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## My Passage to ADR

*By Geetha Ravindra*



### Childhood

My involvement in mediation and dispute resolution is closely connected to my family background and culture.

I was born in India and moved to the United States at the age of 2. My father, the eldest of nine children, comes from a small village in the state of Karnataka, in the south-western region of India. His parents were farmers, and while they were not educated, they appreciated the importance of a good education and strongly encouraged my

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**Geetha Ravindra**, who is currently director of workplace relations for the Fourth Circuit Court of Appeals, is an attorney, mediator, and trainer with more than 25 years' experience in dispute resolution. Before joining the Fourth Circuit, she worked with the Federal Emergency Management Agency's ADR division providing mediation, training, large-group facilitation, and other organizational development services. She served as the first mediator for the International Monetary Fund from 2012 to 2018, as director of the Department of Dispute Resolution Services at the Supreme Court of Virginia from 1996 to 2007, and managed the Dalkon Shield Arbitration Program at the Private Adjudication Center from 1992 to 1996. She has taught mediation at the University of Richmond School of Law and the College of William and Mary Law School, mediated family cases for the Richmond City Juvenile and Domestic Relations District Court, and served as a mediator and trainer for the World Bank and other federal and state agencies. A past chair of the American Bar Association Section of Dispute Resolution and past president of the Virginia Mediation Network, she is a certified Supreme Court of Virginia mediator and a certified organizational ombudsman practitioner.

father to go to college and pursue a career in engineering. My mother, one of six siblings, was raised in a very conservative family. Although she was not given an opportunity to complete her college education for fear this would make it harder to find a suitable groom for her, she embodies characteristics that cannot be taught, such as kindness, grace, and compassion.

Leaving India for the United States, with very little money and no job or relatives to support them in their new country, took great courage. Like many immigrants, my parents were motivated by their desire to give their children a good education, a job and home earned honestly, without resorting to bribery, as well as the opportunity to succeed based on merit, not connections. Coming to America shaped the course of my life.

Growing up as a first-generation American of Indian origin, I straddled two continents, mediating between the Eastern and Western cultures. We celebrated Hindu festivals, attended services at our temple, and studied our religious texts. Service to others, humility, devotion, gratitude, respect, honesty, and hard work are among the key principles I was taught at a young age. I was supported in my academic pursuits, such as the debate team and Model UN, but because my parents could not understand and did not condone many aspects of American culture, I was precluded from enjoying many social activities. My interactions with boys were always restricted; I often had to explain to my American friends why I could not date or go to a school dance or sports event. Getting teased for being different, feeling isolated from peers, and compromising what I wanted became my normal state of being. I struggled to balance peer pressure and respect for my parents' wishes, lashing out at times but ultimately conceding. In the Indian culture, respecting your elders is your duty, and being mindful of what society, especially the Indian com-

munity, thinks about you and your family is very important.

Two primary tenets of Hinduism, karma and dharma, have also informed my life and my work as a neutral. Karma is the concept that every action has a reaction: good deeds beget positive consequences. Dharma is the principle of responsibility. We all must fulfill our respective duty, which includes roles as a parent, spouse, student, and member of society. The notion of what is “right” has generally been determined collectively in my life, not individually, as I am always conscious of the impact of my actions on others. I continue to weigh the appropriateness of my behavior and actions in terms of their alignment with Hindu values, and I am always mindful of my responsibilities in whatever role I hold—mother, wife, daughter, mediator, teacher, or administrator.

My fear of disappointing my parents far outweighed my personal interest in fitting in, but my childhood experiences also stimulated an interest in family dynamics and motivated me to be more open-minded with my two children as they were growing up. It has also made me an empathetic sounding board for a number of Indian youth who have been unable to talk to their own parents and has helped me in my work as a mediator in international organizations with people who have experienced challenges related to assimilation and cultural stereotypes.

The tension between my traditional upbringing (and my parents’ expectations) and my own self-determination came to a head when I was considering colleges and a career path. Because I skipped second grade, I was only 16 when I finished high school, and I was not permitted to leave home for college. My parents insisted that it would not be appropriate for a girl to be autonomous at such a young age, so I attended the University of North Carolina at Charlotte while living at home. I was very upset about

being unable to pursue my dreams of attending a more reputable college and negotiated a promise from my parents that I could leave home for graduate school. Eager to gain my independence, I completed my undergraduate degree in three years.

Most Indians are drawn to the fields of science, technology, engineering, and mathematics (STEM), as we are taught from a young age that this will lead to jobs that provide a secure and prosperous life. I, however, was never interested in math and science. I loved English and history, actively competing in debate and original oratory throughout high school and college. I served as the chair of the Student Government Legislature in college and often dreamed of becoming prime minister of India.

After several visits to India during my teenage years, I became convinced that my purpose in life was to bring about social change. The first time that I felt I truly belonged somewhere was when I visited India at age 9 and was overjoyed that everyone looked just like me. During each visit to India, my heart would swell with sadness at the sight of the rampant poverty and anger at the politicians who took bribes and precious funds from projects that were supposed to build schools, roads, and hospitals. My sense of purpose to right all of India's wrongs grew stronger as I matured. I read the autobiography of the father of India, Mahatma Gandhi, and was struck by his commitment to *ahimsa*, respect for all living things and avoidance of violence, and peaceful conflict resolution. Gandhi inspired me to strive to become a lawyer and an agent of change.

## Law School

Toward the end of my final year of college, my parents were surprised and disappointed to learn that I wanted to become a lawyer instead of going into medicine, engineering, or computer science, but they eventually supported my

decision. Challenging my parents was not easy, but I was older and felt that I needed to have voice in the decision that would affect the rest of my future, even if it made them unhappy. I enrolled in UNC-Chapel Hill Law School.

As the first person in my family to enter the legal profession, I had no mentor or role model. Not wanting to appear ignorant next to my classmates, many of whose parents or family members practiced law, I had no idea where to turn for advice. I was also young, 19, and felt tremendous anxiety as I adjusted to living away from home for the first time while competing with students who appeared far more confident and had far more life experience.

I felt this lack of guidance most strongly when I started my job search for a summer internship. Like most of my classmates, I had envisioned getting an offer from a law firm, but despite my good grades and best efforts during interviews, I was never offered a position. I began to second-guess my decision to pursue a legal career and, as the only Indian woman in my law school, worried whether my ethnicity played a role in my marketability. Eventually, I decided to broaden my options and applied for and received an IOLTA (Interest on Lawyer Trust Accounts) scholarship that provided a small stipend to work with a nonprofit organization.

Among the options I explored was the Private Adjudication Center (PAC), a nonprofit dispute resolution organization affiliated with Duke University's School of Law. I had never heard of what was then known as alternative dispute resolution, or ADR, but it sounded interesting. Rene Ellis, the PAC director, selected me as the center's summer intern. I attribute my good fortune of entering the field of dispute resolution to this first job and will be forever grateful to Rene and the PAC for opening this door.

## Career Path

The PAC custom-designed dispute resolution services for clients. It was a small organization, but it was doing groundbreaking work. As a summer intern, I worked on cases related to the Toyota Reversal Arbitration Board, which was designed to give dealers a user-friendly process to address sales credit disputes.

I was also introduced to the Dalkon Shield Arbitration program, which the PAC hired me to help manage upon my graduation, an innovative and highly effective application of ADR in resolving a mass tort. More than 300,000 claims were filed against A.H. Robins Company for injuries related to the Dalkon Shield intrauterine device. The manufacturer was bankrupted, and a trust fund was established. I noted the privacy, efficiency, and voice that the women in these less formal Dalkon Shield arbitration hearings received. I had discovered my calling. ADR gave me the opportunity to listen and understand the objectives of clients, custom-design fair and informal processes that offered procedural justice, and partner with parties in reaching solutions that met their needs and interests. I also had the pleasure of meeting colleagues in my work with the PAC who continue to be lifelong friends, including David Hoffman, Daniel Bowling, Edith Primm, and Bobbi McAdoo.

After working with the PAC for three years, I moved to Richmond, Virginia, with my husband so he could begin his internal medicine residency at the Medical College of Virginia. The PAC permitted me to work remotely because the Dalkon Shield Trust was also in Richmond. With the luxury of working from home, I decided to start my family. I took the Virginia Bar exam as well as mediation training to become a Virginia court-certified mediator.

In 1996, when I was 27, Rob Baldwin hired me to serve as director of the Department of Dispute Resolution Services at the Supreme Court of Virginia. The trust and confi-

dence Rob had in me as an entrepreneur seeking to expand mediation and other ADR services in the state allowed me to blossom and grow as a professional. While I was very aware that I was an anomaly in the dispute resolution community—being an Asian American—I felt empowered to innovate and expand the ADR programs and services we offered litigants in the court system.

Early in my time at the Supreme Court of Virginia, an unauthorized practice of law (UPL) complaint was filed against a family mediator. This raised a great deal of fear, concern, and outrage in the mediation community. Mediation had begun in the community centers in Virginia, and most mediators who had received their training in the facilitative model of mediation strongly resisted the suggestion that mediation could be deemed the practice of law. However, with increasing numbers of attorneys and retired judges serving as mediators, as well as the demand for more evaluative mediation services, the pressure for all mediators, regardless of background and training, to provide legal analysis in mediation grew. Working with a committee of judges, lawyers, mediators, and the Virginia state bar's ethics counsel, I developed "Guidelines on Mediation and the Unauthorized Practice of Law" to assist mediators in distinguishing between providing information and providing legal advice.

The guidelines, intended to support ethical mediation practice, were the most comprehensive effort to clarify these issues and provide direction where none existed before, but they were not popular in Virginia and around the country. Attorney mediators, in essence, were concerned that the guidelines were too restrictive and would impede commercial and private mediation practice, while mediators who were not attorneys feared that the distinctions between what attorney and non-attorney mediators

could do would give attorneys an advantage in the marketplace.

Despite the challenges of drafting the guidelines, I appreciated the opportunity to address this sticky issue with transparency and in collaboration with the Virginia state bar. The ABA Dispute Resolution Section later passed a resolution declaring that mediation is not the practice of law, and the Society of Professionals in Dispute Resolution (SPIDR, which later merged with other organizations to become the Association for Conflict Resolution), created a committee to study the issue. No further UPL complaints were filed against certified mediators in Virginia during my tenure as director of the Department of Dispute Resolution Services.

I left the Supreme Court of Virginia in late 2007 because of a change in leadership and reduced support and funding for ADR. The Department of Dispute Resolution Services, which I had headed for 11 years, was downgraded from an independent, highly visible department and subsumed under another larger department. The decision to leave was difficult, as I loved my job and knew that it offered the unique ability to be an instrument for ADR policy and program development.

In leaving a secure position to start a private mediation practice in 2008, I knew I was taking a big risk. Most of my career up to that point had been as an administrator, and I had to build my mediation practice from scratch, relying on my mediator certification, hundreds of hours of training, and the professional networks and excellent working relationships I had developed over the years. As one of the few Asian American neutrals in Virginia, I recognized that my ethnicity, combined with my lack of traditional legal experience, affected my marketability. I provided mediation and training services for several state and federal agencies, including the US Navy and NASA, as well as the

Richmond Juvenile and Domestic Relations District Court. I also taught mediation and advocacy in mediation as an adjunct professor at the University of Richmond's School of Law and the College of William and Mary School of Law.

In 2010, I joined the World Bank Group's roster of mediators and became enamored with the internal justice system of this international organization. I provided mediation, large-group facilitation, and conflict resolution training and supported organizational development initiatives around the world. In 2012, I was selected as the International Monetary Fund's first mediator and was given the opportunity to build the Mediation Office there as part of an internal justice system to informally address employment disputes.

The staff of the IMF are international civil servants who do not have access to the US court system. As a result, their only recourse for work-related concerns is provided by the IMF's internal rules and dispute resolution systems, which include mediation as an alternative to a more formal grievance process. As the head of the IMF's Mediation Office, I integrated my administrative and mediation expertise and greatly appreciated the autonomy, resources, and opportunities I had to innovate.

Working at the IMF, which includes 3,000 staff members from more than 150 countries, was the first time in my career that I truly felt I fit in. I never had to be self-conscious about my Indian background, as I had been in my other jobs; my "differences" actually gave me credibility with colleagues from around the globe. People saw me as culturally competent and familiar with the dynamics of the Western work environment. I was mediating between cultures, languages, values, and expectations in the context of employment disputes. The hierarchical nature of international organizations, the high education level of staff members, the conflict-avoidant culture, and the vul-

nerability of staff because of visa status were just a few of the issues I encountered.

As part of the network of mediators and ombudsmen of the United Nations and related international organizations (UNARIO), I attended annual meetings with dispute resolution colleagues from other UN organizations where we shared common challenges and ideas. These exchanges were enormously helpful. Only a small number of individuals have the privilege of serving as a neutral in the internal justice system of an international organization. Many are working in a country other than their country of origin, and most are multilingual. This cadre of neutrals is highly sophisticated in their understanding of dispute resolution, multi-cultural issues, and workplace challenges for managers and staff in international organizations, and I learned a great deal from my colleagues in UNARIO. For example, drawing from a similar program at the World Bank, I developed a unique program for the IMF called Peers for a Respectful Workplace.

The most challenging aspect of my work at the IMF was being an effective “inside–outsider.” As a mediator, I knew that remaining neutral and impartial in all my interactions with staff and managers was critical, but because I often had to engage with key decision-makers in the legal and human resource departments, I had to be careful that these working relationships did not create any perceptions about an alignment with management. As had been the case in my childhood, my IMF responsibilities placed limits on my social life: to avoid any possible misunderstanding of my loyalties, I never had lunch with staff members or managers and went out of my way not to develop any personal relationships with them. I had wonderful staff in my office whom I worked with closely, and I regularly met people during mediations, trainings, and meetings, so I never felt alone. I walked this fine line throughout the

almost six years that I served as mediator at the IMF, and I believe it helped me be more effective.

Another challenge at the IMF was that although I always emphasized the confidentiality of mediation communications in describing the benefits of the mediation process, I quickly realized that I could not honestly assure parties complete confidentiality. Confidentiality was outlined in the “Agreement to Mediate” and in the IMF’s “Mediation Rules”, but there was no real way to enforce it. Staff talked to staff about their experience in mediation, whether they could trust the mediator, and the nature of settlements they reached in mediation. Managers talked to managers about the effectiveness and utility of the process and whether they had used it successfully in certain employment matters. Confidentiality could also be waived on a “business need to know” basis, such as when several people had to be informed of mediation agreements to allow implementation. This reality made ensuring that the mediation process was fair and constructive even more critical, since even just one negative experience could have damaged both the program and my own reputation. Whether or not others honored the confidentiality of mediation discussions, I always did. I hope and believe that my strong advocacy for the fundamental principles of the mediation process, particularly confidentiality, helped maintain the integrity of the program.

I loved working at the IMF, but the position of mediator there has a limited term and is nonrenewable, and I moved on to the ADR division at the Federal Emergency Management Agency (FEMA), where I worked in organizational development and conflict management. Under the leadership of Cindy Mazur, FEMA’s ADR division has grown and helped the agency fulfill its mission to assist survivors of disaster. More recently, I joined the Fourth Circuit Court of Appeals, serving as its director of workplace relations.

## The Development of ADR in India

Over the past 15 years, I have been involved in the development of dispute resolution in India, training lawyers and retired judges in mediation and educating members of the bench and bar about the benefits of mediation. I have been thrilled to be able to take my knowledge and skills to my motherland—and to feel my professional and personal worlds converging.

Visiting the first court-annexed mediation program in Chennai (also known as Madras, the capital of the state of Tamil Nadu off the Bay of Bengal), after a cadre of mediators had been trained there was incredibly rewarding. High court judges overwhelmed by their dockets described the volume of cases as akin to the weight of a large elephant, and their strong appreciation for the relief mediation offered made me think of the ADR revolution in the United States after the Pound Conference of 1976.

In introducing the Western model of mediation in India, which has a rich history of informal processes analogous to mediation, I had to be careful to adapt certain aspects of the training to Indian legal culture. Insisting on the neutrality of mediators in India, for example, would not have lent credibility to the program: Indian litigants feel comfortable working with professionals that they know and trust and whose subject matter knowledge and expertise, as well as reputation, are well respected. In addition, while self-determination is appreciated, the parties in India generally expect the mediator to provide some direction and evaluation. Indians are often distrustful of private proceedings and insecure in making decisions for themselves. Often decisions cannot be made in one mediation session, as parties might have to consult with their extended family. In small jurisdictions that have only one judge, requiring that the judge who handles the mediation cannot later hear the matter if a resolution is not reached

is simply not feasible. Mediator ethics training in India, where bribes have been part of the culture for centuries, had to emphasize the inappropriateness of accepting money or tips and the need to avoid conflicts of interest, topics we would not cover in the same way in the United States.

Over the past decade, the number of court-annexed mediation programs around India has grown extensively. The dispute resolution community there is grappling with a variety of issues such as quality-assurance, enforceability of mediation agreements, program evaluation, credentialing, and continuing-education requirements for mediators. Having played a small part in the evolution of ADR in India brings me great fulfillment, and I maintain contact with several colleagues in India and discuss barriers to the expansion of mediation in private matters as well as other programmatic issues.

## **Reflections on My Mediation Practice**

Over the past 25 years I have mediated general civil, domestic relations, truancy, child dependency, and employment disputes. Of these, I most enjoy working on cases that involve family and employment matters. While seemingly different, family and employment cases both involve relationships that have enormous repercussions for the lives and well-being of the parties and their extended families.

Children are resilient, but if parents don't develop and practice good communication and collaborative problem-solving skills, their children's physical and emotional health can suffer. These key skills can be modeled and explicitly discussed in mediation. As a mediator who is also a wife and mother, I try to stand in the shoes of the parties and understand the frustrations and concerns expressed. My primary goal is to model good communication, support collaborative problem-solving, and help people manage feelings of anger, betrayal, loss, and fear.

The challenging family dynamics in my own childhood make working on family cases especially interesting for me, and I know my experience has helped me help others. My parents wouldn't let me date in high school, as I mentioned, but not just because they didn't approve of Western teenage ways: they wanted me to marry a man from our caste and region of India. I understood how important it was for them that I marry someone who shared our language and customs and was from a good family with similar values. My father pre-screened several young men who met certain criteria, and I had a chance to meet with a few of them. My husband and I spoke only a few minutes before we were betrothed a few weeks later, and I'm happy to report that we have been married for 30 years. I am fortunate to have a good marriage, but over the years, many Indian couples struggling with challenges in their marriage have turned to me for help.

In the Indian culture, divorce has a strong stigma. Even if a couple is incredibly unhappy and argues all the time and even if there is physical and psychological abuse, they must remain married to avoid losing face in the community. Reflecting on the religious and cultural reasons that keep Indians in unhealthy marriages, the typical sources of discord such as meddling in-laws, dowry and financial troubles, the imposition of inequitable patriarchal expectations, and poor communication, I wrote a book, *Shaadi Remix: Transforming the Traditional Indian Marriage*. My goal is to provide some insight into how Hindu marriage traditions can be adapted for the younger generation. I also share questions that can help couples assess compatibility and outline dispute resolution options such as mediation. While my work now is primarily focused on employment matters, I still get calls from people needing assistance in family matters.

Employment cases are close to my heart because I know firsthand what a positive—and not-so-positive—work environment is. In employment matters, workers often feel a sense of identity that makes conflict quite emotional. Most of us spend more time at work than we do at home, and the relationships, reputation, experiences, and expertise we build at work are valuable to us. We have a strong need to feel recognized for our efforts and to know that the work we do is meaningful. When our job security or ability to succeed at work is threatened, we invariably react very strongly. In both family and employment matters, communication, trust, respect, financial security, roles, and responsibilities all come into play. My personal journey enables me to meet people where they are in employment and family matters and help them find solutions that are right for them.

### **Reflections on My Programmatic Work**

In addition to the great satisfaction I get from the actual work of mediation, I enjoy program administration and leadership. I thrive on the adrenaline of responsibility and multi-tasking and enjoy coordinating and networking with a wide variety of people. I also enjoy creating new initiatives that will support efficiency and promote awareness and effective use of conflict resolution processes.

In 2015 I had the privilege of serving as chair of the American Bar Association's Dispute Resolution Section, an honor I never imagined. I have been active in the section since the early 1990s, and it has been an excellent source of information, friendship, and networking. While there were many important projects I led during my year as chair, the most exciting for me was coordinating the Asia Pacific International Mediation Summit.

The Dispute Resolution Section had coordinated an International Mediation Summit at The Hague in 2008. As

the first chair of Indian origin, I was eager to expand knowledge-sharing between dispute resolution leaders in the United States and Asia. The Asia Pacific Summit required 18 months of planning and collaboration with dispute resolution colleagues in several countries, and more than 200 dispute resolution professionals from 18 countries participated. Justices from the Supreme Court of India, the chief justice of Singapore, and leadership from Hong Kong, the United Nations Commission on International Trade Law (UNCITRAL), and the American Bar Association were also in attendance. The Asian participants enjoyed engaging in discussions with ABA members who shared their insights, experiences, and program models that have been successful in the United States, and many US participants said they gained a greater understanding and appreciation of mediation program development in Asia. I have great hope that the section will be able to continue to promote this kind of cross-cultural exchange.

## **Reflections on Mediation Tenets**

The basic tenets of mediation such as neutrality, self-determination, procedural fairness, and confidentiality generally hold true for me even after 25 years of practice, but I have also come to appreciate the art of mediation.

Like most mediators, I was taught to leave my opinions and beliefs at the door when I start a mediation. Having served as a mediator for more than two decades, though, I know that I can never be completely neutral and unbiased. I feel the greatest tension between my values and my role as a mediator when I observe what I can only describe as injustice, a tension I've experienced in cases where one party appears to take advantage of another or the agreement seems inequitable. When I feel this tension, I remind myself that it is not my conflict and that I shouldn't judge whether a resolution is fair. As long as the parties are com-

petent, have access to counsel, are exercising self-determination, and are making an informed decision, I cannot allow myself to be drawn into questioning the appropriateness of an agreement.

One of the greatest weaknesses I have as a mediator is that I carry my cases and clients home with me in my thoughts. I have difficulty disconnecting and worry about the impact of the conflict on the well-being of my clients and, if the case is an employment one, on the organization. I revisit the mediation discussions in my mind and examine my approach, considering whether different questions or strategies might have led to a better outcome. I describe myself as not impartial, but multi-partial, caring for a fair process and positive outcome for all.

I have learned to honor my intuition as a mediator and try to mediate from my heart. Often when I demonstrate vulnerability in mediation—at times by sharing my personal challenges—my clients begin to feel comfortable with uncertainty and risk-taking. Training in conflict coaching has taught me to replace fear of the unknown with curiosity. I have learned to be more self-aware, try to lean into discomfort with silence to allow for reflection, actively consider the parties' feelings, and observe what is influencing them. I question why I am using a particular approach and understand that I must be genuine to be effective. Through deep listening and removing mental distractions of other matters, I ask myself what is really happening in the conflict. I listen to the text with my rational mind and listen to the subtext with my heart. I listen for unspoken assumptions and dilemmas and try to be authentic in naming what is going on. I worry less about looking and speaking like an expert mediator and focus more on being in the moment with the parties.

My conflict coaching training and ombuds training have complemented my mediation skills training to make

me a more holistic mediator. I treat every case as a new challenge and opportunity, even when the issues and the subject matter are similar to those in previous cases. If my energy level and care for the clients ever decline, I know that it will be time for me to stop mediating.

## Conclusion

I became a lawyer because I wanted to make a difference in people's lives, and I love the human connection that dispute resolution provides. I can have my finger on the pulse of the parties' emotions and on the negotiation process, and I often can sense how close to (or far from) resolution we are. The personal satisfaction that I achieve every day through this work comes from knowing that I have helped reduce clients' stress and anxieties by addressing their concerns in a constructive manner, and my reward is seeing clients happier and more hopeful about the future. When people who began the dispute resolution process feeling angry, scared, frustrated, or distrustful walk away from the mediation table talking, laughing, and feeling more positive, my heart sings.

My favorite observations include the shift in parties' body language—from turning away to facing each other directly, from speaking only to me to speaking directly to each other. The lightbulb moments that mediation often stimulates, as well as the genuine apologies that are shared, are priceless. Through my mediation and facilitation work, I have seen individuals and teams transformed. This is important to me because I am at heart a peacemaker. I want people to be happy at work or in their marriage and to thrive.

As I reflect on my professional journey, I recognize that while nothing I did was exactly planned, everything I did has been connected to my goal of serving others. I feel truly fortunate to have held key positions in amazing

organizations, and each role has built on the others. I have experienced dispute resolution from almost all angles—as an administrator, a mediator, a professor, a consultant, an ombudsperson, a coach, an internal provider, and an external provider, at the state, federal, and international level. They say if you love what you do, you will never work a day in your life, and this is certainly true for me. Every morning I'm eager to see what challenges and opportunities the day will bring, and I look forward continuing to learn, grow, and contribute in the years to come.

