



Sotomayor Law

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Mediation, Arbitration and
Business Dispute Services



***Words Matter.
Tone Matters.
Get Results.***

I just returned from the 15th ICC International Commercial Mediation Competition among law and business students from around the world. Held each February in Paris, it is a mediation negotiation and advocacy tournament in which teams of two students serving as client and attorney try to "win" the mediation session and advance until the remaining two teams face off in the final "match." The scoring is based on criteria including effective Opening Statements, Advancing Your Interests, Teamwork between Counsel and Client, Information Gathering and Ascertaining the Other Party's Interests, Seeking to Collaborate with the Other Party, Working Together to Develop Options, and Making Good Use of the Mediator.



Oh, and as in most of the U.S. and the rest of the world outside of Southern California, the mock mediations are fully joint sessions, unless someone requests a private caucus.

The last three times I went, I served as mediator and judge, along with other professional mediators from around the world. This time, I had the honor of co-coaching the Loyola Law School Los Angeles "Mediation Team" with [Hiro Aragaki](#), who is a full time professor of law at Loyola and also a JAMS neutral. Loyola Law and ICC Competition alumnae [Christine Strother](#) (J.D. '19, LLM '20), [Meaghan Henderson](#) (J.D. '19), and [Nidya Gutierrez](#) (J.D. '19) were tremendously talented trainers as well. I was the one who got to go to Paris with the Team!

The Team members are an amazing group. We drove them hard beginning last September, and then they caught the fever and drove themselves as true champions would prepare. [Patrick Estabrook](#) (J.D. '21), [Andie Slein](#) (J.D. '21), [Jennifer Vliet](#) (J.D. '21), and [Xenia Zueva](#) (J.D. '20) were outstanding strategists and negotiators. Their work ethic, thirst for practice, and genuinely caring spirit make them each a dream hire.

As in most legal disputes, there are a lot of theatrics involved. Setting a tone of collaboration from the very start is highly valued. If only real parties and lawyers could step out of the warrior box to engage with a sincere mediation mentality, as these students are being encouraged to do, maybe real-life mediation participants would have an easier time finding creative solutions.

The Loyola Law Team was strong, yet flexible. They did a great job of determining the best manner in which to communicate with opposing teams, and in all of their matches, they got everything they wanted, sometimes even more.

As often happens, strong teams do not advance in the Competition. This year, the Loyola Law Team did not make it to the final rounds, despite glowing feedback from judges, mediators, and opposing team members. On an international stage, at that!

The most important takeaway from every ICC Competition I have attended, and indeed, most of my mediations, is that the words I use and the tone I set at the very beginning of any interaction, much less any negotiation, *must* clearly demonstrate a willingness to hear and understand the other's point of view. If you can do that, you stand the best chance of being heard and understood yourself. When an intention of understanding is established, attorney and client are more likely to get what they want.

TRY THIS: In preparing for mediation, consider a variety of approaches, consciously selecting words that create an atmosphere of strength *and* cooperation. Avoid words that you know will generate an angry response. Consider how disarming a genuine interest in hearing what your opposition has to say could be. Then imagine the intelligence you can gather and the results you can achieve in mediation. Because at the end of the day, results matter. Like words.



About Rande Sotomayor

Rande S. Sotomayor is a Los Angeles-based mediator with 35 years of commercial litigation and dispute resolution experience, now specializing in business, real property, employment, personal injury, insurance, and ERISA benefits disputes.

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