

INTEGRATING EFFECTIVE COMMUNICATION IN EARLY NEUTRAL EVALUATION FOR MANAGING COMPLEX CIVIL CASES

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ABSTRACT: *The purpose of this study was to ascertain the appropriate concepts, processes and skills underpinning effective communication that can be integrated into the early neutral evaluation process. This study identified several key communication concepts, processes and skills that are in congruence with the practice of managing the early neutral evaluation session. The implications of this study prove that understanding of communication concepts, processes and skills allows the evaluator to communicate effectively and clearly to the parties, their attorneys and witnesses (particularly about the merit of the case). In addition, the evaluator is able to cope with complex situations by developing effective communication strategies. This study establishes the need to bridge the gap between theoretical and practical aspects of managing the early neutral evaluation session to ensure that the early neutral evaluation session can be managed as effectively as possible and in accordance to sound communication theories.*

KEYWORDS: Effective Communication; Early Neutral Evaluation; Complexity

INTRODUCTION

Communication, being a learned behaviour is effective to improve interpersonal relationship through constant practice (McKenna, 1998a). In reality, the role of effective communication dynamics is crucial in Early Neutral Evaluation (ENE) albeit the fact that they were not largely emphasised in current ENE literature. ENE encompasses a process in which an expert evaluator receives a presentation about the merits from each party and attempts to evaluate the presentations and predicts how a court would decide the matter (Tennille, Applebaum, & Nees, 2010; Sadler, 2009 and Goss, 1995). In ENE, listening to presentations is a fundamental skill for the evaluator (Brazil, Kahn, Newman & Gold, 1985). The use of this skill allows her to identify the core issues during the ENE session, which is normally held at the pretrial stage (Goss, 1995). Thus, failure to acquire this skill affects her ability to make predictions on the probable court decision. Engro and Lenihan (2008) assert that ENE is suitable to resolve complex cases and further state that the key elements of the ENE process are as follows: (1) the evaluator provides brief introduction and opening remarks; (2) the parties present claims/defences; (3) the parties give responsive presentations; (4) the evaluator raises questions to clarify/probe; (5) the evaluator identifies common ground and possible stipulations; and finally, (6) the evaluator identifies key issues. Maycock (2001) emphasises that the goals of the ENE programme are to: (1) enhance communication between the parties about their claims and evidence, (2) provide an expert evaluation of the merits of the case; (3) provide a "reality check" for clients and attorneys, (4) to identify and clarify central issues in dispute, (5) to assist with

discovery and motion planning or with an informal exchange of key information, and (6) to facilitate settlement discussions, especially when requested by the parties. McKenna (1998b) asserts that it is vital for a communicator to know what to say something instead of how to say it. Therefore, the ENE process and its goals indicate that the resolution of disputes by the use of ENE requires the use of effective communication, especially by the evaluator, being the host of the ENE Session.

A significant part of the ENE process requires each party to present her claims/defences and followed by a responsive presentation by the other side. In complex cases, parties usually find it difficult to understand the centrepiece of a dispute (Zakiyy & Hassan, 2014). Thus, if such cases are referred to ENE, communication which produces defensiveness and resentment among parties must be circumvented. If unavoidable, communication across party lines is most likely affected and also reduces the chances of an amicable settlement. Nevertheless, the little precious information is found in the present literature on ENE relating to how to manage these problems effectively with the use of effective communication.

The assignment of the evaluator is difficult in complex cases. The National Centre for State Courts in the United States emphasized that complexity in civil cases, for example, comprised of various degrees of complexity, such as multiplicity of parties, complex subject matter, procedural complexity, complex substantive law, extensive discovery, and complex damage determinations. In complex situations, obvious conflict exists in the form of disagreement about the facts and law. Common obstacles faced by the evaluator in the ENE session might be in the form of submission of voluminous documents by the parties, enormous numbers of potential witnesses; and multiple interrelated and unrelated issues. Presentations by the attorneys or the parties are usually based on the pleadings filed in the court which occasionally failed to serve as an effective communicating tool (Brazil, 2012a). The evaluator is usually an expert in a particular area of law, drawing her experience from her seniority as a legal practitioner or previous long-standing practice in the judiciary. Nevertheless, she might face obstacles in leading the parties in an ENE session to confront a case objectively and comprehensively. This occurs in a situation where she lacks the necessary communication skills to match her legal experience. Taking the cue from Wilbur Schramm (1955), Woods (2006a) explains that communicators “create and interpret messages within personal fields of experience. The more communicators’ field of experience overlapped, the better they can understand each other”.

Current literature on ENE does not indicate that the practical conduct of the ENE session is consistent with established communication concepts, skills or theories. Such lack of clarity might mislead the unwary newly admitted evaluator into the mistaking generalization of practices for absolute ones. In this regard, Wood (2006b) cited renowned scholar Kurt Lewin, who said: “There is nothing so practical as a good theory.” Thus, this study is important to qualify generalizations of current practice in conducting the ENE session to ensure that practical methods that evaluators employ currently are supported by sound theories of communication. Based on these discussions, this study endeavoured to take a close look at a selection of communication concepts, processes and skills which might empower the evaluator with essential communication skills for more effective management of the ENE session. This study might also benefit the court’s ENE programme in discovering better ways to improve their evaluator’s communication skills that can match with their expertise in certain areas of the law.

The main objective of this study is to examine the use of effective communication in managing complex civil cases. The specific objectives are: to investigate a selection of communication processes, concepts and skills that are germane to the goals of ENE and the implications of applying them to the practice of ENE in complex cases.

LITERATURE REVIEW

Existing literature on ENE does not deal comprehensively with the subject of communication, especially in terms of addressing complex cases which are associated with miscommunication or non-communication among the parties, evaluators and the courts. Notably, research on the effective use of communication in ENE is lacking behind. The existing researches emphasized on the success rate of ENE on a relatively broad perspective. Evidently, the perception of efficiency of the court's overall approach to processing civil cases was emphasised in the early formation of ENE in the 1990s by two professors, (J.D. Rosenberg and H.J. Folberg) whereby Brazil (2002)¹ reported that both scholars found that ENE programme generally made case management more efficient. In later years, Wissler (2004) examined ENE from the perspectives of trial avoidance, costs and resolution time. In 2010, Hay, McKenna and Buck (2010) examined ENE from the perspectives of effectiveness in the context of whether it produces swifter, more proportionate resolution of cases.

Based on the above review, it is noted that research on the effects of engaging in effective communication during the ENE session which involves complex civil cases is lacking behind. Apart from that, it is quite difficult to study effective communication by referring to written records of the ENE session. This is largely due to the reason that all communications and information that are disclosed during the ENE session are confidential and are not disclosed to the judge or made of record in the case. Notably, related previous work in the area of communication has been done by Brazil (2012). Due to the limited scholarly development of the association between effective communication and the management of the ENE session, this study was built on the previous work in the area of communication done by Brazil (2012). This study differs from the former work as it attempted to relate practical guides on the conduct of the ENE session with communication concepts, skills or theories.

METHODOLOGY

This study depended mainly on secondary data and information. The major sources of data were the literature of communication, journals and relevant information retrieved from the internet. The approach used is by consolidating the integration between concepts, processes and skills underpinning effective communication and current practical guides on managing the ENE session.

¹ W. D. Brazil, 2002, "Court ADR 25 Years After Pound: Have We Found a Better Way?", *Ohio State Journal on Dispute Resolution* [Vol 18:1 2002] p 102.

FINDINGS AND DISCUSSION

The findings indicate that:

- (a) The key to effective communications is to master the way of speaking clearly, listen accurately and assert oneself with confidence. By improving one's communication skill, it improves the chances of achieving one's goal (Verderber & Verderber, 2008a). This principle is similarly applicable to the evaluator, the parties and their attorneys; and the witnesses.
- (b) A number of communication processes, concepts and skills that are found to be germane to the goals of ENE; and settings of effective communication throughout the ENE session. They are: (1) observing and understanding each other; (2) engaging in verbal communication; (3) engaging in nonverbal communication; (4) listening and responding to others; and (5) creating and sustaining communication climates.

Discussion

The inference that can be drawn from this study is that the general processes, skills and theories of communication are applicable to the practice of ENE. This is because the evaluator needs to communicate with the parties throughout the whole ENE session. The mastery of effective communication skills by the evaluator would have the implication of improving her image, credibility and self-esteem with effective communication skills. Theoretically, it might enrich her skill to deal with the parties, their attorneys and witnesses more effectively, thus implying that the implications would be in the form of improved cross-party communication (being one of the goals of ENE), issues clarification and systematic evaluation of case merit; and empower the parties by encouraging them to participate actively in the ENE session.

Observing and understanding each other, apart from creating and sustaining communication climates

Notably, each party in the audience is unique in the sense that each of them possesses differing level of information, approaches, experiences and methods of perceiving matters (Verdeber & Verdeber, 2008b). Therefore, in the initial meeting, a communicator must analyse her audience (Rue, 2006a) and key influencers (Munster and Russell, 2002a; Templeton & Fitzgerald, 1999). Such analysis is essentially important taking into consideration that her audience possesses a different level of expertise (Abrams, 2005a). A good analysis of the audience enables the evaluator to determine suitable words, speed and style (Abrams, 2005b).

Communication scholars maintain that an effective communicator must emphasize on image projection to avoid being considered as inefficient (Wood, 2006c), and; speaking with truthfulness and credibility (Verderber & Verderber, 2008c). They generally affirm that a formal introduction might attempt to familiarize the audience with one's qualifications and suggested three adaptation techniques that can improve credibility: (1) demonstrating knowledge and expertise; (2) establishing trustworthiness; and (3) displaying people. "Looking good and convincing" is importantly emphasized by Dale Carnegie (2015) who was quoted to have emphasised about what we say by stating: *"There are four ways, and only four ways, in which we have contact with the world. We are evaluated and classified by these four contacts: what we do, how we look, what we say, and how we say it"*.

Correspondingly, the quality and credibility of the evaluator is measured by her ability to facilitate communication, analyse legal issues and explore creative solutions (Stradley, Ronan Stevens & Young, 2013a). The early stage of the ENE session requires the evaluator to brief the parties about the procedure regulating the session, followed by requesting the parties to execute a confidentiality agreement and also the bringing up of any possibility of settlement. At this stage, however, the evaluator must refrain from suggesting settlement to the parties because it might draw the wrong perception that the evaluator is attempting to coerce the parties to reach a settlement (Brazil, 2012b).

The evaluator has the opportunity to analyse the parties, attorneys and witnesses at the early stage of the ENE session. ENE scholars generally affirm that at this stage, it is essential for the evaluator to build confidence of the parties in trusting her as a professional third party neutral. Typically, the early stage of an ENE session involves the evaluator in introducing herself and providing remarks on the case. Similarly, Brazil (2012c) stresses that the evaluator's introductory remarks can draw either favourable or unfavourable perception from the parties as to the efficiency of the ENE session and to what extent the ENE process delivers to them. According to him, an evaluator must use the early stage to encourage the parties to: appreciate the potential of the session, dispel misunderstandings as well as erroneous expectations. This can be done by convincing the parties that her role is not to decide who is right or wrong, but to review the evidence, hear the parties' arguments and then to make her professional best inference a court is most likely to decide (Brazil, 2012d).

Communication principles suggest the use of a face-to-face meeting instead of teleconferencing in complex situations. Communication scholars have generally argued, quite convincingly, that effective communications involve the active participation between communicator and listeners to achieve specific objectives. Thus, effective communication involves the communicator and listeners attempting to construct a shared communication context in which their messages are produced and understood about the situation, of each other's knowledge, expectations, beliefs and attitudes (Caproni, 2001a). In an ENE programme, a precession conference is ordinarily held by telephone or on teleconferencing (Brazil, 2012e). The purpose of it being held is to enable the evaluator to reduce risks associated with non-attendance to the ENE session. Brazil (2012f) avers that the precession conference provides opportunity for the evaluator to analyse the evidence and also the interaction between the attorneys with each other about their respective client's perceptions about the dispute and the evidence. By observing the parties' interaction, the evaluator would be able to identify the best way to manage the ENE session effectively.

Creating sustainable communication climates

Disputes are capable of rupturing relationships. Disagreement to certain issues in complex disputes worsens the situation. Thus, skilled communicator usually emphasises on the constructive solution to a problematic situation (McKenna, 2006c) by creating a climate of neutrality, which enables free flow of interaction among the parties (Wood, 2006d). Wood (2006e) affirms that confirmation, which consists of recognizing, acknowledging, and endorsing others, is the crux of healthy communication climates. She asserts that people tend to communicate freely in a situation where everyone is treated equally and of equivalent status. Wood (2006f) reminds that in complex situation, parties tend to behave illogically. Thus, she advises on the importance of creating sustainable communication climates by becoming more

emphatic, descriptive, spontaneous, show equality and be problem oriented. Wood (2006g) also reminds that it is equally important to recognize the existence of a person by verbal (such as greeting with a hello) and non-verbal communication (such as smiling and handshake).

Similarly, Brazil (2012g) underscores the importance of greeting the audience and suggest that the evaluator to ask whether the parties, attorneys or witnesses have any chance to introduce themselves to each other. Brazil (2012h) also speaks of the role of the evaluator in an ENE session to coach each party to accept that every party has the right to control his presentation and feel “his day in court” in the sense that his presentation is heard by the evaluator and the other conflicting party; and that he will keep an open mind and not form personal judgments without hearing them. In briefing the parties about the procedure of the ENE session, the evaluator shall permit each party to orally present its claims or evidence (see California Rules 5-11). Here, she must advise each party to make verbal presentation without interruption. This is consistent with the guideline for creating healthy communication climate by communicating confirmation of what has been said by others, even if the listener do not agree with the others’ feelings or actions (Wood, 2006h).

The importance of creating a sustainable climate is equally important in the early stage of the ENE session. It is observed that the initial stage of the ENE session requires the evaluator to introduce herself and followed by the attorneys and parties. The evaluator will then set the tone by making encouraging statement and create an effective working relationship with the parties and attorneys (Brazil, 2012i). McKenna (2006d) proposed 4-steps to defuse conflict: (i) Define the problem by saying, “I hear...”; (ii) Look for agreement by stating, “I agree..”; (iii) Understand feelings by saying, “I understand...”; and (iv) State views calmly by saying, “I think...” are suitable to be followed by the evaluator to achieve some of the main goals of the ENE programme as mentioned by Maycock (2001), namely: (i) to identify and clarify central issues in dispute, (ii) to assist with discovery and motion planning or with an informal exchange of key information, and (iii) to facilitate settlement discussions among the parties.

Based on the above discussion, the integration of effective communication concepts and skills into the practice of ENE would assist in fostering cordial relationship among the parties concerned and a healthy climate for discussion of issues. Thus, the implications of such integration leads to the fostering cross-party communication, allowing parties to explore creative solution and allowing the evaluator to analyse legal issues correctly based on the active and voluntary participation of all parties concerned during the ENE session.

Engaging in verbal communication

Engaging in verbal communication (or language) is known to consist of symbols in the form of spoken or written words (Wood, 2006i). Guidelines for effective verbal communication in the view of Wood (2006j) are as follows: engage in person-centred communication; be conscious of the level of abstract language that is suitable for different set of people; learn to qualify language (such as qualify generalization to avoid treating a general statement as an absolute one; and when describing and evaluating people, avoid making static evaluation on a person’s character when in fact it is continuously changing in different situations). McKenna (1998e) emphasised that speaking must focus on four steps: defining the problem, looking for agreement, understanding feelings, and state view calmly. These communication guides are similarly observed in an ENE session. The importance of engaging in effective verbal communication is emphasised by the evaluator by greeting her audience and making sure that she is using language that is familiar with her audience.

Engaging in non-verbal communication

A number of communication scholars such as Wood (2006j) and Munster & Russell (2006a) emphasise that the communicator must pay attention to non-verbal communications of herself and others' cautiously. Nonverbal communication includes symbols which are not in the form of words such as facial expressions, attire and voice tone (Wood, 2006k). To this list, McKenna (2006f) provides a more comprehensive definition of the term by including several other components: eye contact, body posture, distance/physical contact, gestures, fluency and timing. Edberg (2015a) reminds that it is a mistake to stereotype people at their first encounter. This is because the communicator needs to pay more attention about how she makes her first impressions and her body language. Quoting the saying of Dale Carnegie, the writer of the infamous book: "How to Win Friends and Influence People", Edberg (2015b) writes: "*When dealing with people, remember you are not dealing with creatures of logic, but creatures of emotion.*" According to him, body language and voice tonality, form a huge part of communication and therefore will create a big impact on results and relationships.

Edberg (2015c) and Abrams (2007c) opine that the communicator needs to emphasise on her body language to convince her audience. According to Munster & Russell (2006b), effective communication lies in the ability of the communicator to analyse non-verbal skills (such as body stance, movement, eye contact vocal traits), enhance nonverbal delivery (with the use of content and timing, visual aids and specific equipment) and then manage her nervous symptoms. On the other hand, Wood (2006l) and Tierney (1999a) opine that a communicator can show acknowledgment by using non-verbal communication (such as nodding her head and making eye contact to show listening).

Nevertheless, Wood (2006m) argues that it is difficult to interpret nonverbal communication of others because there is no certain formula which can determine the reason for a particular action. However, she advises that it is essential for the communicator to be aware of her own personal judgments (by referring to the I-language that reminds us to be accountable for our judgments) and contextual consideration (which is affected by the various settings such as not being at one's 'own turf').

Listening and responding to others

Communication literature defines "listening" as a key communication skill. Brownell (2002) defines it as "the process of receiving, constructing meaning from, and responding to spoken and/or nonverbal messages". Verderber & Verderber (2008d) outlined five aspects in the inventory of listening and responding; namely: (1) attending; (2) understanding; (3) remembering information; (4) evaluating, or critical analysis; and (5) responding supportively. The listening process involves four elements: (1) hearing; (2) attention; (3) understanding; and (4) remembering (Tubbs & Moss, 2006b). Tubbs and Moss (2006c) defined "listening" as a process that involves "the selective process of attending to, hearing, understanding, and remembering aural symbols."

Verderber & Verderber (2008e), a good listener is trained to attend to what people are saying regardless of her interest or need. They explained that the four techniques that might harness attention are: (1) by getting physically and mentally ready to listen; (2) making the shift from communicator to listener as complete one; (3) hearing a person out before reacting; and (4) observing nonverbal cues. Remembering involves retaining information, repeat key

information, and take notes (Verderber & Verderber, 2008f). Such retained information can be later retrieved (Tubbs and Moss, 2006c).

Evaluating involves listening critically, separate facts from inferences, and evaluate inferences. Verderber & Verderber (2008g) advise on the need to evaluate, or critically analyse what has been said. Critical analysis involves the process of evaluating what the listener has heard to determine its truthfulness (Verdeber & Verdeber, 2008h). The neutral evaluator can apply the skill of critical analysis by separating statements of facts from statements based on inference. Critical listening is vital, especially when the listener is asked to “believe, act on, or support what is being said”. (Verdeber & Verdeber, 2008i). One important skill of critical analysis is to distinguish between factual statements and inferential statements, the former being referred to those whose accuracy can be verified or authenticated whereas the latter referred to statements made by the communicator that are based on facts or observations.

The practice of active listening is found to be a critical communication skill that allows the speaker to understand each party's point of view without evaluating or judging the other person or his views. Thus, the speaker must learn to understand her audience by becoming an active listener. This can be achieved by being involved by assigning appropriate meaning to what is said, ask mental questions to anticipate the information, paraphrase information and solidify understanding, seek out subtle meanings based on nonverbal cues (Rue and Byars, 2006b). The components of active listening are: listening with intensity; listening with empathy; showing acceptance; taking responsibility for completeness; and being oneself (Caproni, 2001b). Caproni (2001c) advances the view that “active listening” must include listening. Paying attention without distraction and interruption to what is said shows the issue at hand is interesting, important. Fake listening such as nodding head and not distracted by speaker's speaking style. The views of the above communication scholars are in convergence with the practice of the evaluator in listening and responding to the presentation of claims and defences by the parties.

Similarly, the evaluator is expected to be a good listener during the presentation of claims and defences by the parties during the ENE session. According to Stradley, Ronan Stevens & Young (2013b) the first stage of an ENE Conference involve the opportunity of both disputants to present their respective claims and defences. According to Brazil (2012i) the evaluator must let be ready to “listen, obviously, and with genuine engagement” and be involved in taking notes and jot down questions for clarification later. However, he reminded that evaluators must be careful about the techniques of “active listening”. The evaluator must not engage in making interruption for fear that it affects the tactical objectives and the ability of a party to show the full strength of his position. Under such circumstances, Brazil (2012j) advises the evaluator must avoid asking analytical questions too early to avoid ‘shortening’ a party's presentation which results in the inability to obtain additional information. Apart from that, the evaluator must not show off or make comments that undercut credibility.

Responding effectively to listen

Communication scholars emphasis on the clarity of words to ensure an effective response. Wood (2006l) stressed that a communicator must respond effectively to her listener. This can be achieved by engaging in “person-centred-communication” which is adapted to the needs and knowledge of the listeners (Verdeber & Verdeber, 2008j). This also essentially means that the communicator must choose an ordinary language instead of highly specialized vocabulary (Verdeber & Verdeber, 2008k; and Tierney, 1999b), sparing use of jargon (Verdeber &

Verdeber, 2008l; Woods, 2008m); the use of slang in suitable situations (Verdeber & Verdeber, 2008l), the use of inclusive language; and the use non-offensive language (Verdeber & Verdeber, 2008m).

One of the obstacles to effective listening is due to message complexity apart from message overload and environmental distractions (Wood, 2006n) With regards to message complexity, Woods (2006o) opines that the more complex the ideas, the more difficult for a listener to follow and retain. She advises that effective communicators need to reduce complexity of their messages and avoid unnecessary jargon. She adds that if communicators fail to translate complex ideas into understandable language, listeners have to invest more effort; and thus suggested the practice of note taking to improve retention of messages which have been obtained by listening (Woods, 2006p).

Based on the above discussion, the integration of effective communication in the form of good verbal and non-verbal communication skills and coupled with good listening skills in the practice of ENE would have the theoretical implications of fostering cross-party communication, facilitating communication between the evaluator and the parties; and among the parties. Apart from that, it also helps the evaluator to identify key disputed areas and later to present her evaluation of the case merits with clarity. When the issues are clarified, parties are more easily guided by the evaluator in exploring creative solution in the form of case planning or even an amicable settlement of the case.

IMPLICATION TO RESEARCH AND PRACTICE

This study has identified several key communication processes, concepts and skills which correspond well with the practices of ENE. This study will assist the evaluator in getting the best out of her presentation. By following sound theoretical guidelines and coupled with practical experience, she will be able to cope with complex situations by developing effective communication strategies whilst identifying strengths and weaknesses of each party during the ENE session. In most courts-sponsored ENE programme, such as the “Vermont’s ENE program” in the United States, the evaluator is tasked to reduce cost, delay and potential litigation (see Local Rule of Procedure, 16). Thus, the use of effective communication can improve users’ confidence in ENE by avoiding them from incurring extra cost of a trial by settling their dispute prior to trial. However, this study was limited in the sense that it was based on the researchers’ personal judgment on the determinants of effective communication in ENE by relying on selected communication processes, concepts and skills only. Therefore, future studies can build on the existing preliminary findings by testing on more communication principles.

CONCLUSION

In ENE, the parties are almost always in a group session in one another’s presence. During the group sessions, each party presents the merits of the claim or defence, and the experts would also present their views. Therefore, effective communication improves the climate for better discussion in the ENE session. The study shows that there is a connection between communication theories and the practical guide used in hosting the ENE session. The findings show the little disparity between the two. Therefore, it is essential to improve the performance

of the evaluator by mastering essential communication skills in order to communicate effectively as a host to the ENE session. Thus, without mastering effective communication from both the theoretical and practical aspects, the evaluator will find it difficult to manage the ENE session effectively and would adversely affect her chances of achieving at least one of the main goals of ENE, specifically to foster cross-party communication.

Each party has the opportunity to ask questions and respond to queries, as well as observe her opponent's presentation before being convinced about the strengths (or weaknesses) of her opponent. Therefore, basic communication processes, concepts and skills such as: (1) observing and understanding each other; (2) engaging in verbal communication; (3) engaging in nonverbal communication; (4) listening and responding to others are involved. Likewise, it would also be helpful for the litigants if the evaluator manages the ENE session by sustaining a good communication climate for the parties, their attorneys and witnesses.

REFERENCES

- Abrams, R. (2007). *Winning Presentation in a Day*, New Delhi: Prentice-Hall,
- Brazil, W.D. (2012). *Early Neutral Evaluation*. (1st Ed.). Chicago, Illinois: American Bar Association.
- Brazil, W.D., Kahn, M.A., Newman, J.P., & Gold, J.Z. *Early Neutral Evaluation: An Experimental Effort to Expedite Dispute Resolution*, 69 *Judicature* 279 (1985), p 279.
- Brazil, W.D. 2002, "Court ADR 25 Years After Pound: Have We Found a Better Way?", *Ohio State Journal on Dispute Resolution* [Vol 18:1 2002] p 102.
- Brownel, J. (2002), *Listening: Attitudes, principles, and skills* (2nd Ed.). Boston: Allyn & Bacon, p 48.
- Carnegie, D., (2015), *Speak More Effectively, Part One: Public Speaking: A quick and easy way!* [Online] Available: http://www.dalecarnegie.com/assets/1/7/SpeakingEffectively.pdf?__hstc=46811576.40b9d420ad940992c1cfcdc36d68a617.1428983127398.1428983127398.1428983127398.1&__hssc=46811576.2.1428983127399&__hsfp=1084867364 (April 15, 2015)
- Caprioni, P.J., (2001) *The Practical Coach, Management Skill for everyday life*, Prentice-Hall, Inc., New Jersey,
- Edberg, H., *Dale Carnegie's Top 10 Tips for Improving Your Social Skills*, <http://www.positivityblog.com/index.php/2008/01/17/dale-carnegies-top-10-tips-for-improving-your-social-skills/>, (February 18, 2015).
- Engro, K., and Lenihan, L.P., *Understanding Early Neutral Evaluation In The Western District Of Pennsylvania*, Allegheny County Bar Association, *The Lawyers Journal*, 10 Lawyers J. 3 February 1, 2008, 3.
- Goss, J., *An Introduction to Alternative Dispute Resolution*, *Alberta Law Review* [Vol. XXXIV, NO.1 1995], p 22.
- Hay, C, McKenna, K and Buck, T (2010) *Evaluation of early neutral evaluation alternative dispute resolution in the social security and child support tribunal*. Ministry of Justice Research Series 2/10, London: Ministry of Justice. Accessible at <http://www.justice.gov.uk/publications/early-neutral-evaluation-sscs.htm>
- Maycock, E.M., *Mediator Focus: Early Neutral Evaluation*. *Utah Bar Journal*, 36 (November, 2001, 14 *Utah Bar J.* 36, 2001 p 36.
- McKenna, C., (2006) *How to Communicate with Confidence*, Advantage Quest Publication Sdn Bhd, Malaysia,

- Munster, M., & Russell, L. (2002) *Guide to Presentations*, (1st Ed.). New Jersey: Prentice Hall.
- Sadler, E., *A quick fix or a long battle?*, 20 March 2009, 159 NLJ 428.
- Stradley, Ronon, Stevens & Young, LLP. *A Snapshot of Early Neutral Evaluation, The ADR Advisor*, http://www.stradley.com/library/files/adradvisorspring_07.pdf(December 16, 2013).
- Tennille, B.F., Applebaum, L. and Nees, A.T., *Getting to Yes in Specialized Courts: The Unique Role of ADR in Business Court Cases*, Pepperdine Dispute Resolution Law Journal [Vol. XI: 35, 2010], p 35.
- Templeton, M., & Fitzgerald, S.S. (1999) *Schaum's Quick Guide to Great Presentation*, United States: McGraw-Hill.
- Tierney, E., (1999) *101 Ways to Better Presentations*, London: Kogan Page.
- The National Centre for State Courts in the United States; <http://www.ncsc.org/Topics/Civil/Complex-Litigation/Resource-Guide.aspx>(February 3, 2014).
- Tubbs, S.L., and Moss, S., (2006) *Human Communication, Principles and Contexts*. (10th Ed.), McGraw-Hill, New York.
- Verdeber, R, F., and K.S.Verdeber,K.S. (2008) *Communicate!*, 12th Edition, Wadsworth CENGAGE Learning, Belmont, California.
- Wood, J.T. (2006) *Communication Mosaics: An Introduction to the Field of Communication*, Thomson Wadsworth.
- Wissler, R., *The Effectiveness of Court-Connected Dispute Resolution in Civil Cases*, 22 Conflict Resol.Q.55 (2004).
- Zakiyy, N., & Hassan, K.H., *Integrating Early Neutral Evaluation into Mediation of Complex Civil Cases in Malaysia*, Journal of Politics and Law; Vol.7 No.4; 2014, p. 142.