

Kluwer Arbitration Blog

Kluwer Mediation Blog – April Digest

Anna Howard (Centre for Commercial Law Studies, Queen Mary University of London) · Tuesday, May 15th, 2018

In April we welcomed two new regular writers to the blog: Rick Weiler from Canada and Alan Limbury from Australia. The usual breadth of posts continued last month with posts from writers in New Zealand, Germany, Singapore, Romania, Scotland, the UK, Canada and Australia. A brief summary of each of last month's posts appears below. If you would like to receive more regular updates from the [Kluwer Mediation Blog](#), please subscribe to the Kluwer Mediation Blog's email notifications [here](#).

In "[Online Resources for unrepresented clients in mediation: enhancing participation](#)", Ian Macduff considers the recent developments in the UK and New Zealand regarding the provision of online legal information for prospective litigants and the development of online courts. In light of the rise of unrepresented disputants and the proliferation of digital tools, Ian asks what we might be able to achieve for those disputants in order to enhance the prospects of effective participation in mediation.

In "[The value of mediation training: an interview with a recent training graduate](#)", Greg Bond interviews Larissa Wille-Friel who recently trained as a mediator at the University of Applied Sciences Potsdam (Germany). A key theme which emerges from the interview is the benefits which mediation training can bring for people whose aim is not to become mediators. Greg notes how mediation training can change people's lives and to borrow Greg's words:

"If I were to sum up the effect of this (when it is done and goes well) in one word, then that word would be *empowerment*."

In "[Court-referred ADR: The view from the Bench](#)", Alan Limbury shares some of the key findings from research conducted by Dr Nicky McWilliam and Dr Alexandra Grey on judges' perceptions of court-referred ADR in Australia. Alan considers some of the interesting differences in judicial perception and behaviour identified in the research and notes that the increasing numbers of law graduates who have studied ADR will eventually influence the perception of lawyers and judges of ADR.

In "[Does the world need an international negotiation initiative](#)", Michael Leathes draws on his recent book ([Negotiation: Things corporate counsel need to know but were not taught](#)) to explain the key components of the proposal for an [International Negotiation Initiative](#) ("INI"). Michael

invites the readers to influence the current conversation on the INI.

In “[What street fighting can teach mediation](#)”, Marcus Lim uses electronic fighting games and, in particular, EVO Moment #37 to identify similarities between masterful mediators and street fighters. These include the use of preparation, framing and patience.

In “[What amicably means in a dispute resolution clause](#)”, Constantin-Adi Gavrilă considers the meaning of “amicably” in the context of the requirement on parties, as is often seen in dispute resolution clauses, to amicably settle disagreements arising from their contracts. Constantin also considers whether dispute resolution clauses should be more prescriptive regarding this “amicable” requirement.

In “[A neuro-linguist’s toolbox- rapport: representational systems \(Part 1\)](#)”, in the third of a series of posts on neuro-linguistic programming, Joel Lee explores how we can build rapport using representational systems. The term “representational systems” refers to the various ways of representing the world which include visual, auditory, kinesthetic, olfactory, gustatory and digital representations.

In “[Mind Games](#)”, Charlie Woods describes mediation as a process that seeks to convert what is apparently a zero or negative-sum game into a positive-sum game. Charlie then draws on game theory to explore how mediation can help in achieving a positive-sum approach.

In “[Whither \(wither\) mediation?](#)”, Rick Weiler draws on his extensive experience as a mediator to identify troubling trends in commercial mediation in Ontario. Rick then proposes various options to address these trends, including education, community, regulation, professionalisation and promotion.

In “[Effective paperwork in mediation](#)”, Geoff Sharp notes how mediation has become a more paper-intensive process over the years. Geoff uses Justice Susan Glazebrook’s no-nonsense guide to effective written submissions to provide guidance for those preparing litigated cases for mediation.

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