

Kluwer Mediation Blog - March Digest

Kluwer Arbitration Blog

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“It turns out that the “little things” are in fact the “big things”. Forget to focus on them, and we are doomed to fail. Forget to value them, and we will find ourselves chasing shadows and permanently dissatisfied.” Bill Marsh

This wonderfully wise advice from Bill Marsh’s latest post on the daily work of the mediator has much wider resonance beyond the context of mediation. A summary of Bill’s post and all the other posts on the blog last month appears below. We hope you enjoy the wide range of topics addressed on the blog last month.

In [Dung Beetles and Basics](#), Bill Marsh identifies the basics that lie at the heart of what mediators do and emphasises the importance of doing these basics well. Bill offers this comprehensive and thoughtful description of the “stuff of mediation”:

“Whilst we may dream about the dramatic moments, real progress and transformation is usually achieved through the little things – the small acts of respect, such as listening to someone who hasn’t been properly heard for a long time, acknowledging people’s right to make their own decisions while feeling able to engage them in a serious discussion about the wisdom of their choices, the odd humorous line, the power of a silence. This is the “stuff” of mediation, the raw material at our disposal. Pretty much all progress is made up of this “stuff”. There are no short-cuts.”

In [Turkey: Mandatory Mediation is the new game in town](#), Idil Elveris provides a comprehensive overview of Turkey’s new mandatory mediation regime for labour disputes. Idil explains the path to the adoption of mandatory mediation and identifies the challenges presented by this development.

In [Mediation Inside Out](#), Andrea Maia draws on a recent talk by Toby Landau QC and an article by Eryn J. Neumann and Maryanne Garry as she considers the nature of false memories and how understanding more about false memories can help mediators to better serve their clients.

In [Reasons to Mediate](#), Constantin-Adi Gavrila identifies a number of insights which he recently gained regarding the various perceptions of mediation of those who are not familiar with mediation. Constantin also challenges some of these perceptions and clarifies why they may be held.

In [A Convention on the enforcement of iMSAs... AND a new model law](#), Nadja Alexander summarises

the recent developments at UNCITRAL Working Group II (Dispute Settlement) 68th session in New York and identifies the next steps which are needed before the mediation community gets its own “New York Convention.”

In Dirty Tricks in Mediation, Martin Svatos identifies a number of dirty tricks which he has witnessed in mediation and considers the drawbacks of using such tricks.

In Separate the People from the Problem – or the Person from the Action. Strategy or Compassion? In Theory and in Practice, Greg Bond considers Ury and Fisher’s recommendation to separate the people from the problem and, drawing on the work of Noah Levine, suggests a different approach. Greg suggests separating the people from the action which allows us to finally see the confused human being behind his or her hurtful act.

In Optimising the Use of Joint Sessions in Mediation, John Sturrock questions whether the use of the joint session in mediations is really in demise and draws on a recent mediation to highlight the abundant use by the parties of joint sessions.