

## Strategies for Effective Communication in Joint Sessions Article 2 of 3-Part Series

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I previously implored you to not forsake joint sessions in mediation except in the rarest of circumstances.

Going straight to caucus prevents you from speaking directly to your decision-making audience and deprives you from perceiving its nonverbal responses.

In this article and my next one, I will share some strategies for effective communication during that joint session.

While I recognize that not every mediation participant has this goal, I will presume that settlement is your intended result.

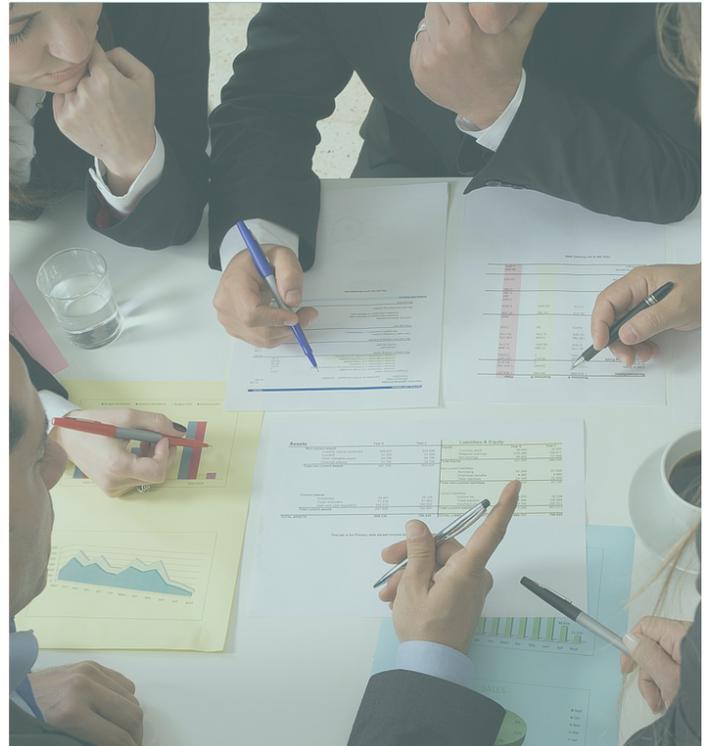
First, effective communication shows restraint.

Some feel that joint sessions are too adversarial, inflammatory and unproductive, which can be true if one or both sides are overly zealous or combative in their advocacy.

Mediation is often your first opportunity to impress your client with your presentation skills and case mastery.

You can achieve that goal and serve your clients well while exercising restraint in the joint session.

Deliver a fact-based opening statement instead of a rhetoric-infused closing argument. Be calm and use normal to lower-than-normal volume and pacing.



This approach can turn down the noise, eliminate emotional distractions, and better enable your audience to fully and fairly process what you are sharing.

Second, effective communication should be empathetic.

The vast majority of cases never see the inside of a courtroom, making mediation the closest thing most parties will ever have to a “day in court.” Give your opposing party the experience of being heard and valued.

You accomplish this mostly by your responses to the other side’s presentation. Listen actively.

Show curiosity. Be physically and mentally present. Engage nonverbally. Demonstrate interest in the other side's experience and perspective.

I assure you that when a party feels like the other side showed decency, interest and attention in the joint session, that party is more likely to be rational, productive and satisfied with settlement scenarios that will arise at mediation.

While it may be difficult, showing empathy sets an effective path toward resolution.

Third, effectively communicate via show and tell.

One of the best ways to have a restrained presentation is to let the evidence speak for itself.

Compelling pictures say a thousand words.

Pertinent documents are rightly viewed as more objective than lawyer argument. Surrender the microphone to the evidence.

If a witness or party has given impactful deposition testimony, don't just summarize it. Share it verbatim, by either playing the video excerpt or showing the transcript excerpts.

Controlling statutes, contract provisions or reports should be displayed on the video monitor or handed out as paper exhibits.

Let things that are tangible, self-evident and objective have the podium.

The more they talk, the less you have to and the more compelling and restrained your presentation will be. Show and tell is not just for elementary school.

My next article will focus on four more strategies to effectively communicate to your decision-making audience in a joint session.

Make the most of that rare opportunity so you can best help your client end litigation by agreement, not by verdict or court ruling.

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