

Mediator Mike Mullin 8/20/15 08/20/15 8:40:26 AM



Fifteen years into his mediation career, Mike Mullin couldn't be happier with his choice.

– Photo by Michael Tran

Mediator Mike Mullin

How Mediation Turned Litigator's Life And Career Upside Down (in a Good Way)

By **Andy Roberts**

The Daily Record

For attorney Mike Mullin, the scales of justice have tipped from him being a litigator to a mediator.

For those who don't know, in the legal world, mediation is a form of alternative dispute resolution that resolves disputes involving two or more parties with concrete effects. Usually, that involves a neutral third party – the mediator – who helps such parties to reach a negotiated settlement.

According to his firm Kutak Rock's website, a mediation facilitator is impartial, neutral and unbiased. The goal is for the mediator to help all participants in the legal action to communicate their positions clearly, and explore the options for reaching an agreement and putting that agreement in place, if possible.

Mediation is considered substantially less expensive than an extended litigation would be and, with the improved communications, there is better problem solving which generally increases the likelihood that the parties will follow through on their agreement.

The facilitator is in control of the process, but not the content, and cannot make a judgment or influence any decision. Statutory confidentiality provisions are binding on the sessions, unless the situation is subject to open meetings laws. A native Omahan, Mullin is in his 15th year as a mediator, moving to Kutak Rock about seven years ago from McGrath North. Married for 32 years with three daughters and a son, he is a partner and chairs Kutak Rock's ADR (Alternative Dispute Resolution) Neutrals Group.

And he couldn't be any happier.

"I mediated my first case in 2000," he recalled.

He admits it was a change to be in a neutral position on a court case.

"It's hard to go [to a neutral position] from being an advocate for so many years," he said.

Change is Good

What prompted the change for the Creighton Prep, University of Notre Dame and Creighton Law graduate? The change started in 1991 when he mediated a case with the late John Miller.

"My client loved the process," Mullin recalled. "They saved the expense of the litigation, all the time that would be

connected to the litigation, and had a direct say in the outcome.

"I became a quick believer in mediation."

So, while still primarily a litigator, the increased use of mediation was something that grabbed his attention. "I was trying a lot fewer cases because of the increasing use of mediation," Mullin recalled. "Not many cases were ending up in trial."

Rather than continue what he was doing, and not try any cases, Mullin became a mediator, following Miller's suggestion. He started taking the training in 1998, and then took some more in 1999.

Still, it took him five to six years to gain traction as a mediator, but eventually he gave up litigation due to the growing demand for mediation.

"I miss trying cases but go home feeling fulfilled every day," Mullin said. "I consider myself one of the luckiest people around to be able to serve as a mediator."

Apparently Kutak Rock thinks they are lucky too. They say on their website: "Mr. Mullin's efforts to ensure that every mediation is a gentle, easy process for the participants have made him a popular neutral for attorneys throughout the United States."

Any Kind of Case

It is a role in which he works on "virtually any kind" of case that might enter the legal system. Among the most common, he said, are personal injury cases, medical malpractice cases, employment discrimination suits, commercial and business disputes, and FELA cases (those that fall under the Federal Employer Liability Act) which are comprised of railroad workers who file suit over work-related injuries.

He calls mediation an area of the law that is difficult to enter; that is, many more people are looking to get into the practice, than there is the business to support them.

"You have to be able to get hired by attorneys on the opposite sides of the dispute," Mullin said. So, unless you do a good job, you won't get hired again, he stressed.

Mullin said he now is handling about 300 mediations a year, working both on the local and national levels. As a mediator, he explained, the preparation is much more arduous than that of his previous role as a litigator.

"I'm working harder now than I ever have," he said. That is largely because he now has to know all the facts and issues, and the positions of each party on those issues.

"A two-hour-night of sleep is not unusual," he said, managing a smile. "I've got to know this stuff."

About 91-to-92 percent of the 2,400 cases he has mediated have settled, he said. The alternative, Mullin pointed out, is for the parties to go to trial.

Involvement and Accolades

In addition to serving as the president of the Omaha Bar Association in 2001-2002, Mullin serves on the alumni advisory board of Creighton University School of Law; the advisory board of the Werner Institute for Negotiation; and is former president of the board of directors of the Omaha Children's Museum.

The list of Mullin's recognitions by legal organizations is lengthy and impressive. He has been inducted as distinguished fellow into the International Academy of Mediators and a fellow of the American College of Civil Trial Mediators. Mullin is also the only Nebraska mediator to be inducted into either organization. He is a founding member of Nebraska Mediation Association, which comes as no surprise as he was also named "Omaha Mediation Lawyer of the Year" by Best Lawyers 2014. Chambers USA named him "Leading Attorney in Nebraska" and described him in its 2010 edition as "an excellent mediator" and in 2009 said he is "... unquestionably a market-leading mediator." Some testimonials from clients on Kutak Rock's website include:

"Mike Mullin is one of the better mediators in the Midwest and has the patience of Job..."

"Mike Mullin always demonstrates a high level of understanding of the issues involved and presents the other side's case in a professional manner. This helps us develop a clear understanding of the strengths and weaknesses of our position. His efforts give us a strong opportunity to settle the case at a fair and reasonable value."

"Mike is hands down the best at leading mediations on all kinds of cases."

Mullin is in high demand, no doubt; a quick look at his calendar shows that in August, for instance, he is already booked for 24 days (and one tentative), including six Saturdays and Sundays. One stretch is 12 consecutive days. With such a full calendar, one may wonder, is mediation the future of the legal profession?

"I think it is," Mullin nodded. "It's being used more and more in litigation matters."

He said that the clients generally like it better than their attorneys, because it costs the attorneys some fees and the lawyers miss trying cases. But for Mullin, there is no doubt it was the right move.

"For my career ... probably the best decision I've made," he acknowledged, even if it does mean a few nights with just a couple hours sleep. "I've never needed a lot of sleep," he shrugged with his Irish grin.