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THEMATIC ISSUE – REPORTING ON RESEARCH FROM THE NADRAC FORUM

Introduction – *Tania Sourdin* 3

ARTICLES

Rethinking mediation ethics: A contextual method to support party self-determination – *Rachael Field*

In the current ethical paradigm of mediation practice there is a problematic dissonance between achieving mediator impartiality and relational party self-determination. Without a reliable ethical foundation for mediation practice, the legitimacy and credibility of the process is brought into question. This article considers the possibility of an alternative ethical approach in mediation; a contextual ethical method, with the pursuit of relational party self-determination as its foundational tenet and norm. This approach would free mediators to use their professional judgment, and their moral agency, to make ethical decisions to ensure that the promise of relational party self-determination is made possible and real. 8

Methods for incorporating fairness into the development of an online family dispute resolution environment – *John Zeleznikow*

Online dispute resolution uses technology to facilitate the resolution of disputes between parties. It can be particularly useful when parties cannot or should not meet face-to-face. This article examines a proposed model of online dispute resolution and focuses upon the utilisation of this model to develop methods and tools for providing negotiation decision support in the domain of Australian family law. The goal is to develop an Australian online family dispute resolution system which supports both the interests of divorcees and the principles of justice. 16

No square pegs in round holes: What mediators want lawyers to do in mediation and how they get it – *Cheree Sefton*

Despite the growing body of empirical research and commentary on mediation, gaps exist in research on mediator techniques. The techniques used by mediators to encourage settlement have been examined where the focus is on bringing the parties to agreement. Research demonstrates lawyers frequently attend and participate in mediations, yet insufficient research and analysis has been conducted on mediator behaviour towards lawyers. This article examines specific mediator techniques used on lawyers and how they differ to those used on parties. 22

Developing culturally reflexive practice in family dispute resolution – Susan Armstrong

This article reviews the relevance of culture to dispute resolution and discusses how practitioners might develop reflexive practices to enhance their responsiveness to the cultural contexts of families involved in family dispute resolution (FDR). The article draws on empirical research to illustrate some of the key elements of a culturally reflexive approach in FDR. These features included the capacity to engage in respectful dialogue about culture and reach outward empathically to parties and an introspective turning inward and critical self-reflection. 30

Taking care of business: Are franchise systems structured to promote conflict? – Jeff Giddings, Scott Weaven, Debra Grace and Lorelle Frazer

This article outlines the research methods used and salient issues raised by a major franchise research project undertaken by a team of researchers from the Griffith University Asia-Pacific Centre for Franchising Excellence. Data were gathered through qualitative interviews with industry experts, case studies of franchise systems and a mail survey to franchisees from across Australia. In addition to providing demographic data, survey respondents provided details of a conflict situation they had experienced in relation to franchising, how it was managed or resolved and their satisfaction with the process(es) used. 41

The teaching of ADR in Australian law schools: Promoting non-adversarial practice in law – Kathy Douglas

This article reports on research that gathered data relating to the teaching of alternative dispute resolution (ADR) in law schools in two States of Australia: Victoria and Queensland. Through semi-structured interviews and questionnaires, a number of themes were identified including the importance of preparing future lawyers for non-adversarial practice through ADR. The author argues that a national forum of ADR teaching is required to promote a community of practice in the teaching of ADR in law schools. 49

ADR education: Creating engagement and increasing mental well-being through an interactive and constructive approach – Jill Howieson

Recent research shows that participation in an alternative dispute resolution (ADR) course can increase a student's sense of belonging to the school in which it is taught, and can increase the levels of the students' mental health. This article summarises two studies conducted in the Law School at the University of Western Australia that highlight the links between the interactive nature of teaching ADR and the students' increased engagement with the school and, in turn, their mental well-being. In addition, the studies show that developing an ADR course to include tasks which provide an opportunity for sustained thinking and exploration, and which are meaningful and related to "real life" is critical to the students' learning of ADR skills and concepts. The article concludes by endorsing the New South Wales Attorney-General's call for an expanded and improved coverage of ADR, and urges universities to consider the value of constructive and interactive ADR education to students in all disciplines; not just law students. 58