

## *Disputes*

*Disputes, unlike wine, do not improve with aging. Many things happen to cause parties in a dispute by the simple passage of time and almost none of them are good. Delay in settlement or disposal of conflicting claims is ...a primary enemy of justice and peace in a community.*

*The Hon. Willard Z. Estey Former Justice, Supreme Court of Canada.*

## **Mediation in Guyana – In perspective**

### **A Historical Perspective**

In March of 2003 a broad-based committee under the chairmanship of Professor Peter Britton was commissioned by Her Honour Madam Justice Desiree Bernard, Chancellor of the Judiciary, with the mandate to “explore all forms of Alternative Dispute Resolution and to make recommendations for implementation”

The committee was requested to submit their report by 31<sup>st</sup> March 2003

After several months of data collection, fact-finding and stakeholder consultations, Prof Britton`s committee submitted its report which recommended inter alia “That Mediation be made part of the procedure for the speedy resolution of the backlog of cases and for the continuance of a speedy and orderly flow of civil litigation “

Against this backdrop, and with significant support from The Carter Centre, An ADR steering committee was established. This committee was chaired by the Chief Justice of the Supreme Court of Judicature, The Honourable Carl Singh and comprised representatives from:

- The Guyana Bar Association
- The Guyana Women Lawyers Association
- The Chambers of the DPP

- The Carter Centre
- The Justices of the Peace of Guyana
- The Supreme Court of Judicature

The Mediation Centre was subsequently established in the compound of the Supreme Court of Judicature during the month of October 2003, and a cadre of twenty-five persons were trained and appointed to the panel of Mediators. With the exception of Mr. Colin Chichester – the Court Manager, the first batch of Mediators were all Attorneys-at-law with over five (7) years experience, and they all agreed to provide (in the first instance) twenty-four (24) hours “pro bono” service.

The panel of trained mediators was subsequently expanded with the training of an additional fifty persons (50). This new batch however was broadened to include additional skill-sets inclusive of Social workers, Surveyors, Teachers etc.

<b>No. of matters referred</b>	<b>880</b>
<b>No. Court/Judge directed</b>	<b>772</b>
<b>No. Attorney /client directed</b>	108
No of matters settled before actual mediation	48
No of matters successfully mediated	
(agreement reached)	228
No of matters unsuccessfully mediated (matters	
referred to trial)	338
No of matters partially mediated (some issues	
resolved but case referred to trial)	95

## **No of matters referred for mediation but**

## **subsequently returned to trial in prior to mediation 98**

As the foregoing figures indicate, approximately 80 % percent of the matters were judge referred; this can be attributed to inadequate publicity.

The figures also show that the unresolved matters significantly outnumber the resolved matters which is quite disappointing, given the fact that we Guyanese are world-renowned for our hospitality and peaceful disposition.

### **Concerns**

The attitude of Attorneys and to a lesser extent, litigants to the process. For example after agreeing on a scheduled date for the matter to be heard they would either don't show up without notice or call at the last minute seeking adjournments.

Attorneys also neglect to brief or orient their clients as to the concept, and as such they appear for the session without a clue as what mediation is all about. This delays the process and provides serious challenges to the Mediator and the Director

Some attorneys also experience difficulty in relinquishing the court room mindset and as such endeavour to dominate the process.

### **Highlights**

The mending of fractured relationships especially in these times of seemingly mindless violence and hostility.

Several cases which had been languishing in the system for quite some time were quickly and amicably resolved.