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EDITORIAL – *General Editors: David Spencer and Professor Pauline Collins*

**Special Edition from the National Mediation Conference 2023** ..... 3

ADR CASE NOTES – *Editor: David Spencer*

**Choice of Law Clause in an Arbitration Agreement Rendered Inoperative by the Hague Rules; and, Arbitration Media Watch** ..... 6

## ARTICLES

**How to Benefit Children and Families Better through a Family Mediation Model? – Dr Amel Ketani**

This article focuses on a child-inclusive mediation model in England and Wales. Hence this is not a comparative article between Australian and English family mediation. It is also important to note that since the United Kingdom is composed of England, Wales, Scotland and Northern Ireland, the family laws and family mediation practices vary depending on where you are. This is why this article will only consider family mediation and child-inclusive mediation in England and Wales. This article will argue that children should have the opportunity to have their voice heard but family mediators need to be flexible as to when and whether a meeting is appropriate. Parents are of course the primary client group for family mediators and if mediators meet with children, it should be with the parents' consent and on the basis that parents are prepared to listen to their children's views. .... 12

**Practitioner Impartiality and Client Self-determination in a Court-ordered, Lawyer-assisted Property Conciliation Model – Genevieve Heard, Andrew Bickerdike and Mark Hebblewhite**

Conciliation can allow for greater practitioner input than facilitative models of mediation, as well as direct lawyer input. In this article, we consider a specific Australian model featuring conciliation techniques in the form of a property dispute resolution service provided to clients of the Federal Circuit and Family Court. We used client survey data and interviews to assess the extent to which principles of practitioner impartiality and client self-determination – both cherished features of facilitative mediation – are upheld under this model. Clients reported strong satisfaction with the service, particularly with practitioner characteristics, including impartiality. Further, a great majority of survey respondents felt able to express themselves during their conciliation session. Some interviewees described a strong sense of self-determination in the process, though others felt they lacked agency when faced with a limited range of realistic outcomes. We identify key elements of the model contributing to successful processes and outcomes. .... 18

**Consolidation and Third-Party Joinder in International Commercial Arbitration:  
Part 1 – Procedural Panacea or Poison? – *Mark Lewis***

In recent decades, international commerce has become increasingly complex. When disputes arise there will often be multiple interrelated parties, contracts and claims that are relevant to the adjudication and final resolution of a dispute. While courts in Australia and overseas have powers to consolidate cases and join third parties to litigation for reasons of efficiency or fairness, special considerations apply in the field of international commercial arbitration where primacy has traditionally been given to party autonomy and consent. This article (Part 1 of 2) explores the growth of multiparty and multi-contract disputes in international commercial arbitration, the measures available to address this, and the associated tensions with party autonomy and consent. Part 2 (to be published in the next edition of the ADRJ) will examine the Australian regime and propose some reforms to the *International Arbitration Act 1974* (Cth) to address current gaps by empowering arbitral tribunals and courts to make orders for consolidation and joinder in limited circumstances. ....

28

**Confidentiality and Privilege in Mediation: Umbrella Protection Filled with  
Exceptions – *Kirk Daniel Gehri***

This article outlines the various circumstances where mediation is used, for example, in family law, farm debt mediation, civil litigation and native title disputes. The legal landscape governing confidentiality in mediation and its exceptions involves an interplay between contract law, common law principles, equity, and various State and Commonwealth statutes. This article argues that the current legal framework creates confusion for the parties over the extent to which the contents of mediation remain confidential if the matter proceeds to court. This article adopts the recommendations of the National Alternative Dispute Resolution Advisory Council to introduce uniform law governing confidentiality in court-ordered mediation and displace the exceptions to privilege in s 131 of the *Evidence Act 1995* (Cth) with one discretionary power to reveal information if it is in the public interest. ....

46

**BOOK REVIEW**

**Setting Relations Right in Restorative Practice: Broadening Mindsets and Skill Sets,  
by David B Moore and Alikki Vernon – *Reviewed by Lise Barry* .....**

59

**IN PRACTICE**

**Court-annexed Mediation: Why It Works and the Implications for Case Management  
– *Christopher Boyle* .....**

61