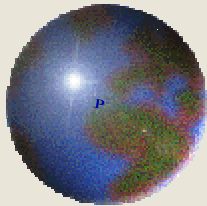




Nationwide Mediation Academy



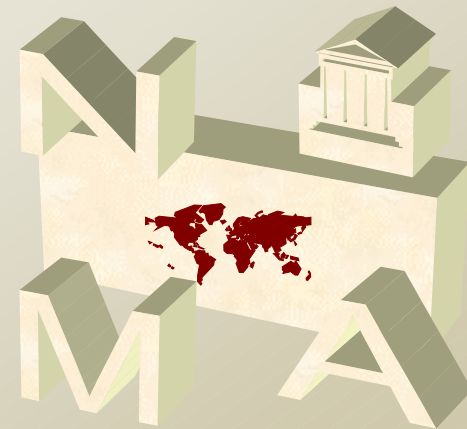
SEMINAR 3

Introduction to Civil and Commercial Mediation

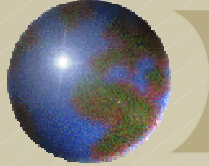
Program Leader

Corbett Haselgrove-Spurin

An NMA program on behalf of NADR UK Ltd.



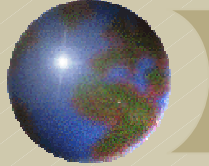
**NATIONWIDE MEDIATION
ACADEMY**



Session Three

Litigation and ADR contrasted

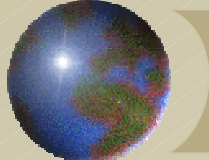
- ✚ **ADR Personnel, Peer Review**
- ✚ **Time and cost savings**
- ✚ **Privacy**
- ✚ **Adversarial versus co-operation – builds relationship bridges**
- ✚ **Flexibility – win/win – wider options**
- ✚ **Informality**
- ✚ **Party autonomy**



Session Three

Disadvantages of mediation

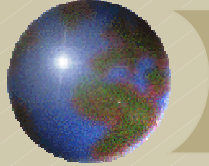
- ❖ **No guarantee of settlement.**
- ❖ **Only works if parties cooperate.**
- ❖ **Many lawyers are mediation adverse and will advise against it in favour of litigation.**
- ❖ **May add an additional layer of expense to settlement, both in time and money.**



Session Three

Misconceptions about mediation

- ❖ **Mediation is NOT a simple process that you can wing your way through.**
- ❖ **Party Representatives must adapt to a new way of working.**
- ❖ **Mediation requires preparation – examining strength of case and settlement options.**
- ❖ **If you don't prepare you are likely to be dissatisfied and it is highly likely the process will be blamed – wrongly for a bad result or a failure to reach a settlement.**



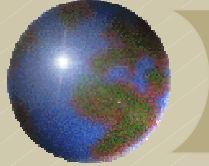
Session Three

Alternatives to litigation contrasted

See position paper on “Conflict management and dispute resolution”.

- **Dispute prevention - avoidance**
- **Conflict Management - containment**
- **Dispute Settlement by Agreement**
- **Dispute Resolution by Decision**

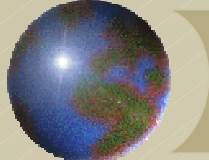
See ADR Matrix



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Advantages of mediation for lawyers

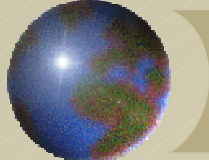
- ❖ **Attractive service for clients**
- ❖ **Vehicle for non-viable litigation cases –
e.g. cost & time**
- ❖ **More satisfied repeat clients**



Session Three

Advantages for lawyers cont'

- ❖ **Valuable preparation for trial**
- ❖ **Test runs issues and credibility**
- ❖ **Cuts issues down to bare essentials**
- ❖ **Preparation work fulfils dual role.**



Session Three

Advantages for lawyers cont'

- ❖ **Clients are often unreceptive to legal advice on benefits of settlement.**
- ❖ **Clients expect the lawyer to be fully supportive and to believe in their case.**
- ❖ **Suggestions of compromise convey a message of non-commitment to the client's interests.**
- ❖ **The message may be better received from an independent third party mediator.**
- ❖ **Clients hear what they want and may ignore their lawyer's warnings.**