if expressed as a vulner-
ability, can be a strength.
2. Gratitude should be sincere and not be
self-aggrandizing or a strategic tool.
3. Gratitude shows respect for the other par-
ticipants.
4. Gratitude begets gratitude, and furthers a
positive atmosphere for constructive dialogue.
5. Gratitude and apology go hand-in-hand.

ADDITIONAL READING

- Robert A. Emmons and C.A. Crumpler,
  Gratitude as a Human Strength: Ap-
  praising the Evidence, 19 J. Social and
  Clinical Psychology No. 1, 56 (2000)
- M.Y. Bartlett and D. DeSteno, Gratitude
  and Prosocial Behavior Helping When
  It Costs You. 17 Psychological Science
  ly/2FrPoTP).

SOURCES AND

The Master Mediator

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