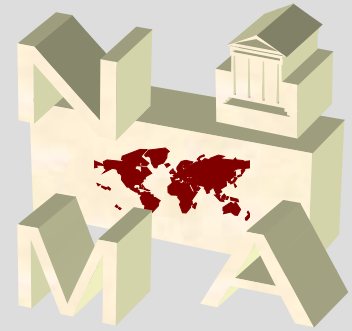


# Alternative Dispute Resolution Mediation Primer



## **Mediation Methods** **for** **Mediators and Party Representatives**

5<sup>th</sup> Edition 2006

**An NMA Certified  
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**Basic Civil and Commercial Mediation**, R.Faulkner 1992-2005.

**The Mediation Manual**. C.H.Spurin 1999-2005

**Mediation Case Book** 2004-2006

Mediation Methods for Mediators and Party Representatives

# Mediation Methods for Mediators and Client Representatives

5<sup>th</sup> Edition 2006

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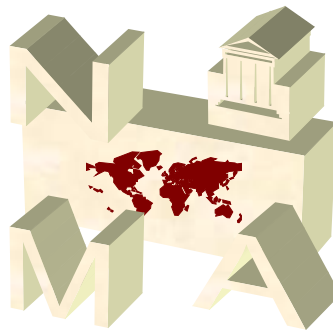
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## Mediation Methods for Mediators and Party Representatives

### Preface

Disputes are a natural consequence of taking an active part in society. There is nothing wrong as such with becoming involved in a dispute. It is inevitable that from time to time commercial partners will be confronted with problems that lead to disagreements. Addressing such problems rather than trying to ignore them is an essential aspect commercial practice. Negotiations often provide solutions to wider problems and help to keep commerce in tune with current trends in the industry. Commerce cannot maintain its momentum without settling disputes. The problem is that in the absence of choice to the contrary, a dispute will find itself before the courts. This is good news for lawyers but not necessarily such good news for their clients since litigation is expensive. Even the best and most efficient judicial systems tend to be slow and laborious, though it should be recognised that the courts enjoy a great deal of power and have the authority to enforce their decisions and to compel participation in the judicial process. Confidence in the judicial system is the court's greatest asset. The legal knowledge and understanding of a judge may be highly valued by the parties. Judges are perceived as being dispensers of justice. Even so, many disputes are settled before trial. Unfortunately, delay often suits a party who does not want to pay. The coercive powers of a court or arbitral tribunal will ensure that a recalcitrant party eventually appears at a hearing and is ultimately brought to account. This book is dedicated to exploring alternative and potentially better ways of settling disputes than by going to court.

The aim of this book is to enable readers to gain a basic understanding of the core elements of mediation, the processes involved, mediation methodology both as a mediator and as a party representative and the associated advantages and disadvantages of the mediation process.

This text provides the legal and theoretical background to mediation. The skills required to mediate can only be developed by practice and personal experience. Reading this book alone, without the accompanying practice development will not equip the reader for mediation practice.

A particular aptitude for interpersonal communications and relationships is required in order to mediate. Knowledge of the relevant law and mediation theory alone is not enough. Whilst methodology can be learnt, developed and honed to perfection, an individual with no aptitude for mediation has nothing to build upon and will not be able to serve as an effective mediator. Community and pro-bono mediation provide useful ways of developing confidence and expertise in the early days of mediation practice,

Whilst no specific qualifications are required for general mediation, most mediation service providers will require their erstwhile practitioners to have completed an accredited training course. However, in addition, there are legal training and accreditation requirements for certain forms of mediation training such a Family Mediation. It is essential to be aware of the legal training requirements before attempting to engage in specialist fields of mediation practice.

The law is stated as of 1<sup>st</sup> December 2006.

Corbett Haselgrove-Spurin  
Editor, contributing author

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# Mediation Methods for Mediators & Party Representatives

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This is the fifth major revision of a text initially developed by Professor Richard Faulkner, Corbett Spurin and Gareth Thomas in 1999 to train mediators and lawyers in mediation practice and procedure. The aim of this book is to enable readers to gain a basic understanding of the core elements of mediation, the processes involved, mediation methodology both as a mediator and as a party representative and the associated advantages and disadvantages of the mediation process.

The text prepares readers for mediation practice, building upon previous specialist knowledge & interpersonal skills. It is but one stepping stone towards becoming a proficient mediator. A mediator occupies a highly specialised office, one which requires continual personal development throughout one's mediation career. It provides the legal and theoretical background to mediation. The skills required to mediate can only be developed by practice and personal experience.

The Editor, a contributing author, Corbett Haselgrove-Spurin is a Construction Adjudicator, Arbitrator, Educator, Mediator, Scheme Leader, LLM Commercial Dispute Resolution, Senior lecturer, Commercial & Construction Law at Glamorgan University. He is a Construction Law Consultant and Director Nationwide Academy of Dispute Resolution UK Ltd and Middle East Co Ltd.

Practice material is contained in the accompanying text "Basic Civil and Commercial Mediation" R.Faulkner 1992-2005, which is supported by extensive, graduated and subject specific, role plays. Other relevant publications include:-

- Mediation Casebook, C.H.Spurin. 2004 -2006
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