BUILDING YOUR MEDIATION PRACTICE:
WHERE SHOULD MY OFFICE BE LOCATED?

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Forrest (Woody) Mosten is the author of three major books and numerous articles on building a successful mediation career and profitable private practice. He says the following about the target audience of his books:

“In every community there are bright, skilled, and competent lawyers who yearn for an increased opportunity to help their clients make better informed and more peaceful decisions about how to manage and prevent conflict.

In writing my books and articles, I have an imaginary friend, Marion whom I fantasize will read what I write and put at least one idea into practice. Marion could be living in a small town or a metropolis. Marion might already be in private practice or thinking about starting one. Marion needs to be financially self-sufficient and is also willing to invest for a better future.

I am constantly asking myself: What does Marion want and need to be successful? How would Marion react to this idea? What resistance and/or practical obstacles might face to making one or more recommended changes?”

As our first author of this regular column, Woody will be answering these question that "Marion" might ask.

"I am starting my mediation practice after 15 years as litigator and I have limited funds to invest. Should I rent an office or work out of my home since most of my mediations will be at other lawyers' offices?"

You should be congratulated in taking the first step in building a practice: planning out your future career in an informed strategic and congruent way.

- You are seeking information to make the best decisions you can with your limited time and resources;
- You are strategic in the sense that you are framing your practice building decisions around underlying values, goals and personality strengths to increase the chances for success; and

This is exactly the type of decision that you might share with your Board of Advisors - a collection of colleagues, friends, and family who can advise you on major issues of your career and practice development-more on forming and using your Board in future columns.

The key variable in answering your question is which location "feels" best for you? Some people like working out of their home---others prefer a separation of
work and private lives and like going to an outside office each day. My general advice is to follow your heart and wiring - economic differences between home and commercial space should not alone determine this decision. Costs for office space are relatively minor in overall practice building: space costs should be dwarfed by expenditures for training, conferences, marketing, staff--and especially the high costs of deferred or lost opportunity costs and compensation for the extraordinary time commitments necessary to build your practice.

Once you have talked with your family, Board of Advisors, and looked inside to determine which choice "feels" better, the following are considerations for selecting office space that I set out in Chapter 10 of Mediation Career Guide[1]:

HOME OFFICE

Many successful mediators work out of their homes by necessity, others by choice. This option certainly cuts overhead, permitting you to more easily take the risk initially and giving you more freedom to make choices of case selection and other use of your professional time with less financial pressure. Not only does working out of your home eliminate commuting time and the distractions of an office, but many mediators feel clients prefer the home atmosphere since it is more comfortable and less business-like. Also, if you lower your fees due to your reduced overhead, most clients appreciate the savings.

If you choose the home option, the best layout is to have a separate entrance or even a separate structure in which you can set up a mediation friendly environment. If such separation is not possible, attempt to have at least a separate room dedicated to your mediation work so that clients are not invading (or being subjected to) your living room or kitchen (with or without dirty dishes). Crying babies, barking dogs, or hostile spouses generally will not contribute positively to your mediation efforts. However, there will be some parties who will warm to the homey touch.

Another option is the hybrid home office plan, in which you work out of your home for client telephone contact and paperwork, but arrange for suitable conference room space in which to see clients and conduct your mediation sessions. Such arrangements can vary from full-time rental of a conference room to renting it by the hour or session. You can also choose from upscale professional office suites or working out of a local library or community center. Many mediators market their availability to travel flipchart in hand to the parties' office or home or to the office of their attorney or other consulting professional.

RENTING AN OFFICE

If you believe that you need a professional office environment in which to practice, the rental expense may be a low price to pay to enter the field -- particularly if you receive referrals from other office colleagues that defray part or
all of the rent. Or, you may lack the discipline to stay away from the refrigerator or the TV and need to have a structured environment in the company of others to efficiently run your practice. When renting office space, there are usually a number of lease options available.

**Month to Month Lease.** The virtue of this approach is that you do not need to obligate yourself to a long period of time when you are uncertain about your future. You can market your practice at full throttle with the stopgap that if it doesn't work out, you can terminate a lease obligation in 30 or 60 days and save yourself a debt of tens of thousands of dollars. The other side is that you lack long term security and can be booted without cause. You also may be in a less than mediation friendly environment and you would be foolish to put in improvements when your lease could end at any time. To give yourself at least a minimum of security, try to negotiate a short set lease (6 months to a year) so that you can at least build up a head of steam before you have to move. Also, see if you can negotiate a right of first refusal to extend your month to month before the master tenant/landlord leases your office to another tenant - but realize that this will not help you if the master tenant takes over the space herself to expand.

**Long Lease.** If you make the decision to go rental, you still have further decisions to make. You can sign a long term lease that may guarantee you the space for a sufficiently lengthy time to amortize the cost of setting up a mediation friendly office. Such course will also underscore your commitment to really make a go of your practice. Try to negotiate an escape clause in a long-term lease in case your dreams don't come true (at least on your initial time table). As an illustration-if you sign up for a 3 year lease, negotiate your right to terminate the lease after 18 months provided you give 6 months written notice and perhaps pay the last 6 months rent in an accelerated fashion.

**RENT FOR SERVICES**

When you have extra time on your hands and cash flow is low, this may be a good option. In return for reduced rent or no rent, you could negotiate a barter with the landlord or master tenant to provide services. At best, you could be providing mediation services for x hours at a retail rate for the landlord's clients. Of course, to make this arrangement work, the landlord must be offering neutral and impartial mediation services and you could not mediate any matter in which the landlord had an interest. In this way your filling in would not compromise your neutrality due to your separate financial relationship with the landlord.

The odds are that unless you rent from another mediator, your services would not be mediation based. While you could rent from a lawyer or accountant or therapist for whom you could help prepare their clients for mediation (with another mediator), your work could just as easily be answering telephones, collecting bills, performing internet research, running for sandwiches, or doing
anything else that needs doing. If you ever even slightly resent being exploited, you must remember that all the other time in your office is all yours - you are in business - the business of peacemaking!

**SHARE OFFICE SPACE**

One way to cut down office costs is to literally share the space, and the rent, with another mediator or even with a service provider in another profession. You can work out a flexible but structured arrangement. For example, you take mornings, your office partner takes afternoons. Or you could assign particular days - and make adjustments when necessary.

You are each sole practitioners---responsible for all other expenses on your own - and solely entitled to your own income. You may want to share office space with someone with whom you have a co-mediation relationship. In this way, it may be easier to decide on office design and decoration as well as carve out time for each of you to mediate alone and at other times together.

**EXECUTIVE SUITE**

As discussed above as a supplement to a home office, you might find space in a suite of offices in which you would have access to conference rooms, receptionist and waiting room, copy, fax machines, coffee and refrigerator privileges, and other customized amenities.

Your personal office can vary in size depending on your budget. You can start small and increase your space as your practice grows without having to move office locations. While the waiting room is common and there may be restrictions on the materials that you can display you may be able to negotiate setting up a tasteful mediation display with brochures. In any event, your office will be your own and you can set it up any way you want.

One added benefit to starting in an executive suite is that since everyone is on their own, you may have a starter referral base right in your suite. Don't be put off if there is another mediator in the suite. See it as an opportunity for sharing resources (maybe even starting a client library together) and doing some co-marketing so that your suite can be known as a home for mediators.