

9-1-2006

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## Recommended Citation

Spender, John (2006) "Negotiations: hard and soft, and the value a mediator can add," *ADR Bulletin*: Vol. 9: No. 1, Article 4.  
Available at: <http://epublications.bond.edu.au/adr/vol9/iss1/4>

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## Discussion of lawyer-led and mediated negotiations

# Negotiations: hard and soft, and the value a mediator can add

**John Spender**

This article will address three related topics: techniques of negotiations; lawyers in negotiations; and how mediators add value to negotiations and can get results which elude negotiations that occur directly between the parties and/or their lawyers.

## Negotiations

Human beings are social animals. Few of us can live alone. Hence, the horror we feel for the punishment of solitary confinement, which leaves the body intact but lacerates the mind and spirit.

Despite the wide acceptance of the notion of economic rationalism (whatever that really means) we are not *homo economicus*: purely rational animals deciding our lives on glacial calculations of self-interest and gifted with an infallible instinct to determine our strictly rational interest in each circumstance.<sup>1</sup> Our feelings, emotions and beliefs are ever-present: love, hate, fear, greed, dislike, timidity, pride, arrogance, ego, and religious, philosophical and political beliefs — the kaleidoscope of influences which make up each individual personality.

As social animals we negotiate. Without negotiations, families and communities would disintegrate. Whether we are aware of it or not, we are all negotiators. Family members negotiate with each other about their daily lives; communities among themselves on the rules, customs and practices which regulate their lives; politicians negotiate with voters; nation states with other states.

## Life itself is a constant negotiation

In the commercial world, as most broadly understood, there are three main kinds of negotiations. First, there are negotiations where the parties are making deals from which they each expect benefits. Next, those where there is a continuing relationship between the

parties but in which disputes have arisen (as in an on-going relationship between vehicle manufacturers and dealers, or during a major construction contract) and where everyone has an interest in an agreed outcome and a stake in the future of the relationship. Last are those which are one-off, where the parties have no history they wish to preserve and only want to extract the best result they can for themselves (well described as distributional bargaining); where my gain is your loss. It is this last group, in which the majority of the daily round of dispute negotiations occurs, that is the focus of this article.

## Style

There is a French saying, 'the style is the man'. What we present is how we see ourselves and hope that others do too (never, however, forgetting the innate capacity of humans for self-delusion summed up in the warning: 'if we could only see ourselves as others see us'). There are many variations in personal negotiating styles, but for my purposes I will deal with the two contrasting poles we see so often in dispute negotiations: soft (a word I use descriptively rather than pejoratively) or accommodative on the one hand; and hard or adversarial on the other.<sup>2</sup>

A succinct analysis of the accommodative approach — to be fair, the authors would not so describe their thinking — is to be found in Fisher and Ury, *Getting to Yes*.<sup>3</sup> The thesis of *Getting to Yes* is that human beings are rational, and as such, can be persuaded to separate their interests from their emotions and to work together to find rational and constructive outcomes to their disputes:

Behind opposing positions lie shared and compatible interests, as well as conflicting ones. We tend to assume that because the other side's positions are opposed to ours, their interests must also be opposed ... In many negotiations, however, a close

examination of the underlying interests will reveal the existence of many more interests that are shared or compatible than ones that are opposed.<sup>4</sup>

This could potentially be the case in many disputes, but not often in distributional negotiations once the brush has been cleared away and one gets to the crunch issues. The fundamental flaw in *Getting to Yes* is pithily put by one critic:

... the book's emphasis on mutually profitable adjustments, on the 'problem solving' aspect of bargaining, is also the book's weakness ... because emphasis on this aspect of bargaining is almost done to total exclusion of the other aspect of bargaining, 'distributional bargaining' where one for me is minus one for you.<sup>5</sup>

My experience in negotiations as a barrister, politician, diplomat and mediator, as well as from observing others negotiate, convinces me that this criticism is right, and that it is unwise to enter into distributional negotiations in the sanguine belief that each side is interested in a civilised, constructive outcome, and that where what is at stake is a 'raw economic exchange'<sup>6</sup> the parties will end the day with warm handshakes and mutual congratulations. This may happen, but only as an incident to the outcome.

## Negotiations and war

Clausewitz, the German military strategist, wrote that 'war is merely the continuation of policy by other means'. Negotiations over raw economic exchanges resemble war, founded as they are on friends (your side) and enemies (the others). As in war, negotiations end in a resumption of hostilities (often in court), a truce (to regroup and rethink strategy), or a peace treaty. In negotiations as in war there are ambushes, skirmishes, and frontal attacks, unforeseen casualties and unanticipated victories, strategic retreats and propaganda, ('our legal



advice is that we have an ironclad case'), misinformation and lies, ('X dollars is our bottom line figure or we are out of here').

As in war, winning does not happen by chance. There are tasks, tactics and stratagems — the rules of the game — which a negotiator (whatever their style) ignores at their peril if the negotiator is to end up with the largest slice of the disputed cake. I will now set out some of these rules, drawing heavily on Goldberg.

What I now say is necessarily selective and incomplete. At the outset let me state that, in my opinion, 'hard' usually wins over 'soft'. This may mean that it is necessary to firm up one's negotiation techniques, as negotiating is a skill one can always improve.

#### **Preparation: the key to success**

It should be self-evident that preparation is the key to success. In practice, it is too often ignored.

#### *Facts and subjects of special expertise*

A negotiator who is ill-prepared on the facts or on issues which need specialised preparation (for example tax issues, or the calculation of future income streams) starts behind the eight ball. The opponent will soon know or sense the negotiator's lack of preparation, and will exploit it. Others in the room will sense it, including the client if present, whose confidence will be shaken. A negotiator who looks a fool in front of their client is psychologically wounded. Even without the presence of the client the negotiator's realisation that the opponent is better prepared will undermine their confidence.

#### *Law*

Are there legal issues? If so, are you across them? Is there a point of law in your favour that your opponent seems to have missed? If so, how and when should you use it? How can you drop it on the table with most damage to your opponent's peace of mind?

#### *Psychology*

Negotiations, like competitive sports, frequently become a struggle for psychological dominance. Professional athletes know that mental toughness is as

necessary to win as physical preparation and skills. They prepare themselves. A mediator must do the same. Be ready to control the flight or fight response, the surge of adrenaline when the negotiations take an unexpected turn. Don't blink at a sudden and brutal attack — a poker face is a good thing to learn — or when a concession is dropped on the table which moves things your way, but not enough. (Don't then say something like 'that's more like it'?).

#### *Know yourself*

Be brutally honest about your strengths and weaknesses. What sort of negotiator

**Be brutally honest about your strengths and weaknesses. What sort of negotiator are you? Too accommodating and so too likely to make concessions to a hard negotiator, or so assertive that your instinctive antipathy to making any kind of concessions can lead to a stalemate you don't really want.**

are you? Too accommodating and so too likely to make concessions to a hard negotiator, or so assertive that your instinctive antipathy to making any kind of concessions can lead to a stalemate you don't really want. Or are you somewhere between the two? Are you a conflict avoider? Are you sufficiently assertive? Do you need to develop assertiveness skills; or tone them down?

Good advice on mental preparation and self-knowledge is given in *Beyond Winning*.<sup>8</sup> Here are some essentials:

- know how you are likely to react in different sorts of conflict situations;
- learn self-control, so that nothing seems to surprise you;
- enlarge and build your skills;
- understand the interactions you have with the others in the negotiations and how your interactions may help or harm your cause.

#### *Know your opponent/s*

Have you dealt with them before? If so, what is their negotiating style? If you don't know them, what can you find out from colleagues or people working in the

same industry (for example construction, real estate or law)? Are they hard or soft? Open and constructive, or guarded and duplicitous?

In multi-party negotiations work out who is the key player. Is it the managing director or the chairman, or the chief financial officer who sits quietly appraising the room? Are interests different? Do some on the other side have interests to protect which others do not share, for example an investment promoted by the managing director that has gone sour and which some directors didn't ever feel happy with? Or is the fight over an agreement full of holes,

with the lawyer who drew the agreement praying that his or her blunders will escape censure? Look for chances to divide. Is there an ego that needs saving? How then to help this person to save face? How might you use him or her?

#### *Don't be a victim*

Never, ever, be a victim. Don't let toughness beat you. The case for toughness is put well in a passage quoted in Goldberg: 'Be tough especially against a patsy. Unfortunately, when one party is conciliatory and the other cantankerous, the imbalance usually favours the competitive player in the short term.'<sup>9</sup> This is the realpolitik of negotiations.

#### *Cross-cultural negotiations*

In cross-cultural negotiations (which is the daily life of diplomats) think about the culture that shapes the negotiating style of your opponents. What are their cultural strengths and weaknesses? How might you use them? What, if anything, can you take at face value? Anger, rudeness, sudden changes of position, threats to walk out, assertions of the



truth of particular facts? Should you assume they have rehearsed, just as you should have? Should you believe what they assert about facts, law, or the time of day? Or is it wiser to assume that deception and outright lying is part of their negotiating armoury — not a bad assumption to make in any negotiation where you are uncertain of your opponent.

### *Dress rehearsal*

When a lawyer goes to court the lawyer should know what he or she wants to say, how, and in what order. A negotiation is just as important. Make notes. Rehearse what you want to say. Do this with someone who can criticise and play your opponent's role. List the hard questions. Make sure they ask you the 'blink first' questions. Never blink first in a negotiation.

### *Strengths, weaknesses, opportunities, threats; Best alternative to a negotiated agreement; Worst alternative to a negotiated agreement*

Analyse your strengths and weaknesses and your opponent's. What threats do the negotiations present to you? What opportunities? Conversely, what do the negotiations present to your opponent? List them. If you cannot get an agreement, what are the best and worst case scenarios? Write them down. How much do you need an agreement? How much does your opponent need one? If you need an agreement more than your opponent does, how should you persuade him or her that this is not the case? How will your desire to get an agreement limit your tactics?

### *Power imbalances*

Power imbalances are facts of life. How can you convince your opponent that you are not the weaker party when in fact you are? By a show of anger? Threats to walk out? Irrational behaviour — carefully rehearsed? Think hard about your rebalancing strategy. Or must you submit to the dictum of Thucydides: 'Powerful nations do what they will, weak nations do what they must.'

### *Aspired-for and walk-away positions*

By the time you get to the negotiating table you should have worked out two things:

- what is the result you aspire to get; and
- what is your walk-away or reservation position.

What you aspire for is not a wish list. It is a calculated position. Clear your mind of emotions; calculate carefully and remain flexible. Your positions may change in negotiations. As the economist John Maynard Keynes once said to the accusation that he had changed his mind: 'I don't know about you but when the facts change I change my mind.' Don't let the pressure of the moment affect your judgment.

### *Opponent's final position*

Just as you should know your own final position, you should work on your opponent's. Usually, you can find experts who can help. For example, in litigation opinions on the prospects of success or failure of a claim, and anything in between where there are multiple issues, and the likely costs/returns; in a real estate negotiation, market comparisons, development costs, and the costs and attractiveness of alternatives.<sup>10</sup> While you won't be able to come up with a precise figure you should be able to work out a probability zone of outcomes which you can chart on a graph.<sup>11</sup>

### *Who will be present*

You must know who will be present. You don't want to walk into the negotiation and find that your opponent has sandbagged you with a brace of experts (in say, a complex insurance litigation) for whom you are utterly unprepared. Nor, usually, do you want to be outgunned in numbers, say four on their side and two on yours. This can be wearing on your side in the ebb and flow of discussions and psychologically intimidating — although some negotiators enjoy the challenge of facing greater numbers. (Know yourself!)

Always insist on knowing who will be present: if there is going to be an imbalance, at least you will be ready for it. (In commercial mediations where there has been an imbalance of numbers, or simply so many people in the room that managing the mediation, and the competing egos, becomes difficult, I have met with the principals alone, or their lawyers, so as to cut through the confusion of the fog of war.)

Conversely, if you are able to outweigh your opponents at the table, be prepared to justify your additional numbers on the basis of, say, their specialised knowledge of aspects of the dispute.

### *Where*

What is to be the venue? Neutral ground? Your home turf, or your opponent's? Many think that the choice of where to negotiate can influence a negotiator's sense of self-confidence and of being in control of events. If you are in this category, insist on your own offices, or on neutral ground. If you cannot get this, and have to attend at your opponent's choice of venue (for whatever reason) work out a re-balancing stratagem. For example, arriving late and/or insisting on a room for you and your team which you go to on arrival. When called to the negotiation room you could smile at whoever comes through the door and say, 'we will be there in five'.

An unpleasant but necessary question about the 'where' of a meeting — although only I hope in exceptional cases — is one all senior diplomats have drummed into them: am I being bugged? How much is at stake? How much can I trust the integrity of the other side? Industrial espionage is a fact of life. Guard against it.

### *Timing and time*

Don't let yourself be rushed. The party who wants a quick settlement is at a tactical disadvantage. Always allow more than enough time for the negotiation. In an off-shore negotiation, be cautious about letting your opponent know your flight departure time, or book a second flight. An old tactic: with passport in hand and a plane home to catch, when you believe you have deal, you are told, 'Oh, by the way, there are still these issues'.

Negotiations can be physically wearing. They can go on until late at night. In diplomatic negotiations it is well-known that sheer fatigue can produce a result in the early hours of the morning which would have been rejected when all concerned were fresh and clear of mind. Fatigue corrupts judgment. If you are tiring, finding it difficult to focus clearly on detail, adjourn and get a good night's sleep.



### **The day, and tactics generally**

The day arrives. Prepared, confident, rested and alert you sit down at the negotiation table. What is your first impression of the opposition? Your instinctive take? Leave yourself open to this.<sup>12</sup>

### **Good cop, bad cop**

It is surprising how often the good cop, bad cop ploy works. Rehearse it beforehand, maybe change roles during the negotiation so that the bad cop becomes accommodating and the good cop cantankerous, just to confuse your opponent.

### **Pre-conditions**

Announcing pre-conditions at the start of a negotiation can unsettle your opponent. ('The offer is absurdly low. We will not negotiate unless ...') Think carefully however before adopting this gambit. You can look very foolish if you have to climb down.

### **The first offer**

Many dislike making the first offer, believing that it shows weakness, but in making the first offer you can set the tone of the negotiations. Whether to make the first offer is very much a judgment call. If you do make it, many experienced negotiators prefer to put the offer at the very bottom (the money giver) or the highest end (the money taker) of the scale so as to set the tone and dishearten the other party. Generally, in a simple money negotiation, hard, perhaps with a patina of reasonableness, seems to work best.

If you don't wish to make the first offer, sometimes an innocuous approach can flush out the sense of where things are at, as by asking for example, 'Well Fred, where do you think we are at?'

### **Bottom line positions**

I am always suspicious when I am told that 'X' is the other side's bottom line position. It is remarkable how often 'X' changes to 'Y'. I can see no advantage in giving away your bottom line position. This is a most valuable piece of information.<sup>13</sup>

Some negotiators will try to flush out your bottom line by a direct question. This puts the principled negotiator in

a difficult position, especially if bound by the ethical rules of law. One way to deal with this question is to say that you never answer questions on your bottom line position, and that you assume your opponent as an experienced negotiator shares this practice. One way of forestalling this problem is to say at the start of negotiations that this question will be off the table.

### **Refer to the client**

Just when you thought you had an agreement, your opponent needs to speak to his or her client, that he or she is not sure, and hopes it will be OK. The point

The practice of law requires extreme application to the issues at hand, which are themselves determined by the specific task: preparation of a will or a cross-examination, the exposition of a line of case law, the elucidation of an obscurely drafted statute. The tendency of law is to inculcate in successful practitioners gunsight mentalities: minds of extreme clarity and narrow focus.

The legal rules that govern the professional lives of lawyers are made and can only be changed from the top down: by the legislature and by the final courts of appeal whose scope for changing the rules is these days small. In

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of this being to throw you off balance and get a sense of whether there is any more leeway in your bargaining limits. Experienced mediators guard against this ploy by insisting as a condition of mediation that the representatives of all parties have full authority to agree.

### **Conclusion**

The pursuit of success in negotiations can blunt our judgment about the means we should use. A sense of integrity helps most of us to sleep well at night. A reputation for integrity is important to a negotiator. You lose it only once.

### **Lawyers in mediation**

Now I turn to lawyers in mediation. Do they help, are they obstacles to agreement or both?

### **The nature of law**

Lawyers are an unloved profession. 'The first thing we do' one of Shakespeare's characters says, 'let's kill all the lawyers.' Less lethally, it has been said of the law that it 'sharpens the mind as it narrows the intellect'. There is a grain of truth in this aphorism.

this top-down hierarchical system we are unlike other professions such as medicine or engineering, which develop through individual experimentation, intuition, and scientific and technical investigation.

### **The nature of lawyers**

Practicing lawyers are by circumstance conservative, black-letter lawyers: they cannot make the law, and they cannot stray outside what it is. Their job is to advise clients on the law as it stands.

Each profession has its own ethos. The fundamental characteristic of the practice of law, and especially of the bar, is its adversarial nature. This is so regardless of whether the issue is a court claim of great moment, or requisitions of title in a mundane conveyancing transaction. Uniquely among civilian professions, our professional lives are defined by our opposition. We are taught to protect and prosper our clients' interests to the exclusion of all else, subject only to the ethical rules which bind us. Lawyers develop attitude, edge, an adversarial carapace that they carry through life.

When a client comes to us over a dispute we give our opinion of their



situation and prospects. We advise on tactics, fire off threatening letters, initiate litigation and incur costs (sometimes huge sums): all based on our opinion. Often clients seek reassurance as a dispute unrolls and the doors of the court loom. Perhaps too frequently we reassure them, and in doing so become professionally and emotionally wedded to the opinion we have given, and instinctively hostile to anyone who questions it. Add to this the fact that lawyers usually have healthy egos, and like most people prefer not to admit

— feelings of distrust, anger and aversion which the dispute at hand has caused and negotiations have sharpened — or because the parties are unable to separate in their minds their emotions from their interests. In short, the result is one of human failings and foibles.

**Mediation**

Picture then, the parties around the table, eyes angry and averted with each face bearing the marks of contempt and hostility: stalemate.

Enter the mediator.

the information age. Photocopying, faxes, the internet, and all forms of electronic storage have multiplied exponentially the documents that are examined, copied, collated, taken to court and cross-examined. Add in the increasing insistence on witness statements (in Australia) — in which everything of possible relevance is included along with many statements of dubious or no relevance — the costs of their preparation, and time spent on their cross-examination ('syllable by syllable', as one senior counsel recently warned he would) and it is easy to see why the prospect of a trial can cause even the stoutest heart to quail.

And so to mediation. Its benefits are very real.

The mediator is in a unique position. Beholden to no party. Objective. Above the fray, yet in it. He or she takes over the course of negotiations. He or she can set the agenda.

In a typical mediation the mediator meets with the parties all together in the one room, and separately and confidentially, moving from one party to the other, like a shuttle diplomat. The mediator acts as a bridge builder between warring factions: explores the facts, debates the issues, and looks for areas of agreement. The mediator will only succeed if he or she wins the parties' confidence and respect.

**Qualities of a good mediator**

Here are some of the qualities of a good mediator.

*Authority*

The mediator must have and project a sense of personal authority. This is not something one can fake or impose on the parties, as a mediator is not there to direct outcomes but to manage the dispute solving process. Without authority the mediator won't be able to manage and channel events, soothe ruffled feelings, and get the parties to act with courtesy to each other. Anger and rudeness envenom negotiations, courtesy defuses and cools.

*The right fit*

Just as the punishment should fit the crime, so should the mediator's

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error or doubt when the admission would reflect on their professional judgment (and might open them to a lawsuit by an aggrieved client), and you find in many lawyers an ingrained propensity to professional rigidity.

How do these factors affect lawyers in distributional bargaining, which, short of capitulation by one side, requires give and take? Some lawyers are excellent negotiators: keen of judgment, emotionally steady, aware of the costs and hazards of litigation, astute to pick up unperceived weaknesses in their client's position which negotiations may expose, ready then to revise opinions and change course, looking always for the best means to the desired end.

Others are not: rigid, disputatious, adversarial, ego driven, too certain of opinions given or too timid to change their minds, unable to see or seize opportunities. What should have been a negotiated settlement becomes a forensic battleground.

However it can hardly be said that the parties often do things any better. Too often, disputes which on any rational calculus ought be resolved are not because of the history between the parties

**Mediators who add value**

Mediations are managed negotiations. They are as old as humankind.

Mediation is imbedded in diplomacy. The zones of influence in South America were divided between Spain and Portugal in the 15th century through papal mediation. The process of mediation was recognised in the Charter of the old League of Nations, and was continued in the Charter of the United Nations. A notable example of international mediation ('good offices' it is often called) was that of President Carter between Egypt and Israel, which led to peace between the two countries.<sup>14</sup>

In civil disputes, mediation has blossomed in the last three decades in Australia, the United States, and Europe.<sup>15</sup> This trend, as explained by Ian Hanger QC (one of Australia's most experienced and eminent mediators), has been driven by globalisation (more and more complex international agreements, and consequent jurisdictional problems), and a search for new ways of dispute solving avoiding the costs, uncertainties, delays and emotional wear of litigation. It has been driven also by the increasing complexity of litigation, not just the issues themselves, but by the blessings of



experience and qualifications fit the dispute. If the dispute is over the construction of an insurance policy, spoilage of goods in transit, proper disclosure of risks by the insured, and intervening events not covered by the policy, don't agree on a tax specialist whose closest contact with insurance law and practice is the yearly renewal of his or her professional indemnity insurance.

### Impartiality

Mediators must not only be impartial, they must at all times give that appearance. This reflects the legal maxim, justice must not only be done, it must be seen to be done. If a mediator is suspected of favouring one side — whether this suspicion is right or wrong doesn't matter — the mediation will almost certainly fail.

### Empathy

The ability to enter mentally and emotionally into the mind and spirit of another, is not high on the list of attributes for a successful practice at the bar: but it is to a mediator. The mediator must make disputants feel he or she is sincerely concerned with their problems, and can put him- or herself in their shoes. The mediator must empathise by word, look, gesture, and the way he or she listens.

### Judgment

Judgment is wisdom in action. The mediator must be able to judge the pace and momentum of events, the readiness of parties to move ahead, how to break impasses, how to get parties to look to their interests and quarantine their emotions. He or she must constantly assess the people around the table — as a professional poker player assesses his or her opponents: who is ready to raise the stakes, who is bluffing, who is ready to fold?

### Guidance

This is a controversial issue. How much active guidance a mediator gives may depend on the wishes of the parties who may want his or her opinion on issues. It is also very much a matter of personal judgment. One way to guide parties is to reality test. If there is a factual or legal hole in one side's

position, ask how they get over it. If the probabilities are against one side, test their arguments. Some would think this too interventionist. My own view is that if a party is labouring under a false opinion of the merits of their case, the mediator should not sit quietly on the sidelines.

### Patience and endurance

Mediations can be physically and emotionally wearing. After a long day (which has not yet ended) participants can be tired, irascible, confused, and ready to quit. The mediator must carry them. To quote the entire speech once given by Winston Churchill to boys at Harrow, his old school: 'Never, never, never give up.' ●

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### Endnotes

1. Jacques Juillard, *Que Sont Les Grands Hommes Devenus*, 2004, Saint-Simon, p 8.
2. For a good analysis of these two styles, and a mid-point between them,

see, Robert Mnookin, and others, *Beyond Winning*, 2000 Belknap Harvard Press, pp 51 and following.

3. Fisher and Ury, *Getting to Yes*, 1981, Penguin.
4. Above note 3, p 42.
5. Quoted in Goldberg, Sander, Rogers, *Dispute Resolution*, 1999, Aspen Law and Business, p 48.
6. Above note 5, p 8.
7. Above note 5, p 31.
8. Above note 2, pp 55–58.
9. Above note 2, p 23.
10. An insightful analysis on how this was done in a real estate negotiation is given in Goldberg, Sander, Rogers above note 5 at p 26 and following.
11. An excellent example of a probability assessment graph is given in Goldberg, Sander, Rogers above note 5 at p 29.
12. For an entertaining analysis of the value and force of first impressions see Malcolm Gladwell, *Blink: The Power of Thinking Without Thinking*, 2005, Penguin.
13. For an intriguing analysis of disclosure of bottom line positions in mediations see Peter Contuzzi's article in *Dispute Resolution Magazine*, Spring 2000 pp 30 and following.
14. For a discussion of this mediation see above note 5.
15. For a detailed discussion, see *Global Trends in Mediation*, 2003, Mediation-Praxis, edited by Nadja Alexander.

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- The **BUDRC** will also be conducting an independent **Basic Mediation Course** (30 November–3 December on the Gold Coast). The basic courses also have a Foundation Family Mediation stream, run in conjunction with the Australian Institute of Family Law Arbitrators and Mediators. For further information email <[drc@bond.edu.au](mailto:drc@bond.edu.au)> or visit <[www.bond.edu.au/law/centres](http://www.bond.edu.au/law/centres)>.
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- **The Trillium Group** is conducting four-day **Negotiation and Mediation Workshops** in Sydney from 17–20 September and in Melbourne from 24–27 October. For further information visit <[www.thetrilliumgroup.com.au](http://www.thetrilliumgroup.com.au)> or phone (02) 9036 0333 or 1800 636869 toll free.
- **The Australian Centre for Peace and Conflict Studies** is holding **Mediation Courses** in Brisbane from 5–8 October and 23–26 November and an **Advanced Mediation Course** in Brisbane from 20–21 October. For more information on courses and to register, visit <[www.uq.edu.au/acpacs](http://www.uq.edu.au/acpacs)> or call (07) 3346 8742.
- **La Trobe University Law and Management Faculty** in conjunction with the **Law Institute of Victoria** is holding professional development workshops. A **Conflict Resolution in Education** workshop will be held from 26–29 September; an **Advanced Communication Skills** workshop will be held from 11–14 October and an **Inter-cultural Dispute Resolution** workshop will be held from 15–18 November. All courses may be taken as a four-day program or a one-day workshop. For more information contact (03) 9285 5201 or visit <[www.latrobe.edu.au/law/cr/workshops.html](http://www.latrobe.edu.au/law/cr/workshops.html)>.
- The **Law Institute of Victoria** is holding a **Negotiation Skills — Dirty Tricks and Tactics** workshop in the evening on 21 September. The course considers strategies used in negotiations that can provoke reactive rather than proactive approaches. For more information and to register, visit <[www.cpd.liv.asn.au/categories.asp?cID=43](http://www.cpd.liv.asn.au/categories.asp?cID=43)>.
- The **Australian Institute for Relationship Studies** (professional training division of Relationships Australia) is offering the **Graduate Certificate in Mediation**, commencing October 2006 and February 2007. This course is suitable for legal practitioners who want to specialise in family or workplace dispute resolution. For more information, call (02) 9806 3288 or visit <[www.relationships.com.au](http://www.relationships.com.au)>.
- The **International Academy of Mediators** is holding a three-day conference **Home on the Mediation Range — Master Mediator Magic** from 9–11 November 2006 in San Antonio. Early bird registration closes before 13 October. For more information and to register, visit <[www.iamed.org/](http://www.iamed.org/)>.

**PUBLISHER:** Oliver Freeman **PUBLISHING EDITOR:** Carolyn Schmidt **PRODUCTION:** Kylie Gillon **SUBSCRIPTIONS:** \$495.00 per year including GST, handling and postage within Australia **FREQUENCY:** 10 issues per annum including storage binder **SYDNEY OFFICE:** 8 Ridge Street North Sydney NSW 2060 Australia **TELEPHONE:** (02) 9929 2488 **FACSIMILE:** (02) 9929 2499 [adr@richmondventures.com.au](mailto:adr@richmondventures.com.au)

ISSN 1440-4540 Print Cite as (2006) 9(1) ADR

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