

From: "Bruce A. Edwards"

To: bgaal@clrc.ca.gov

Sent: Thursday, September 17, 2015 4:27:55 PM

Subject: August 7th decision to draft legislation impacting mediation confidentiality

Dear Ms Gaal.

I am the immediate past Chairman of the Board of Jams, the largest provider of commercial mediation services in the United States and a full time mediator with over thirty years of daily mediation experience. While I am not writing in any official capacity on behalf of Jams, I am urging your Commission to reconsider its August 7th recommendation to draft legislation impacting confidentiality in the mediation process. Some background. When I started the first commercial mediation company in California using attorney mediators, our business plan was to someday get the court system to see the value of the mediation process. A centerpiece of this process was, and remains, the opportunity for each participant to be heard in a confidential environment, free from the potential repercussions of traditional litigation. The goal is for parties, free to discuss a full range of issues, to work out their conflicts, with the assistance of the mediator, thus saving everyone involved, including the court system, tremendous amounts of time and money. To say the mediation process has been successful these past twenty five years would be a huge understatement. As I'm sure you are aware, all law schools now teach mediation, every court has a mandatory mediation program and thousands of conflicts are resolved each year that would otherwise require increasingly scarce judicial resources. Our company alone resolved over 14,000 disputes last year nationwide. Just this past month I helped mediate a large construction case in Yolo county that would have occupied one of four civil departments for almost a full year. In that one instance it's fair to say that mediation freed up approximately 25% of the judicial resources in that county's civil court system for the next year. These results could not be achieved except for the confidentiality protection afforded to participants.

I've never written a letter or email to a legislator on any matter involving proposed legislation. I am compelled to act now because I'm very afraid that your pending actions will emasculate a process that has provided

tremendous benefit to individuals, organizations and the court system, all for no persuasive reason. In over six thousand mediations I have been involved with I have never seen the possible benefit to someone looking to breach the confidentiality protection currently afforded. I can see obvious reasons why one might use these arguments as pretext for all sorts of strategic advantage but this shouldn't justify revising current confidentiality protections.

In life we often have to trust others with more experience to help us get things right. As a pioneer in this industry with more mediation and teaching experience than I need to recount, let me simply say, you are in grave danger of getting it wrong. I would counsel more reflection and an industry led dialogue on how to manage whatever legitimate interests need to be addressed without throwing the baby out with the bathwater.

Let's focus on the bigger picture for a moment. We can all agree that we live in a world with increasing stressors and conflict, many of which already escalate all too readily to violence. Even those that find their way into our legal system are further delayed in an environment of diminishing judicial resources. We desperately need any and all processes that encourage dialogue, find compromise and ultimately resolve conflict. To undermine one of the most successful processes developed in recent times ostensibly to deal with a narrow and otherwise manageable issue makes no sense.

If you or others on the Commission would like to understand more about the potential consequences of your pending legislative efforts I would gladly volunteer my time to help you get it right. In the meantime please do no legislative harm to the confidentiality protections currently afforded those in desperate need of dispute resolution processes.

Bruce Edwards