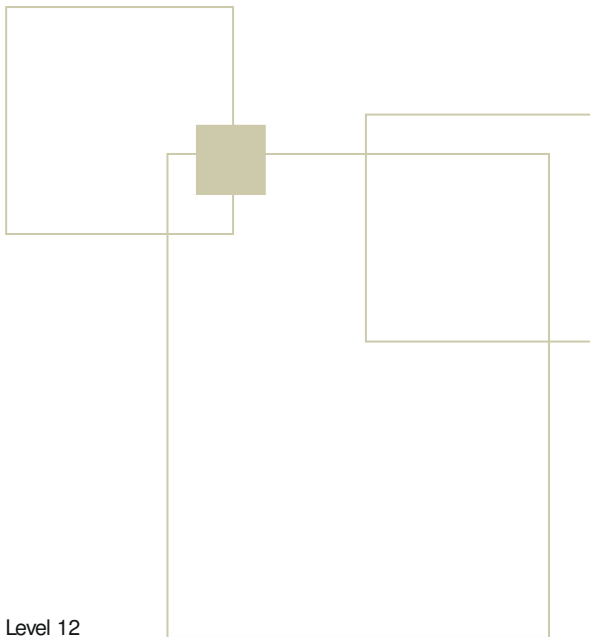


**THE INSTITUTE OF ARBITRATORS &
MEDIATORS AUSTRALIA**

**RESOLUTION AND RESILIENCE: ADR
IN THE GLOBAL RECESSION**

29-31 May 2009



**MEDIATION IS GOOD
BUSINESS PRACTICE**

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This paper will discuss the business reasons for adopting mediation for the resolution of business disputes.

The paper will discuss the reasons why mediation is to be preferred before litigation and whilst these matters are well known to mediation practitioners they are still not fully appreciated by business people, the paper will look at these matters from a business point of view and, consistent with the theme of the conference, will emphasise the financial value of choosing the mediation alternative.

The following points will be discussed.

- (a) Mediation seeks to preserve good business relations.
- (b) Mediation saves time in allowing for the speedy resolution of a dispute.
- (c) Mediation saves money in the expenditure of legal costs and time of personnel involved in a lengthy dispute.
- (d) Mediation allows for parties to resolve their disputes on commercial terms.
- (e) Mediation is confidential.
- (f) Mediation is final.
- (g) Mediation is within the control of the parties.
- (h) Mediation can be conducted at any place.
- (i) Mediation does not involve complicated or time consuming procedures.
- (j) The parties can choose their own mediator.
- (k) Mediation is informal.
- (l) Mediation can be conducted at any time of the day.
- (m) Mediation can use independent experts.
- (n) Mediation involves without prejudice discussions.
- (o) Access is usually still available to the usual resolution processes if the mediation process is not successful.
- (p) By comparison the alternative is not worth considering unless there is no practical alternative.

Litigation is out of the control of the parties, it is uncertain, it is not final, it is very time consuming and it can be very, very expensive.

MR

23.2.09