

L I N D A H. P E C K

The High Price of Vindication

by

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The Lost Art Form of Mediation For United States Taxpayers

Mediation.....is a Lost Art Form of Communication which should stay lost. At best, it should be reserved for use with Third World Countries and Baseball. Until further notice, the concept that 8 mortal Americans of differing mental capacities, intellect and personal agendas could conceivably share a diplomatic Round Table Discussion to debate the subject of taxes, is tragically humorous. Baseball we love. World Peace we crave.

In 1989 however, the exercise of Mediation appeared destined to be introduced into the judicial process which taxpayers face on the arduous land-mine trail to ultimate resolution. A first hand better understanding of the initial procedures and nuances may ease the surprises of the intended short-circuit trip to U.S. Tax Court. As a Taxpayer, you also could find yourself left with no other choice - other than to participate in Tax Court Mediation. Does that mean we live in a Third World Country or don't like Baseball? It's best you decide for yourself.

Five Thousand Miles...

...gives one a lot of time to analyze interpretation of the English language. Word has it that civilized individuals should appear "reasonable". What that means, exactly... depends on who's deciding for whom.

With a 1982 marriage in final extinction, children raised and off on their own adventures... "reasonable to me" led me to seek and begin a new life for myself in France. A place to mend my wounds, breathe fresh air, savor a crusty baguette in a cobblestone village square and regain my belief that one could start again. My government had other ideas. "Reasonable to them" meant they would like to debate my 1982 dissolution of marriage for at least the next fifteen years. I take it they had nothing better to do. While I did. Instead, I had to stop and learn about the IRS.

As my recent Air France flight gingerly lifted off from Charles de Gaulle airport... en route from Paris to Houston, Texas... I quite then unreasonably contemplated... that I had spent 10+ painfully "interesting" years of my life locked in global, documented and methodical explanation to various Come-and-Go Internal Revenue Service agents. At the time, It seemed only fitting the High Noon Showdown was scheduled for Texas. While "Unique" and a "First" means the IRS Jurisdiction is based in Washington D.C. Not in Texas.

For some unknown reason I had been elected to participate in the first Mediation conducted by the U.S. Tax Court in concert with the Internal Revenue Service. It came after years of endless inquiries, back and forth to the United States, in hopes of resolving the matter. During these fruitless years the family home I had purchased in France, was left isolated and unattended. Then vandalized, defaced, sold at French public auction, the proceeds of which are still missing today. The property stands dark and judicially sealed from all. What then was the purpose of a 11 year debate with the IRS other than to deprive life, liberty and the pursuit of happiness. Successfully, I might add. As I said, they had nothing better to do. I also determined the price of vindication is not cheap. You either choose the road of victim, roll over and play dead, allowing the process of "democratic sovereignty" (if there can even be such a thing) to then be played out again on the next victim slated to follow. Or? Alternately, one can choose the road toward improvement, however minimal those contributions might be, and pay the heavy price. Neither is a great choice. The road to improvement, however, means you must wallow around in disorganized mediocrity when dealing with government employees and try to keep a stiff upper lip to say nothing of your wits about you. The nuance being, you know more about your life than anyone else... regardless of what random passerby would attempt to decide what's reasonable for you. If the next Taxpayer scheduled for U.S. Tax Court learns moments before Trial... that the Judge now suddenly "suggests Mediation"...this then, is for the next one up.

Dinner Table Discourse...

... has it that my Washington D.C. Trial Judge randomly decided I should be the one to test his theory. Who would have guessed. A four year old case file after a six year audit trail from hell - must be a heavy load. Faced with me, or anything else but... he delicately and diplomatically suggested to the parties that they first attack the Lost Art Form of Mediation before approaching his bench (In Washington D.C.) When the parties had no other choice but to "consider" his suggestion... he must have knowingly smiled and breathed a grand sigh of relief.

A head-hunter search followed to locate the chosen Medicine Man to orchestrate the non-binding but binding preliminary event. A double entendre, to say the least. A second retired Tax Court Judge therefore emerged victorious and willingly agreed to referee the Mexican Stand-Off. It meant leaving the comfort of his stomping grounds and heading West from our nation's Capitol to the tumbleweeds of Marlboro Country. As Texas also considers itself to not be a State but a Country.

Inadvertently, in Washington, the two Judges dined together during a local association event. When the subject of the first Mediation scheduled test run became podium patter, all became transfixed on the possibility of passing the buck from the Courtroom back to the sordid groveling ground from which it all sprang. The safety of countless nameless and faceless government employees versus you. What could possibly be more equal than that, to say nothing of positively enchanting, in concept.

Shrapnel or Garlic...

Please know that if you decline participation in Mediation you will appear "unreasonable" to unreasonable people. God forbid. Bear in mind, these are people you don't know, hope to never see again in your lifetime, and only you can elect to determine their value to you. Try minus zero. I'll explain it later. I notice not one of them even sent a Christmas card when it was over, so they obviously can't be all that valuable to me, personally. But, for the moment, you must pretend they have some value as they are definitely an uninvited part of your life. The value also wasn't "Zero".

If you elect to pull that Unreasonable Red Lever, however, opting for Trial over Mediation... which you are certainly also entitled, by law, to do - it stands to reason you will later have your knuckles rapped by your Trial Judge in Washington D.C. who originally suggested it. Wisdom dictates, to avoid the shrapnel fallout, it's probably best to just gird your loins and opt for a bag of garlic around your neck hoping to ward off the interim local evil spirits. Many of whom I encountered in Houston. Your Hometown USA may be no different. Before you leave, for such an auspicious non-meeting of the minds...you also may want to grab a wooden stake while you're at it. It couldn't hurt.

Pass The Buck...

We all recognize the courts are clogged and no one wants to be held accountable for their decisions. The new buzzword on the Drawing Board suggests that when the IRS Appeals Process fails and Trial looms

imminent ... "Mediation" will now be the last ditch effort to short-circuit the eventual level playing field that a Trial setting may hopefully provide. Emphasis on "hopefully". In reality, "Mediation" IS "Appeals". Only fumes separate the two. While no one was looking they just changed the name of the procedure so you wouldn't recognize that you really hadn't gotten anywhere. Creating the illusion for you that you were onto the next higher event and getting somewhere? Not so.

We have arrived at this sorry state, noticeably due in part, because humans are aggressive and antagonistic by nature and perhaps should be left to their own devices to do each other in. After ten+ years of debating the situation with my IRS adversaries, the suggested process intended to reunite us in still another combative setting - one on one - by Mediation versus Trial - was not well received. At least not by me. Knowing also, as an aging grandmother, I might not look so swift with bloody knuckles - I opted for two bags of garlic, one silver cross, three wooden stakes... and made my choice.

Documents of Doom...

Our species seem to have advanced somewhat from prehistoric caveman drawings to the fine art of endless document preparation and production, whereby some individual or entity attempts to annihilate the other guy by words on paper because it is in his best interest to do so. If uppermost in your mind you retain the thought that whatever assertions

hurled at you on paper are no more than standard recycled word processor files hastily downloaded to cast the appearance of current personalized intelligent work product... receiving IRS Documents of Doom will not ruffle your feathers. I surmise those who sent them never even read what someone else wrote nor what they were sending. If you doubt this theory, you can always order public Tax Court documents and pleadings from any other "John Doe" case file, and read, with no great surprise, the exact same words filed 6 months ago that you personally just received yesterday. Silly you. And You thought those recent words were only written for you. Surprise. Seeing identical writings however, does help you keep the whole nonsense in perspective and recognize that creative writing within the Service is not their strong suit. Intimidation frosted with creative license is.

Coal In My Cowboy Boot...

As the dusty pancake of Houston spread out below me in the late afternoon December sun, it seemed incongruous that I had a preordained meeting with my Uncle Scrooge to debate taxes or lack of them at the OK Corral just days before Christmas.

My Welcome Wagon turned out to be an airport taxi driver sporting an well-seasoned cowboy hat and a long ponytail. An ideal PR rep to lead me to a city which noticeably held no adornment of the holiday season. A hefty man of stature and charming camaraderie who was quite delighted

to learn I wasn't going to downtown Houston. Although he didn't much look like a chicken... he established his ground rules early on. He didn't "do" trips to downtown Houston. Downtown crime was running rampant and downtown taxi-drivers the main target. We agreed neither of us wanted to be there anyway and then got on quite famously.

When learning of my mandatory/voluntary (if there can be such a thing) "Guinea-Pig Mission" he then recounted, in great detail, various IRS horror stories which had befallen others he knew. Slight variances of old War Stories I heard all too often before. He applauded my courage in attempting to make some minimal inroads into the quagmire and we parted with my first official welcome. A big Texas hug and a Thumbs Up of Good Cheer for the battle at hand. I was highly flattered he offered to drive me to the later Mediation, considering it was scheduled to be "downtown". Realizing, with a secret smile, that I must have given him some courage to attempt to fight a few of his own demons.

The Posse Assembles...

As I shook out my rumpled suit and struggled with hotel hangers which defy you to remove them from the closet pole... I knew that somewhere in town the retired Judge, who was to be Mediator, himself, would be settling in after his flight from Washington D.C. and laying out his instruments of process. Whatever those were. I wondered if he looked like Gary Cooper.

Somewhere else yet, the vision of tax attorneys shuffling papers, reading code law and greasing up their spurs.

I imagined the representatives for the IRS were out buying new batteries for their hand-held calculators and getting a earful of last minute instructions from "Head Office", wherever that might be. I hoped, for a brief fanciful moment, that those instructions might be emanating from Amy Vanderbilt, offering a quick brush up course in manners - well knowing that was childish wishful thinking on my part and way beyond the realm of possibility. We're talking Third World Country here.

Alternate Dispute Resolution...

The term attributed to Mediation certainly sounds civilized enough to me. How 'bout you? Alternate to Annihilation, one might add. Dispute versus Decapitation. Resolution versus Revenge. ADR

I pondered the thought of suggesting that the Mediation Procedure be moved to delightful Geneva, where it seemed all sensible Peace Talks amongst reasonable people generally were held. To say nothing of maybe being able to have a great cheese fondue during lunch break. Deciding instead, that Geneva should be spared the degradation of the whole sordid mess. Houston would do. Or, if our debate turned absolutely too heated for words, we could, of course, always move to Waco or the Dallas Texas Book Depository and finalize the deal. Indelible locations, to be certain. I wondered how long Jimmy Carter would be in Sarajevo and

how I could reach him before he offered to take on Baseball, should Bill Usery strike out. Mr. Carter charmed Cedras into packing his bags well enough... and Houston had to be somewhat better than either Haiti or Bosnia. At least Carter would be a familiar face and was quite used to participating in historic moments. Save Jimmy's magic appearance, for my Camp David Treaty, and reluctantly choosing garlic over shrapnel. I also knew I was doomed to be offered up into the "impartial" hands of a retired Tax Court Judge. How chummy. I predicted he would at least be polite.

What's Good for Baseball...

...must at least be worth a shot for the other American national pastime. Negotiations with The Internal Revenue Service. Normally termed last-ditch "Appeals"... as now deceptively renamed last-ditch "Mediation". So pay attention to the "shift" in "word play". The plan being that representatives of the IRS are in one room - the Taxpayer in another - and the Mediator charged with the responsibility of wearing out the carpet between the two camps, attempting to diplomatically nudge the two parties and move them forward towards agreement. After ten years, I also hoped the trail had a thick hall carpet or the Mediator wore super keds.

Rules Are for Sissies...

Of prime importance to me were that proper rules be established for

the Meeting itself. But then I was only a Layman, noticeably outnumbered and surrounded by 7 seemingly intelligent professionals who all suggested otherwise. I find it contradictory that the IRS has a rule for everything ... except when it is convenient to have none. I reasoned Rules must be for Sissies because the first Mediation had no rules. Clever. It was to be a free-for-all of the Blind leading the Blind. There also was no Agenda. True disorder.

Intelligent planning and common sense notwithstanding... these lack of governing Rules or a governing Agenda "punch-list" - later proved disastrous. Not at all surprising to me, a simple Layman with a penchant for only using common sense.

Confidential to Whom...

Prior to my departure for this 5,000+ mile auspicious trip to the Holy Land, a minor and oh so mild stab was made early on, for establishing Rules governing our Mediation. I was instantly drawn to the single fact that the most important item to the IRS was that it be "Confidential". The question in my mind... refusing to die...was... to whom? Did that include me? While more importantly... for what reason? I would certainly have preferred not to be there either. The IRS request for confidentiality later became a "deal breaker". My mind, logically, would not permit me to enter into any agreement nor even consider such a possibility... for an act emanating from what can only be termed a "Kangaroo Mediation", which

would later be disavowed as if it had never happened. Why? Because it wasn't within a Court of Law? Confidentiality, however, was another matter. If so, and this hush-hush tactic paramount... there certainly was no point to agreement and even less point in conducting the anticipated process of Mediation. The whole concept smelled like a late afternoon fish market to me, if not a week old pair of used athletic socks.

Mission Preposterous...

Government Press Releases quote, that the actual Mission of the Internal Revenue Service purportedly: "Administers and enforces the internal revenue laws and related statutes, except those relating to alcohol, tobacco, firearms, and explosives; encourages and achieves the highest possible degree of voluntary compliance with the tax laws and regulations and to conduct itself so as to warrant the highest degree of public confidence in the integrity and efficiency of the Service; advises the public of its rights and responsibilities, communicates requirements of the law to the public; assists taxpayers in complying with the laws and regulations; and takes those enforcement actions necessary for fair, effective and impartial tax administration".

Before we go too much farther... strike the words "conduct", "confidence", "integrity", "efficiency", "advises" and above all... "rights". In reality, the Mission of the IRS is to collect money, so we, as a country, can have enough on hand to continue to pile up our national and personal

debts... regardless of the government time or cost to do so, the source of funds collected, the reality of whether tax is owed or not, or by whom and for what - and to diligently suppress general public knowledge by altering any and all evidence on how this black magic witchcraft comes about.

To achieve this deceptive mission, while equally biting the hand that feeds them, requires real-time dedicated and slow progressive entrapment by IRS employees. Fiction must become Fact. Man must be turned against Friend. Wife against Husband, Brother against Sister, Parent against Child. Client against Attorney and vice-versa.... you name it. They try it. What greater glory and applause could there possibly be than for a Revenue Agent to collect tax on the same item from two sources by taking contradictory positions with each and all the while... being paid a salary from those he or she is collecting from. If a raise in pay is not magically bestowed for such a incredible deceptive victory... a microscopic promotion must surely be. 30 pieces of silver magically transformed into a gold retirement watch. Ah, the glory if it all.

It Self Distracts...

The proposed Rules governing the first Mediation came in the form of a letter. Ten paragraphs, incorrectly numbered. Two paragraphs each numbered "7". Standard Operating Procedure with the IRS. Progressive Entrapment. To be hopefully furthered into locking position with the help of my tax attorneys, who I guessed couldn't much count to 10 either. I

assumed the premise was, get her to agree to Item 7 - but just don't tell her which Item 7 it is. Perhaps she can't count to 10 either.

The Wagons Circled...

We convened in the downtown offices of a pricey law firm and politely all took our corners. My request that the room be swept for bugs was denied as was my request for a glass table so that I could check their shoes for mirrors. I wondered if my adversaries had packed flaming arrows or were wired for sound. I surmised such was possible and that an unmarked van was positioned somewhere down the street. If they had arrows, or wires, they certainly were well hidden... though I did see a few dead-give-away feathers on the floor as I proceeded down the hall and joined the opening session.

In Round One...

...we all faced each other head on. I was smitten with the Mediator's Opening Welcome, noticeably directed at me, pronouncing that I was making history. Which, of course, I cared nothing about doing. I did, however, greatly care about resolving a 10 year bureaucratic insanity and attempting to carve out a fair American Theater of Operations for myself, in the main, and any equally ill-fated taxpayers who would shortly follow in my footsteps. To understand the real reason for my very being, it was essential for me to know that my ten+ years on the sacrificial alter of tax

debate was for "something" far more important than I was, as a lowly singular individual. If those 10 years were not for me personally, they must be for those who would follow me. I entrusted myself with the personal goal of seeing it through until the end, so that I understood why it ever happened to begin with. The entire mess had become outrageous to me. As to the meaning of the word "purpose". Not wanting to start off on the wrong foot however, when faced with the concept of "making history"... I bit my tongue from replying "Oh, Yes, having nothing better to do, I always pass through Houston for the holidays." Instead of that, I responded (in my most careful Eliza Doolittle voice) by delicately replying to the Mediator the equivalent of "How Kind Of You To Let Me Come". No one caught the connection as I most carefully guarded against sounding in the least bit British. Besides. I'm noticeably Scots-Irish.

Knights of the Round Table...

My adversaries... 3 newcomer representatives from the "Appeals Office" of the IRS, eyed me cagily. Primarily due to their seating and physical relationships, each with the other, I immediately dubbed them "Winkum, Dinkum and Nod". It made looking at them a bit easier. Miss Melody Winkum, who appeared to be the ring leader of the gang, positioned herself to the immediate left of the Mediator. I wondered if she knew, that per decree handed down from the Knights of the Round Table days... she chose the most treacherous spot of all. Due left of the King.

For if betrayal should occur... the King had the distinct advantage of bestowing a swift right hand crossover knife to the heart of any Judas. Hence Left of the King was where the potential traitors were seated. Made perfect sense to me. She obviously knew ahead of time... where she should choose to sit and took to that chair as if it had a sign with her name on it.

As the Judge also had to file tax returns and was subject to audit... we already well knew who's side he was on. As judges and tax attorneys are licensed to appear in Tax Court *by* the Internal Revenue Service, one tries to forget for the moment all obvious personal agendas. Out of the 8 in the room, only I did not need a "license" to be a Citizen. Therein was the difference.

Left of Miss Melody and of smaller stature, sat Mr. Saul Dinkum. The one with the hand held calculator and new batteries. He offered not one word during the 10 hour Mediation. Beside him, we found Mr. Darrell Nod... of taller stature, seemingly the least in authority of the three... but in actuality the Bossman of the other two. He just wasn't showing his colors. Mr. Nod also offered not one word. He didn't have to. You knew that his nod had meant something of great consequence to the other two.

Our side, from the Judge to the right... positioned first my leading lady-like attorney to the immediate right of the Mediator. Historically, the most favored spot. The one least likely to harm the King. I wondered if she knew that. Ever try a right-back handed stab to your dinner partner to

the right. A virtual physical impossibility. Hence, the favored spot. The person the King most trusted was always seated to his immediate right. Proceeding right again, I took my place second, in deference to my female attorney...then to my right her partner... followed by their associate... and past that... a rolling cart of document stuffed boxes. It obviously was to be War & Peace - Part II - the Revenge. I could smell it coming a mile away. I looked for my seat belt and finding none, calmed myself with a silent Bette Davis intro; *"Hold on to your hats, Boys... it's going to be a bumpy night."* It also was only 9:00 a.m.

As we had earlier introduced each other informally... the Moderator did not pass out pre-printed name tags or ask that we each identify ourselves around the table. I rather missed having my own personal name tag which read "Hi. I'm the Victim. What's your name?" The Mediator began with a well intentioned, but not so dynamic introduction, as to why we were there, and how the non-rules would apply. He didn't much grab me with a feeling of positive authority, nor did he much look like Gary Cooper, but close enough that I elected to give him the alias. Kindly, sincere in his mission and demeanor, clueless as to what was to "exactly" happen, as were we all, and obviously showing his 1st Tax Court Mediation Stripes. Judge Cooper didn't quite know how this would come off, but he certainly was willing to give it a scout's try. One couldn't ask for more.

Judge Cooper's only knowledge of his mission were five brief pages, earlier requested of each party. Ten pages to cover ten years and three outside related lawsuits. It was not going to be an easy job. Each party was to make an opening statement of what they thought was the situation at hand.

True to form of "Let's Make a Deal"...

Judge Cooper all but hollered out, "Yea, Miss Winkum c-o-m-e on d-o-w-n." When Miss Melody of Texas took the lead and began her ignorant and lengthy diatribe on the inner workings of how a successful California real estate developer operates... that winsome devil being my former husband... my eyes began to glaze over at her pretentiousness. In spirit, I mentally made a quick dash and left the room, returning to the history of how this all began. I also knew they wouldn't miss me one bit, if I ducked out for a moment.

"Sign Here Darling."

is a phrase which must be heard at least once, by all women who marry. It matters not whether one is rich or poor, young or old. Black, white or indifferent. In one solemn moment women blindly respond with one magical word "Yes" to the very complex question; "Do you take Prince Charming to be your lawfully wedded husband for better or for worse, for richer or poorer, in sickness and in health?"

The correct answer, though it certainly might offend at the time, would be to respond..."Yes. No. Yes. No. No. Yes." But only Saturday Night Live could pull off that stunt. After all, none of us want to look like a fair weather friend. The issue is however, the marriage ceremony covers nothing at all about taxes. How unromantic, you gasp, to speak of such financial trivia at this holiest of thou art most holiest of moments? Ok. Fair enough... but watch your backside from there on out. By answering a six-part question with only one singular "Yes" ... you could become a prime target for a 10 year IRS tax audit. Trust me.

Happy New Year...

I quite well remembered my wedding day. I do every year. It was my birthday, January 2nd. I also wasn't paying attention. In retrospect, I didn't realize the lengths one would take to cover their tax position, nor that kissy-poos picking out china and table linens were even thinking of such things. (I always filed the Short Form).

Our wedding was originally scheduled for December 20th... a small home wedding in front of the romantic Christmas tree.

My white knight found he had to have one last bachelor weekend however, and off he went to go dove hunting with his buddies. One of whom shot him in the eye. For years I foolishly thought it was an accident.

While doctors attended him in his temporary hospital honeymoon headquarters until well past the 20th ... we kept the Yule tree alive with

buckets of water and sent the flowers back to a frig. January 1, 1975 saw an historic new tax law enacted, governing husbands and wives, and the 2nd brightly dawned by depositing a eye-patched Romeo on my doorstep, suitcase in hand, who very much looked like the Hathaway Shirt man. Chic.

The tree crisply lived through it all by standing at attention and the flowers went from winter white to unintentional spring yellow. I kept the lights dimmed. All was right with the world and the new tax bell gleefully pealed in the New Year and New Marriage with style.

One I would not know for many years to come. Years later when revelations of the mysterious January 1, 1975 tax law found the debate table, it was always pointed out to me via threatening sounds of... "Ah...but you married on the 2nd." "*And?*", I would reply quizzically, "*Does that mean his friends shot him in the eye on purpose?*"

Jarred to reality...

... I realized that Miss Melody's rubber band was winding down and I could no longer dilly dally down that old memory lane. Something must be going on that I needed to hear. I snapped to attention when my attorney stood up, the torch was passed to her, and she began her address of our opposing concepts. Stylish and with poised grace and dignity... I was indeed happy she wasn't the opposing attorney.

Miss Angela was a true diplomat. She paid me the high public

opening compliment that she and her firm were honored to be representing me and I silently smiled knowing I had paid her a high private "honoraria" to do so. As I said, the price of vindication is not cheap. Miss Angel was indeed that. Her explanations to Judge Cooper were an oratory of style. I knew why had he seated her to his right. As sheets of papers began to slowly emerge to decorate the meeting table... all of which I knew by heart. I also knew I could again duck out.

Issues...are just that

There were complexities under debate which twisted and turned like a Texas road map. In auditor's reports and notices of deficiency the word "issue" comes up quite regularly. Legally. A very important word. Our final auditor's report totaled 165 pages... a maze of technical gibberish and calculations no sane person could wade through... or even want to. It made perfect sense to me, that every time I saw the word "issue" I knew you had to boldly highlight the word in yellow, so you could even find it again. I had 13. Therefore the first step my logical mind deduced was to automatically pull out every page which had that highlighted word on it and toss everything else away. Now. In front of me I have 13 issues and 13 pages. One yellow highlight pen. Go. Made manageable sense to me.

Smoke and Mirrors...

... dictate that's way too easy for most people. Where's the fun in listing

13 issues and clicking them off one by one. Like on an agenda, for example. Where's the job security in that? Far better, methinks the IRS reasons... is to debate 1982 from 1984 to 1995 on 13 issues. Very well. Faced with no choice in the matter, we obviously did it "their" way. I pondered just how many taxpayer dollars were used to span those years and pay those annual salaries to do so. Maybe that's why we were here. To recapture those salaries. One never knows, but it certainly sounded like a plausible theory to me. It was a foregone conclusion however... I could never recapture the years. Justice delayed, is justice denied. Wars had come and gone, administrations had changed several times, multiple earthquakes had been repaired, cities rebuilt and the ravages of fire swept lands had magically re-bloomed in less time. The United States could take on, do, and leave the Gulf War behind in a year. Going and Coming. Me? I was pushing the envelope for the longest "*tax debate*" in the Guinness Book of World Records. It made no sense.

Webster's finest...

... drew me to an assumption that a 4 year audit was somewhat nearing an end, when the questions turned from what I would consider passably reasonable to totally ridiculous. Somewhere around 1988 or thereabouts... the auditor sent me a Inquiry form asking me to explain the meaning of the word "shareholder" and the word "nominee". I thought, what? The government doesn't have a dictionary down there... no wonder

the country's in trouble. Regrettably, I donated my worn Miriam's to the cause - highlighted the two words - and sent it to the tax attorney, asking that he saw the IRS returned it when they were finished. My attorney said I couldn't do that. "*Why?*", I asked. "*Can't he read?*" No response.

The City Dump...

...was the last inquiry. I knew we were hitting rock bottom. That was about in 1989. The inquiry arrived asking me to explain why I had purchased a residence in 1986. "I", of course, thought I bought it to sleep in - but I didn't exactly perceive that was the answer he wanted. So I mentally revisited the home I no longer slept in, cleaned or scrubbed - to see if I could come up with a better reason. Walking through it, remembering how cute it was... before it turned sour when my "roomy" and I parted. The yellow flowers by the front door must have been why I bought it. I also didn't know you should ask the IRS first, before you bought a home. My mistake. And then I remembered the real reason.

The West Side of my native Los Angeles is divided by a mammoth North/South ribbon of freeway. The World saw a lot of it recently when O.J.'s White Bronco took up most of it exiting off Sunset Boulevard near Moraga Drive. On one side, up on the far sagebrush dotted west hill - where truly no one ever went when I was 5 years old - was the City Dump. As I aged, so did the hill. Years of garbage laid out neatly, layer upon layer over the years, eventually set the scene for a housing

development. An iffy golf course frosted the rest, emanating gasses from below the green green grass of home. I assume that to keep Los Angeles the smog capital... cute little metal spouts appeared every so often, to allow the polluted gasses to escape and fill the air. "That must be why I bought that residence", I pondered. As a native of Los Angeles... it must have been my life long dream to live on top of the City Dump.

My attorney said I couldn't say that. I asked, "*What is this then?*" "*Is this a multiple choice question I answer by filling in with a soft No. 2 lead pencil?*" No response. "*Can the IRS agent help me out by at least giving me three good reasons why they think I would buy it, and then I can pick one which comes closest?*" No response. My only salvation was that the auditor hadn't thought to ask me why I bought my Suzuki car where I did. He'd never in a million years understand. Cal Worthington..... was another dream of mine. Probably only the California locals know of him. For years he's been coming across our television screens, baby-sitting me, when I was young, riding through the wonders of that little black box on an elephant or lion, all dolled up like a cowboy and quite inconsiderately hollering at me to "*come on down*" and buy a car when I could barely yet manage roller skates. He's an institution. What would we ever have done without him. I knew that someday, just once in my life... I had to make that fated long journey to Anaheim and buy a car from Cal Worthington. I owed it to him. Took me 47 years to eventually join that club. When I finally arrived at Cal's, the elephant was no where in sight.

The Bell Rang...

...and everyone abruptly stood up. Oops, school's out. I had to hurry to get back in place and see if I'd missed anything important that I didn't already know about myself. Judge Cooper separated his kidlets. All of whom were still very polite about this point. Company manners were on. My "side" (as they call it) stayed in the same room, the IRS teamsters slithered out to another room and the slow rites of passage began. "Could you possibly budge on this one point?", I'd hear every so often. Sure. Why not. The door opened and shut a lot that day... the hall rug survived. A close friend of mine had earlier told me that "Mediation" is a process that just goes on and on and on until it ends, (sort of like an audit) and it could be a very late night. Into the dawn. So I came with my toothbrush. I was the only one.

In the Midnight Hour...

... I'm usually plodding and punching away at a computer keyboard, so I am well used to a burst of energy just when everyone else is ready to call it a day. In a way, that worked to both my advantage and to my disadvantage. The advantage was, that as the hands of the clock churned around in the direction of a government employee's normal 4:30 quitting time... the majority of the concessions were made on their part. Just as I was just getting up for the game... they were rolling down their eyelids. At the time, I thought to myself, "I came 5,000 miles, 9 hour jet lag not included... and they want to quit at 4:30? Get real."

Food For Thought...

... allowed us to regroup over a lengthy lunch. At home I grab a simple sandwich and keep going at my desk. I may live in a tiny French village where the locals loll about for hours over a jug of wine... but I live American. Tuna sandwiches and I grew up together. We will certainly die together. It seemed to me, if I were the other side (which I'm not)... I would have better used that unduly long lunch break to make intelligent strides and work on the "Yet To Do" portion. Again I was out-voted.

Time drones by...

... when 7 people are presumptively deciding your fate and you have absolutely no professional status or qualifications to do anything else but sit and watch. You only have to be there. They can't hold a "do" without you. They also want you to be silent about it. Banging on a table would have been of no use. When I analyzed the lay of the land, I thought it best for me to just shut up and amuse myself during this event... knowing they would all trip over each other by days end. So with that demeanor in place... we chipped away at the afternoon hours with much more of the same. Will you? Yes. Will you? No. Why not? Because. Politely kept asking when were we going to get to those infamous 13 issues on a one-by-one basis... knowing we should... and was repeatedly reminded we were doing that, but since it was so technical we couldn't do it that way. Of course not, that would be way too easy. Very well. I asked where was the punch-list showing where we are about now and which items are left on

our list. Mental or otherwise. Well, there wasn't one, exactly. Greatly Outnumbered... I had no choice in the matter. Ok by me, I guess. This was their "do". I sadly shrugged, knowing that I probably should have been "doing the do". That actually was part of the problem.

For seven years I had a flower shop and planned parties, large charity events and weddings. When you went to a site to organize and produce a home party, hotel event or wedding, regardless of where it was...you just did NOT... fail to make and take a Punch-List of each item you had to bring with you or attend to. What you had to do with it when you got there, how fast, where, and who was to do it. You couldn't just arrive and stand there, with your thumb in your ear, trying to remember why you were there in the first place. So it was only second nature to me to feel that everything that Mediation day, was totally disorganized. I reverted to type.

"Where's the court reporter who's etching these tablets of Moses, so we know what in the hell we are deciding?", I plied. *"Or is that going to be a surprise at the end?"*. *"We're not allowed to have a court reporter in Mediation"*, came the sweet reply. *"It's against the rules."*

"What rules?" I queried, *"We didn't make any."* *"So who's taking notes?"*

"We all are.", as a reply, equally didn't much cut it with me. *"Great"*, thought I. Seven sets of scribbled hand written notes. All Chiefs and no Indians. All Brides and no Grooms. This will indeed be interesting.

I wondered if the game plan was that everyone just threw out one of their pages on the table, any old one would do, and we assembled 7 sheets together regardless of what they had on them or in what order or about what. We could always try a variation of Pick-Up-Sticks. Then me, the 8th person, just signed away her next unborn child. (Easy to do at 55). Or, I reasoned, if we should collectively decide to staple all of everyone's complete set of notes together, we definitely would need a bigger stapler.

I, of course had been keeping a perfect set of notes. In my unseen computer brain, which unfortunately travels around with me whether I want it to or not. It's become a permanent fixture. It lives behind my eye glasses. One doesn't survive a 10 year marathon of unraveling numbers to not change how one thinks, perceives and definitely stores data to say nothing of analyzing the behavior of the entire human race. Ok, granted, there are times you can't instantly locate a computer file once in a while, but you certainly know how to find it. I wouldn't recommend such nonsense for everyone, mind you. Rearranging your entire life around to accommodate a tax audit... is not exactly what I would call creative career planning... but faced with the unpleasant requirement to do so... a computer was the only way to keep ahead of it. A computer teaches you logic. The IRS also has no logic.

Somewhere during the process... I grew in a totally different direction and became quite easily accustomed to closing one "icon" on my

monitor desktop, opening another, and while I worked on something new... my computer automatically saved everything. In 10 minute intervals. So even though I was day-dreaming that historic Texas day, I wasn't really. Everything was automatically captured as it happened. For me anyway.

When the clock hit 4:20 we made great steps for womankind. Straight to disaster. We reached agreement on all the points everyone else wanted to agree on... and Mediated Settlement was reached. Voila! A totally magical happening.

Everyone reconvened, to face each other head on head again...and success was proclaimed. All except me, were totally and deliriously happy. Ignorance is bliss. In their infinite wisdom they forgot the most important "issue". In my favor. The one issue that totally negated the Agreement. Zero equals Zero. Of course we had long ago passed Go, or discussions of numbered issues... so I put that icon on the back-burner of my mental computer desktop... and thought to myself... "Ok, by me. I'm just a spectator here," I mused and stared at the center of table.

There it sat, on top of a puddle of documents. My tax return containing that juicy tidbit was right there in the middle of the table. We had looked at it for hours... including opening, closing and reading from it at various times. But. If they said it was over... I guess they must be right. This was indeed their "do". Judge Cooper, bless his heart, wanting to make certain he hadn't forgotten to cross all the T's and dot all the I's...

made an incredibly wonderful inquiry. I can't recall his words exactly... but it sounded like ... (tug on your ear) ... *"Is there anything else that any of you feel the other party is unaware of?"* In other words... do you know something the IRS doesn't, Mrs. Peck, or anything that has not been revealed to them?" He asked the same of the IRS representatives. We blinked at each other.

I pensively thought the question really through. I had to answer honestly. *"No, I don't"*. I had learned long ago to answer the question asked. Even if it was an incorrectly asked question. The IRS certainly knew about my tax returns so they were aware of them. They knew about Form 4684 so they were aware of that too. It had been revealed to them, by the mere filing of it, therefore they were aware of that also. It was right there on the table and had been debated at length all day by everyone, so no, truthfully, I did not know of anything that the IRS nor anyone else in the room were unaware of, or that had not been revealed to them. Therefore I correctly answered the question posed with... *"No"*. I wanted to reply, however... *"Yes, all parties are unaware that they should have made a list, but no one much likes that idea, no matter how many times I suggested it... so no list it is"*. You forget to bring the wedding ring... you forget to bring the ring. Live with it... well knowing it would only be me who did.

A Thief In the Night...

...steals your car, your watch... a typewriter, a television set. Quite often

your heart sometimes. Theft is most easily achieved by someone who is close to you and/or close to what they are stealing away from you. It's only logical you don't look for that. A stranger is a different matter, however. Short of cutting off your arm, a thief can't really steal your watch unless you take it off and put it on a table near where you are. Or meets you in a dark alley some night. You also know you had a watch. Plus or minus an arm when it's all over.

When your watch is stolen, you file a IRS Form 4684 "*Casualties and Thefts*" and report your watch was stolen and the cost. Therefore you have a Loss. Your signature is a bit like your watch. Guard it. You can always get another watch however. You can't always find an eraser capable of removing an indelible signature. The only way to do that is to go back to the court and undo what you were coaxed into doing by people out to rob you. You just didn't know it. It's called Fraud. It's called Theft. The What's Mine is Mine and What's Yours is Mine theory currently spanning the globe.

"Casualty Marriages..."

... fit in that category. In double-speak you could term it "misadventure". A phrase generally used when people die. Marriages die.

Airline companies can't swallow sending out an Annual Report that says they lost a plane and 200+ passengers and shelled out umpteen million dollars in lawsuits... so the unfortunate catastrophe of death is just

termed a "misadventure" on a corporate Annual Report. The word looks palatable on shiny paper stock and everyone already knows what sadly happened anyway. Long after my marital misadventures, I located what had been stolen from me. Directly because the IRS came asking questions for me to answer.

When I found what was stolen from me I filed Form 4684 - much like talking to the IRS in their own language. One that they could understand. Form 4684 and I became best-friends. It's only 2 brief pages anyway. Neat, tidy, the "list". As the stolen items accumulated on the list, the losses were self-explanatory.

Tears on My Pillow...

... are also not much my style anymore. A friend however, in the throes of her current misadventure, wasn't having such an easy time of it. A woeful voice on the telephone asked me what she should do when her husband asks her to sign a paper and everyone always wants it done instantly. Thinking about it is supposedly not allowed. I struggled with how to respond to her. I'd faced that delicate problem myself. More than I cared to remember. It's also a no-win situation. I didn't want to editorialize on the concept too much, because her tears were jamming up my telephone line and dripping on the floor... so I had to think fast. She also was in love.

The only words of wisdom and yet comfort I could offer her... was to quietly tell her to always remember that if you are asked to sign a

document — it's because you own it. You also own your signature. Hoping upon hope she could save her marriage, if that's what she really wanted to do, I suggested that she should be kind, firm, extremely polite, thank the attorneys so very much for bringing that important document to your attention, tell them you would like to "review it" over the weekend... and then get the hell out of the room ó with the document.

Say it, like the sweet little women you see on TV commercials, who only cares for providing the creature comforts to others... state that you have to go do the ironing, take the kids to the dentist, scrub the floor, anything "Little Womanish".

If that doesn't work... Try "Me-Me-Me". Start small. Tell them you are going to buy an toaster before the store closes so you can make cinnamon toast in the morning. If that doesn't work... move on to the big time.

Tell them you have an appointment with the jeweler to buy an 10 caret Emerald, a fur coat, air tickets to London... a new boat. But say "something" and watch their faces.

You'll progressively know which works and when to stop. Bottom Line? Just get out of the room with the document that just has to be signed, by you, in 10-seconds flat. Nothing is that instant.

I also never asked my friend how it turned out for her. I do know she saved her marriage. As of then, I mean.

A Walk in the Park..

...is a little bit like Rules are for Sissies. Reading an important document under the shade of tree, whatever it is, and, most importantly...reading it by yourself, takes the crisis out of the encounter. No one is testing your IQ when you are alone. Least of all you. Ok. So someone wants to take away your right to something. It happens every day. I certainly wouldn't suggest you never sign anything. Any more than I would suggest you always do. You have 100% of that decision to make (and it probably involves 50% of the value of what's itemized and contained in the document). Play around with it, or any portion thereof. A spouse, should he or she be in business, and "holding things for you" (fat chance) has a "Constructive Trust Duty" to you. Important phrase. I would suggest, regardless of the document, that you make a mental note to find out what item the document is about, how much it's worth, and then decide how you feel about it. But you do have to READ it. In a rush to get to a movie, PTA, tennis, tea with a friend, your high-powered business career ... anything other than reading that document ... in an attempt to keep your emotional love life in order. Stop. You need to think like a calm, dispassionate and cool business-person for just a moment. Not long, mind you. Just 'til your identity crisis passes.

I'll Get Back To You..

... is a great line. So is... *"Looks Ok To Me"*. Unless you are just absolutely and definitely not signing that document...

Do not however, say, *"I need to run this by my accountant"* (especially if you don't have one) It's a dead give away that you've learned way too much.

Take that to the end, however, and... Looks Ok To Me... ... ended our Mediation that cool December day in Texas. Anything that I agreed to, or caved in on...or agreed I owed tax on... was totally washed away by my best friend of the day, Form 4684. **"Casualties and Thefts"** and forgotten. Sitting right there in the middle of the table and totally overlooked at the end, where it counted. Zero from Zero... ... is Zero. Ten years to arrive at zero. We even shook hands. The Judge and I. Two of the IRS representatives and I even shook hands. Can you imagine? While poor Mr. Dinkum couldn't let loose of the hand calculator. It guess the glue stuck.

As the sun faded from the sky, 6:30 saw us gather up the documents of doom and pack up our respective Dog and Pony Shows. I didn't even need to use my toothbrush. Not knowing how to "memorialize" what just had transpired, Judge Cooper posed the query if it would be wise for each individual to just initial the various notes taken by each party.

They decided not, seeing as everyone was in total agreement with everything, and, as Judge Cooper put it... *"I have taken copious notes"*. With a sly smile... I also was counting on it.

Ebullient...

... was putting it mildly. The First Mediation in the History of U.S. Tax Court was a roaring success. So said the 7 other players. Only I knew... it wasn't. It wasn't that "*Mediation is only one day*" nonsense dished out to get me there. When the sun came up in the morning, there was going to be all hell to pay. It wasn't over. But in the throes of total success... I certainly wasn't going to put a damper on it for everyone else. Hence could easily shake hands.

As we left the feather littered hallway, I calmly asked my attorney if that was it. I mean like it? Over and Out. Could they possibly not honor what we just did. He said "*No. Way. Never*". "We have Mediated Agreement." I smiled. Never means Maybe.

We plied our thirsty throats that evening with spirits to match those soaring around the bar. Even Judge Cooper became a real Gary Cooper.

When I saw him sitting alone, I felt compelled to ask him to join us. If it was over, it was over. After all, he had all those "*copious notes*". Perhaps sharing a cocktail with him would be allowed, under the current circumstances. Seemed only civilized to me. But then I didn't know what the rules were on that.

Since the day ended in Victory... (so everyone thought) we could certainly celebrate that fact alone. Tomorrow was Tomorrow. Judge Cooper could then return to Washington with tales of success at his next associated judges event... and Webster add a new word to his dictionary.

"Mediation", as a process can now officially be attached and linked to the word "Appeals", as a process. I seriously contemplated just going directly to the airport. Knowing that would backfire as well.

It was like a Brick..

... through the window when it hit them all the next day. Judge Cooper couldn't hang up his lariat just yet and I kindly asked him to review his "copious notes". They definitely revealed the missing "issue". Three properties agreed upon and values established as gains, could not just magically become six over night. To say nothing of them being stolen from me to begin with and all accounted for on Form 4784 as losses. Zero is Zero is Zero. I venture to say the next Mediation will have a list of what to do. If not, insist upon it.

My son once bestowed a wonderful term upon me. It sticks to me like glue. *"If it's not on the Page... it's not on the Stage"*. I don't know who actually originated the phrase... but it's a great one. Signed, Sealed and.....delivered is another matter entirely. Now the real work starts.

Three months later, as the Ides of March broke through - my "one December mediated settlement" was still not over. Now who would have guessed.

The cast in granite crumbled like sand in the wind. The "No Way, Jose" gave way to "Implied" or "but... we thought". The truth is... no real thinking was done at all.

1.) Mediation is a Meeting. It is not a document. It is intended to be a Meeting of the Minds. Therefore bring one. Yours. They can bring what they want. It's not your job to pack for them too. A verbal agreement is not a written agreement. Therefore get one. Written. "Express" is not "Implied". Therefore be "Express". That means plug up all the holes.

2.) Several legally binding documents result from Mediation. The first being, what you understood happened that miraculous day. (Good luck). You will be asked to sign at least one. Probably several more. The document trail progress. With all words artfully manipulated enroute. Watch it. The first document out of the chute was entitled "Memorandum of Mediated Settlement Agreement". The title could change, when they recognize the flaws of it... but the essence is to formally agree on paper what you informally verbally agreed upon. Sounds simpler than it is. Paper is paper and words are words and never the twain shall easily meet. Minds, hardly.

When In Doubt...

...do something else... must truly be Rule One in the Handbook of Games to Play - the Bible of the IRS that you will never see.

A "Request For Admissions" is a legal document and legal process reserved for court proceedings. It does not happen in Mediation nor is it used in Mediation.

With trial looming - and after 4 long years of looming, mediation was

first up. But rather than write up that all important a punch-list of 153 To Do Items... one month prior to Mediation, the IRS in it's infinite wisdom, decided to write up 153 items they would like you to "admit to" the day before Mediation. Firstly they had 4 years to do that. Point One.

Secondly, Mediation was scheduled to occur **before** Trial, hoping there would be no Trial. Logic dictates you do what you have to do first... not second. All that energy, poured into drafting endless questions... was not what was scheduled to be up first. So natch. The IRS takes that road.

You also only then have 30 days to respond. So the Judge will rap your knuckles if you don't respond... and then again, he will rap your knuckles if you don't do Mediation. So. I did. Both.

It also proved the IRS could fully well "Make a List". It was just the wrong one for Mediation. It seemed totally idiotic that you can't have an Agenda for December Mediation, but you can easily present 153 questions for later February Trial? Despite the pretense of it all... the Mediation was not a quick "fix" for anything. Therefore you never can have a meeting of the minds. Unless, of course, you too think backwards and in total disorder.

Third Worlds Collide ...

However... with 30 days to respond to Admissions for February Trial and 30 days to also prepare for December Mediation... they collided. Reams of responses and documents and yeses and no's all then hit at

the same time. Delivered the day before Mediation. The deadline. And 5,000 miles. Now. With that Road Show out of the way... What "exactly" are the 153 items for attention at the mediation meeting of tomorrow morning? Had I asked that question of them (which of course I am not permitted to do)... I certainly would have gotten an "I don't know" answer. Or. "We were too busy planning for two months from now". We're back to Third World Country mentality folks.

The theory must be that if there's an easy way to do something, for God's sake take the hard way. All intended to beat your victim to the ground one day before... so when you finally see the whites of her eyes... they will be so bloodshot from answering all those questions - the rest is a piece of cake. She's toast, history and she's all yours. Not quite. Instead of that, I'm certain... they were left with the arduous task of then READING all those responses and look at all the documents they asked for and THEY only had one day to do it in. Or, as I better surmise... the whole admissions file was thrown in a box... because in actuality... who had time to read admissions for February Trial anyway, when Tomorrow, Tomorrow... December, is only a day away.

Ok, Daddy-Dearest....

This One's For You this was not a walk in Central Park. Your story that never happened. That walk in the Park is still good, by the way.

I also remembered what you told me, a 9 year old, when I used to ask you what something meant. A word I had just heard. How totally furious I was at you, at the time, when you dryly looked over the rim of your evening Herald... and sweetly suggested I go look it up in the dictionary. That I'd find it right there, close by on the bookshelf. What a diplomat. How could I be mad? I wanted to say... *"Come On Daddy, it's just one word I need to know"*. I was wrong...it's a lifetime of words. You would have been proud to see that I did learn some of them. I still am. Daily. You're right. Life is just one big Crossword Puzzle. Or did you mean "Cross Word"? The meaning of the word "Puzzle", I'll give you. That I got long ago.

Does It Work...

... this concept of Mediation? Yes and No. It could. Minds could meet. Ears could hear. Eyes could see. We've all been working on trying to do that since the beginning of time. For each other, and for ourselves. As the IRS knowingly baited people into lawsuits over this mess... husband against wife, wife against husband - long after each had moved on... we retreated in time and plodded back through those years and took ten more wading through the courts with each other ... so we could answer the IRS and go forward. Armed with the knowledge that there was a purpose. To get a bigger stapler.

Did It Work..

... the reality of it? Yes and No. On the Yes side, you looked your paper arch enemy straight in the face on paper. Then straight in the eye in person. All of them. And they saw you. You each needed that. It was only a brief encounter in the grand scheme of things. It also wasn't scary at all. You know your life. Could it be scary? Sure. Abusing power always is.

On the No side, as of this writing, the IRS has now disavowed both the verbal and written Mediated Settlement Agreement and I have had to file a Motion with the Court to Enforce the Agreement. Mopping up. Returning the matter to the exact same Judge who originally suggested Mediation. I was certain he would think of something more positive than "suggesting" again, that we return to the Mediation Table. I was wrong.

The process of Alternate Dispute Resolution Number 1 led to Alternate Dispute Number 2. Therefore Mediation served absolutely no purpose other than to reconfirm to me, the total disorder and abuse of power that abounds. The next Mediation they are doing on their own.

Will We Stop...

... abusing power. Perhaps. Not likely while I'm here. Who do I mean? Each of us. I include myself in that. The power of the government to coerce ignorant ones into changing their beliefs. The power of the individual citizen, to remain a steadfast sovereign Citizen. Creative.....career planning? You bet! I'd make a hellova IRS agent.

Learning? You bet. I've been to law school and back... English classes and forward...retook that Algebra course I flunked in my teens...studied engineering... electronics... accounting... technology...psychology... Tough courses.

The Lost Art ...

... of Mediation may not be lost at all. If the purpose is to arrive at a meeting of the minds then meeting those minds head on is what you have to do. Good, bad or indifferent. Life is Mediation in one form or another. So is Trial. So is Appeal. Resolution. Vindication. Termination. Intimidation. "Learn to read, learn to write and learn to fight." So said Dan Rather not too long ago. He wasn't kidding. Cleaned up... and in deference to Forrest Gump... "Justice is as Justice does."

We write the rules as we go. It behooves us to write them well. That also doesn't mean I'd give those guys an inch, mind you, or stray too far from the Constitution. I'd make them work for it. After all you do pay their salaries. I've certainly paid them. In their quest for truth they destroy relationships, liberties and time. They certainly also paid me. In my quest for the truth for them, I found knowledge and truth myself. For it I paid a heavy price.

I Can't End..

... on a maudlin note. It portends we give up. As I mailed off Applications

for Extensions to file tax returns today and as the law libraries fill to capacity with new rules and regulations, which change with the flash of an eyelid... we have to start somewhere easier. It was departing the Houston Airport... ... that gave me the clue.

Open-ended, disheveled and undone - the posse disassembled. What else was there to do but leave. I was more rumpled than my suit, I noticed. The time had come to leave the dust settling where I found it.

Wanting to do a bit for the local economy sales tax collector... I dropped a few coins at the airport trinket counter while waiting for the big bird.

"Don't Mess With Texas"... must have been the voted state slogan. It's everywhere. Red, White and Blue with a single white BIG star. The Lone Star State who considers itself a Country. I decided to spread the word. Sweatshirts for my 3 children... hoping they would get the message. Or anyone who saw my children. A coffee mug for me which I think I will fill with erasers, just in case. My Don't Mess With Texas sweatshirt even sports a Christmas Tree. What could be more a more appropriate holiday reminder. Recently, as I stepped up to the window a French postal clerk even said this week... "Ah...Tex-sas" when I recently went to post my mail. I nodded... Ah, Yes... but...

... we must Mess With It. We have a responsibility to mess with it until the system improves. To stand up for the principles and freedoms we fought to have. If not for ourselves, for our children and theirs. The land of

the free and the home of the brave. You can't have one without the other. The right to life, liberty and the pursuit of happiness. That is what America was intended to be. It therefore followed I could only say... "Bon Jour et S'il vous plait, Madame.. could you please mail this to my new friend in Texas. There's a taxi-driver out there waiting to know. Merci beaucoup and Joyeaux Noël

Somewhere Out There...

... someone will rewrite this and improve on it. I don't even know who you are. It may help to start you on the process by reducing it to simple terms you can easily remember. So I leave with 10. You add to it, rearrange it, restate, compound or subtract from it... and pass it on. That then... for me... will have been The Purpose. The possibility of Progressive Entrapment to a Better Way. Cheers!

THE TEN COMMANDMENTS OF MEDIATION

Rule One

... is to remember is that shaking hands and walking out of a room with a Judge flown in from Washington, D.C., to oversee the entire performance does NOT mean it's over. Remember that. Cast it in concrete.

Rule Two:

Get it in Writing. That moment. Do not walk out of that room, until "someone" has physically written down a "Memorandum of Mediated Settlement Agreement", and all parties have signed it. Initial the notes, each page and make a copy for yourself... and take it with you. They will all balk, hem, haw and dance around the idea... but it is total delusion to effect a "Declaration of Independence" and then not sign it. Then. On the Spot. It forms the basis for documents which follow. While I would have thought those 7 professionals had the brains to know that.

Rule Three

Have an Written Agenda. Itemized. I mean one that you can understand and that everyone else can understand. Everyone should have a copy of the same Agenda. If an "issue" can be listed in an auditor's report... it can certainly be listed on an Agenda. After all, that IS what you're there for.

Rule Four

Rules are not for Sissies. Establish the rules governing mediation before you get there. Making them up as you go along is absurd unless your ready for the consequences of that foolishness.

Rule Five

Keep the important items until 4:00. This is not supposed to be an all-night baseball thing or a 6 month union strike. Tho it may indeed end up that way. If necessary, reverse the time order. Keep on your toes.

Rule Six

Learn to read.

Rule Seven

Learn to understand what you read. Learn to know the **difference** between "shall", "may", "must". The nuances of the English language. What does it say? But what does it really mean? Learn to trust your hunches and believe in yourself.

Rule Eight

Find out what the "process" is. The Who, What, Why, When and Where of it. If you were scheduled for surgery, you would certainly ask about absolutely everything. How long is it? What will you do? How will you do it? What do you really need to do it? When will I wake up? Are there after-effects? When can I go home? Will I have recurring side effects? How much will it cost? Mediation and Appeals is much the same as surgery.

Rule Nine

Learn to **Listen**. Learn to **Copy**. Learn to Speak with **Clarity**.

Rule Ten

Go Back to Rule One. Start at Your Very Beginning and see how You Do!

C'est Tout!

* * *