

AUSTRALASIAN DISPUTE RESOLUTION JOURNAL

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ARTICLES

Mediation styles and their impact: Lessons from the Supreme and County Courts of Victoria research project – *Tania Sourdin and Nikola Balvin*

What do disputants want in a mediation process and what do they get? How does the process shape disputant perceptions and outcomes? This article explores research into the various mediation processes used in court related mediations in the Supreme and County Courts of Victoria, Australia. The article comments on both mediator and litigant perceptions of the process, and cross-contextual comparisons are made with dispute resolution processes examined in previous research studies. Additional articles and the research report comment on a range of other matters including the costs and time taken in mediation, the role of legal representatives and the search for enhanced quality in mediation and dispute resolution practice. 142

Settlement at all cost: The high price of an inexpensive resolution? – *Mark J Rankin*

For some time now Australian courts have actively promoted the settlement of disputes, thereby implicitly discouraging their adjudication. As to why settlement is to be preferred to litigation, the courts' policy appears to be primarily justified on the basis that settlement is the less expensive option. This article questions whether this is sufficient justification for promoting settlement at the expense of adjudication, and raises issues with the courts' policy generally. 153

Culturally sensitive mediation: The importance of culture in mediation accreditation – *Siew Fang Law*

Culture is particularly relevant to mediation practice because it shapes the way people view conflict and how they deal with disputes within the justice system. This article explores the implications of culture for mediation practice, training and standard setting in the Australian context. The recent inclusion of cultural sensitivity in the Practice Standards for the new National Mediation Accreditation System raises a number of interesting issues of development. The article draws from the feedback and recommendations gathered by the International Mediation Institute as a guide to implement the National Mediation Accreditation System. The author also explores ways to develop relevant and suitable cross-cultural mediation training. 162

Preserving a facilitative process in family dispute resolution – Mieke Brandon

Recent amendments to family law regulations mean that family dispute resolution practitioners will be required to demonstrate their skills, knowledge and attitudes in line with a facilitative approach to dispute resolution for separating or separated parents. This article concentrates on the “facilitative” aspects of this requirement, and sets out the elements of what competencies may be considered facilitative. Two case studies are used as an exercise to address practitioners’ understanding and reflection of how they might use a dispute resolution process to facilitate an outcome. 172

Philosophical answers to ethical questions: Power imbalance and the provision of advice in mediation standards – Jonathon Friedrich

In the practice of mediation, ethical questions concerning power imbalances and the provision of advice in mediation have been left unanswered. The standards provided by the National Mediator Accreditation System mark a worthy step in the right direction, however, they do not go far enough. This article argues that ethical questions should be answered not only by reference to the fundamental values of the mediation profession, but also by reference to the philosophical disposition of our society. 179

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