

# PEACEFUL RESOLUTION

WORDS NICOLE FUGE PHOTOS REBECCA SMITH

*When a couple walks away from their relationship, their first steps can determine how they spend the next few years. If they head in the direction of litigation, they can become embroiled in a vicious and expensive court battle, or they can go down the path of mediation. Michael Gray, who has 35 years experience in the legal system, says mediation is the way of the future.*



Michael Gray sits down to talk about a 'new way' of approaching conflict resolution within a legal framework, and from the moment he starts to talk – I was enthralled.



"The old way is traditionally, partners separate, they each hire a gunslinger, dig themselves into a trench, fire bullets at each other, for which they both pay for the bullets, at some future time they each hire bigger guns and pay more for the ammunition and pound each other," he says.

"Until one day someone blows a whistle and says, 'You can leave the battlefield, you've all run out of money, you've expended ammunition and you've been bombarded into nothingness. Thanks for coming and enjoy the rest of your life.'"

Michael goes on to explain the 'old way' is suitable for people who either can't find a way to resolve their dispute or can't agree on what they consider to be the unreasonable demands of the other person.

"The new way, as I see it, is for people to behave like adults. If you are in conflict you need to resolve that. If you can't resolve it you need to manage it," he says frankly.

"It's a little difficult sometimes to resolve

conflict, but it certainly can be managed and there need to be tools given to manage that conflict."

This is where Gray's Family Law comes in, providing some of the tools needed to resolve or manage conflict. He says it's quasi psychological, involving the concept of transactional analysis, which helps people understand where others are coming from.

"I think everyone should read a book called 'I'm Okay, You're Okay', written by Dr Richard Harris, a New York psychiatrist in 1971, which deals with the concept of transactional analysis and helps to identify whether people are operating from parent, adult or child. Hopefully they will come to a place of communication where the one's adult is talking to the other's. That book is a great tool to help people reach that place," he says.

"One of the other tools I like to engage is to find a description of the type of personality we are dealing with, that

describes each party to the conflict.

"In a way that enables them to see the other, and themselves, in ways they can understand. They may not agree but they can see where they are coming from.

"Once you establish there is difference it helps you to understand what that difference is and you can appreciate that difference – you may never be getting back together again, but you each need to move on into your next relationship and by helping to understand yourself and understanding the other you move forward in your life."

Achieving an amicable outcome is not only important for both parties, but also for any children involved. "Parents in conflict have a profound and damaging impact on children, particularly young children," says Michael.

"I've heard more than one judge say that the impact of parental conflict on children is very similar to the impact on children in a war zone.

## MEDIATION

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To assist a couple identify the causes of conflict, and then find a way to resolve or manage it, they engage in mediation.

While Michael says, 'There's nothing new about mediation,' having done his first mediation training in 1992, he says it's more about how you approach the process and how you assess the relationship of the couple.

"There are central and peripheral relationships - you would expect that a married couple or de facto couple would have a central relationship where there is mutual trust, disclosure, all the indicators of togetherness. Once that togetherness is broken there can still be a relationship but it will become a peripheral relationship where they are mutually respectful but not trustful.

"They will behave civilly towards one another but not be intimate and I think if people can understand how it is possible to move from a central to a peripheral relationship and vice versa, that will help them move forward."

When it comes to children's matters in court, Michael says you can't file an application unless you've participated in mediation, and he foresees mediation becoming an essential

ingredient in future property matters as well.

"Mediation is traditionally about getting people out of the trenches and onto some nice open field where they can talk sensibly like adults, about how they're going to resolve this or how they're going to manage it. I think it makes more sense to start talking before you get into the trenches. You have more chance of achieving what I call a dignified outcome.

"What I'm suggesting is people get ahead of the game and start involving themselves in the mediation process as a first step," he says.

"The benefits of mediation come in two principal ways, the first and most obvious is the financial benefit - the costs associated with running an old fashioned (litigated) matter is anywhere from \$20,000 and \$50,000 each and that's fairly typical. There are a lot of cases where each party will spend \$20,000 to \$50,000 and having spent all that money, may well resolve it before trial anyway. To me that doesn't make sense. If you're going to settle anyway - more than 95 per cent of cases that are initiated do settle, why not do it early and avoid all that cost?

"By adopting what I call the new way, I would expect costs to be somewhere between \$3000 and \$5000 each, so an enormous difference and to be honest they're probably going to finish with the same outcome."

Michael says other benefits are the impact on people emotionally and psychologically, as well as their time.

"If you can't avoid going to court then take a two year slab out of your life and put it to the side and let that run your life. At the end you'll have an outcome over which you had no control. It makes no sense. It has its place but not invariably," he says.

"By involving a mediative process, over which you have some measure of control, you will likely resolve, or manage your conflict within a three to six month time frame. In most cases at the end of that time frame you will still be able to respect each other, relationships won't have been destroyed and more importantly the individual's emotional and psychological outlook won't have been devastated."





As a Lawyer, Mediator, Family Dispute Resolution Practitioner and accredited provider of the MBTI, Michael is uniquely positioned to pioneer the "new" way.

## MYERS-BRIGGS TYPE INDICATOR

**Michael** became interested in the Myers-Briggs Type Indicator more than 20 years ago as an aid for self awareness, but says he quickly discovered it was a very valuable tool to assist in communication.

"It's based on a psychological theory of Carl Jung and has been adapted by Katharine Briggs and her daughter Isabel Myers Briggs," he says. "The Myers-Briggs Type Indicator is probably the most widely used psychological tool in the world, around the world more than two million people a year still undertake the inventory.

"It was introduced broadscale after the Japanese invaded Pearl Harbour. The principal purpose behind it was to assist American women, who up until then had not been in the workforce, find their best fit for employment. Its secondary objective was the furtherance of world peace.

"Jung proposed that we are all born with an attitude, we either reach out to the world or we retreat from it and it was he who coined the terms - extravert, to turn outwards, and introvert, to turn inwards.

"Jung also posited we have four functions that we use in our day-to-day

activities and they are functions that relate to the taking in of information and he termed them - sensing or intuition. The other two functions relate to our decision making process, we either make decisions based on our logic or on the values that are attached."

Michael says everyone uses all of the functions, but like someone is left or right handed, we have a preference for which ones we use. However, we don't have a preference for our extraversion or introversion, because that's an attitude we are born with.

"Myers-Briggs introduced this fourth dichotomy which is an attitude to the timing of implementing a decision. We either wait until we have more information or decide, no I want to close it now, I want to act quickly."

Based on these dichotomies, everyone is 'given' a four letter descriptor.

"Your four letter descriptor will give you some clues as to how you will operate in certain circumstances and why you do certain things," Michael explains. "Equally it will assist if you know your partner's four letter descriptor, it will help you understand why they do things in a certain way or at a certain time.

"It can really help resolve conflict but if you know what the other is, it can also be an enormous team building collusion. In my view it's a very powerful tool."

## THE NEW WAY

**Michael** says over time he has developed a way of working out whether the mediation or litigation process is going to suit certain people. And while he has been favouring the mediation process throughout his career, he is now focused on presenting it as a more structured discipline - packaged as the "new" way.

"I can say I know these things will help because I've seen it work," he says confidently.

"One of the things I see in my general practice, with people you can usually tell after three to six months, and after they've spent \$5000 to \$10,000, whether this is

going somewhere or whether it needs to go to court; and there are some cases that do.

"It's a matter of where you choose to take the first steps - mediation or litigation.

"If you take your first steps in mediation, your chances of resolution in a short time frame are greatly enhanced, because if you take your first steps in litigation you will find yourselves in a place where you are entrenched and it's extremely hard to move from that place to bargain a dignified outcome."

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**For more information and to learn more about the process, make sure you visit [www.graysfamilylaw.com.au](http://www.graysfamilylaw.com.au).**

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