

A BEACON FOR MEDIATION

MICHELLE LYNCH IS SPEARHEADING MEDIATION AS THE WAY FORWARD FOR BUSINESS. SHE TELLS **NIAMH MAC SWEENEY** WHY THIS NEW CONCEPT IS CATCHING ON IN IRELAND AND WHY IT IS INCREASINGLY SEEN AS A COST AND TIME EFFICIENT WAY TO SETTLE DISPUTES

It is common practice in the United States to have a mediation clause built into contracts and now thanks to Michelle Lynch, Barrister and co-founder of Crannagh & Co the concept is becoming more popular in Ireland and is increasingly considered the best way to deal with any disparity or disagreements between parties.

Crannagh & Co is a boutique firm of International Trade and Customs Advisors focusing on International and European trade law. They are the leading experts in trade compliance, risk-management and cost savings and with an unprecedented network of knowledge the company offers professional consultancy to those companies who are importing into and exporting out of Europe.

Now the company is leading the way with a new concept called mediation, with Lynch being to the fore of this new approach. Although mediation is new to Ireland, according to Lynch it is increasingly being requested and dictated by a lot of the international companies and she expects that there will be greater uptake by Irish companies in the future. With about 80% of Crannagh & Co business coming from large US companies, Lynch has increasingly found that the majority of these companies are looking at putting in place a mediation clause within their contracts.

INDEPENDENT NEGOTIATOR

Rather than going to the courts, or going to solicitors and barristers, the parties agree to appoint an independently approved mediator who has been appointed by the Department of Justice.

It can take several years to go to court over an issue and in that time legal bills mount up. However, by appointing an independent party to mediate and act as a negotiator between two disputing parties, legal bills can be reduced considerably as can the length of time it takes to come

to an agreement. Lynch points out that, "in business the judges and the courts are actually sending parties to mediate rather than let them drag through the courts, because the court system is time consuming and very expensive."

CONFLICT RESOLUTION

Emotions can run high in any dispute especially as there is often a large amount of money at the centre of these problems. Lynch, who has a strong background in the legal system, takes a fair and equitable approach, and she says she has been amazed at the results. "I sit down with both parties who have agreed to be mediated by me. I take a middle road; I'm not a judge. I split the parties up and then I go from one party to another to discuss the issues at hand and to bring about a change of thinking within their mindset," she explains. She adds that by the end of the day she manages to eliminate the emotional aspect of the problem and that allows the parties to get down to the issue at hand. Lynch maintains that it is not a matter of what the legal rights and wrongs are, rather what each party needs to make an issue work and she says the results have been incredible.

Lynch highlights a number of cases where her skills as a mediator have been utilised. She says it is not difficult to get both parties to come to an agreed compromise in problematic situations, because if parties are given the opportunity to talk through issues, rather than hyping them up with the legal rights and wrongs, then the results can be favourable to all parties concerned. "What you have to have at the table are decision makers - people who will sign off and agree to do something. Once you have the decision makers on board you take the heat out of the situation and you get down to the practicalities. My role is to bring this issue to an end because the cost involved if they don't come

to a settlement could be horrendous," Lynch says. "You take a practical non-judgemental approach and in actual fact business sense prevails," she adds.

PRIVACY PROTECTION

Once an agreement has been reached it becomes a legal and binding contract that is enforceable in the courts. Not only is mediation a practical way to resolve conflict but it also allows parties to resolve issues in private rather than washing their dirty linen in public. Lynch backs up this point by saying that "rather than going public with a problem you may have with, say for example, a supplier, it is better to do your business in your business without exposing yourself." Every agreement drawn up is highly confidential and likewise the mediator will agree not to disclose any information regarding the dispute.

MEDIATOR ATTRIBUTES

According to Lynch the most important skill a mediator can bring to a disagreement is impartiality and the ability to hear a client's story from their point of view. However, she does contend that it is not enough to be impartial; she must convince the parties that she is impartial and that she has the ability to sit between them and negotiate. "Although I'm trained as a barrister the legal talk does not come through when I'm mediating," she says. "It gives them confidence in that I know what I'm talking about, but it's more about being able to listen to what they have to say and actually decipher the issue at hand."


Ultimately Lynch's job involves people management in order to bring parties together and she must apply exceptional negotiation skills because often she is dealing with highly sensitive situations. She had to completely jettison a lot of her previous thinking and training to adapt a very different negotiation skill set. "It is incredibly gratifying for me to see two parties, who were at each others

throats and who seem so far apart that resolution seems impossible; but to see them resolve issues in a matter of days as opposed to a long drawn out court case is extraordinary," she reveals.

INNOVATION AND CREATIVITY

Aside from the mediation aspect of her business Lynch highlights how important it is for herself and business partner Carol Lynch to constantly innovate in all areas of international trade in order to remain a step ahead of changes in legislation coming on stream. International VAT is a very complex issue at present and this is the main reason why the company have brought on board Eamonn Flood. According to Lynch when a business is caught up in the payment of International VAT it can be crippling and so Crannagh & Co have to go out and meet this very new need and to decipher the payment of that International VAT to ensure that payment is handled efficiently. There are also plans to employ somebody who will handle security in the supply chain, which is another huge area. "You happening for your client because there are huge amounts of money involved and security in the supply chain is a big issue at the moment," explains Lynch.

ADAPTING TO CHANGE

So does this forthright entrepreneur every feel overwhelmed? She responds with a resounding yes, but I sense from her that it is the challenge and the changing pace of international legislation that compels her to succeed in what is traditionally a male dominated sector. Undeterred by any challenge she is faced with Lynch concludes, "you have to meet clients' needs and adapt to the changing environment of international trade. We stay ahead and contact clients and warn them in advance of any changes coming online. Client loyalty is phenomenal and we attribute that to the professional and personal service we provide." 

Carol Lynch, Michelle Lynch Co Founders Crannagh →



Photographer: Calm Henry