

The Mediation Agency

Professional Mediation Services & Training

Mediation Training Syllabus

40-60 Hour Course



**The Mediation Agency
Training Programme**

2010

The Mediation Agency

Professional Mediation Services & Training

Overview of The Mediation Agency's Mediation Training Course

Introduction

Teaching Style

The essence of great mediation training is born from instructors who have had the benefit of real-world mediation experience. Due to our combined mediation experience throughout America, with cases ranging from discriminatory issues through the EEOC (Similar to the EOC in the UK) and Justice Departments to Community Programmes, we were afforded a wealth of experience that shows within our training.

Our training is unique in that we pay respect to the individual talents of our students from day one and have specifically designed our curriculum to create an optimum learning experience that appeals to a wide variety of students with a diverse career background and education. It is our belief that all people come built-in with their own unique abilities and people skills, as we say on the first day, "Hands up everyone who has done okay in life so far?" That is our way of acknowledging a student's natural, built-in mediation talent and when those natural skills are combined with great training, a great mediator is created. Our students have told us that the way we "pay respect" to their life-skills is one of the reasons the course makes such a profound impact and makes the skills we teach readily absorbed.

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Training Sessions

The Mediation Agency's Mediation Training course has been described as "life-changing." Obviously any experience described as such can be intense and emotionally draining. Our late afternoon to early evening schedule provides several benefits; the time of 4:00 - 8:30 p.m. is intended to accommodate students who are unable to take off too much time from their work, additionally this time frame presents less of a problem for students with families and finally we believe the reduced daily class time will give students time to absorb and reflect more fully on each day's lessons.

Coursework Materials

Our coursework material are extensive which includes our 170 page manual, various hand-outs to accompany sessions within our course, and a copy of Frank Hanna's book, Conflict Resolution and Mediation in the Real World. The course and manual are designed to make note taking unnecessary as we want our student's full attention during lectures. To facilitate this process, we use a very advanced outline system called MindMapping as a structure for each session, and the daily lesson is displayed on the overhead screen. This allows for following along by students very simple, and enables them to listen completely.

Knowledge Based Instruction

Experienced Trainers

The Mediation Agency training programme is instructed by Dr. Frank Hanna, and Nancy Peterson, who have been teaching people the skills needed to become great mediators for approximately 15 years. As a teaching team we have graduated slightly in excess of 600 mediators. Mediation students have come from all walks of life, levels of education and professional background.

At the conclusion of each teaching programme we ask each student to complete a detailed evaluation of their experience in our class, and the testimonials they provided speak for themselves. [See our student testimonials; <http://www.mediationagency.com/pdf/testimonials.pdf>]

The Mediation Agency

Professional Mediation Services & Training

Overview of The Mediation Agency's Mediation Training Course

Our mediation training programme has evolved into its present form over time and it is constantly improved and added to following each class. We are realistic in our understanding that we are always learning and like to instill in students that this course represents a start to their learning - not the end of it. This is vitally important as we have seen many mediators who believe that having finished a 40 or 60 hour training programme that they know everything. They do not. It is worth telling how this teaching philosophy evolved;

...we have been teaching mediation skills for approximately 10 years and, to date, we have graduated slightly in excess of 600 mediators.

We explain to students that neither the fact that Dr. Hanna was a solicitor, or had attended Harvard and Pepperdine Universities, equipped him as a mediator, it took over 50 actual mediations before he learned how little he knew. And Frank has been learning ever since.

Roger Fisher, the author of "Getting to Yes", teaches at Harvard. He is probably the finest mediator in the world. At the end of his classes he holds up a copy of his book and asks the class if they have read it, and invariably, all have. Usually the class applauds, and he then opens the book and rips it in half and throws it in a waste paper basket saying, "*It's not quite there yet*". It is his metaphor for saying to the students, "*I am not there yet so don't think you are*". Roger is in his 80s. This is an important realisation for students to grasp. We allay this to our teaching which tells them that the two most important attributes of a mediator are humility and tenacity.

Psychologies Used in Mediation

The role of the mediator is to help people to formulate a lasting resolution within a safe environment and perhaps even to create a more civil relationship for the future. In doing so, understanding the psyche of a human being in conflict helps the mediator to aid the parties to this end. Often people in the heat of conflict make life-changing decisions that may haunt them for the rest of their lives. It is part of the mediator's job to provide a level, unbiased head to help people consider a future based upon decisions made in haste or anger. We take our students through an examination of the psychologies of influence, persuasion and body language. We help students to listen with more than their ears – we teach them to use all their senses to understand what a person in conflict is really saying and to help parties in mediation to find a pathway forward.

Role Plays

The most powerful learning experience for students is role playing. At the beginning of each class we ask for a show of hands "*How many people here have been on a course where there have been role plays?*" Invariably everyone will raise their hand. We follow that with the question, "*How many times were those role plays spoiled by someone who was either too shy or who over acted?*" Invariably the same hands will go up. We mention this because we have developed two specific techniques which ensure that never happens on our course and as a result the role plays become the most profound learning experience. We use role plays that are taken directly from cases which our team members have worked with in their private practices.

Role-plays are deliberately complex with multi-party and multi-issue elements. The reasoning for this is to create an environment where all the participants in the role-play (not just the mediators) get to see how conflict plays out in actual cases. We constantly hear students identify with specific role-plays as being similar to life experiences that they have had. It is common place for the emotions prevalent in mediation to emerge during these role-plays.

Our classes involve powerful opportunities for each individual student to look closely at their own methods of dealing with conflict. We involve them in exercises in consensus building designed to compel them to look at their own biases and prejudices so that they can rationalize the need to set these aside in coming to terms with their understanding of true neutrality.

The Mediation Agency

Professional Mediation Services & Training

Overview of The Mediation Agency's Mediation Training Course

Understanding Neutrality

It is commonplace for students to approach mediation training with a belief that neutrality means even-handedness or fairness. Students are taught to understand that neutrality depends on the perception of the parties with whom you are working, and not necessarily on your own belief of how even-handed you happen to be.

Our classes involve powerful opportunities for each individual student to look closely at their own methods of dealing with conflict.

The mark of a great mediator is one who understands that neutrality requires constant diligence to maintain its integrity within each and every mediation. It is a necessary participle of successful mediation training and is a cornerstone of our programme.

Strategies and Techniques

Mediation Styles – the toolbox of a good mediator

We have included a complete course outline within this document and you will notice that we are painstaking in our approach to ensure that each student understands the different styles and techniques that can be used in mediation. As stated above, we help each student to find the style most commensurate with his or her persona with a view to producing a well rounded and confident mediator. It is our firm belief that students approaching mediation will not be sufficiently aware of the skill sets to fully understand the nature of mediation and the type of mediator

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that they will become.

Our course does not solely impart knowledge of any particular model of mediation as we believe that such would be restrictive and limiting to the future of the mediator.

How Mediators Deal with Lawyers

We teach our students that all parties within a conflict not only have the right to bring their advocate or solicitor to their mediation, but that having legal counsel present is often a great benefit to the success of a mediation. Many mediation training courses sadly do not teach this openly nor pay respect to the value of the presence of lawyers representing parties. We believe this is a mistake as we believe the parties must feel secure in the mediation process and confident that any agreement is in their best interest. Of course, all people who are present within the confines of the mediation must sign the confidentiality agreement – this assures any information learned during the mediation may not be subsequently used in a legal action. (See an example of a confidentiality agreement:

<http://www.mediationagency.com/pdf/confidentiality.pdf>

Understanding Impasse

Our section on methods of breaking impasse reveals many sophisticated techniques in helping people to navigate round the many hurdles the parties often place in their own paths.

Mediation Applications

We think it is important to point out that the skills and techniques of mediation are much more complex than is generally thought, and most people who choose to practice mediation do so within a specialised arena – one where they already have some competence and expertise. Our training programme spans the totality of the mediation experience with applications in; family, workplace, community, corporate, environment, land use and many others.

Professional Standards & Certification

A World-wide Dilemma – Professional Standards and Ethical Issues in Mediation

The concept of certifying people who practice mediation is an ongoing issue throughout the world. Many organisations have stepped up to the plate to position themselves as the “keepers of the gate” to try and ascribe some professionalism to mediation and to protect the public from unskilled practitioners.

Our objective is to train and prepare serious students for the complex skills of mediation.

Be wary of organisations who present themselves as a “certifying body” with control over a practitioner’s rights or ability to practice without their recommendation. Their “certification” will come at a high cost and will offer very little, if anything, in actual value to the practitioner’s business. Instead look for academic qualifications and accredited coursework that will add to a student’s CV and thereby assure any clients of his or her qualifications. (View The Mediation Agency’s Academic Qualification by visiting this link: <http://www.mediationagency.com/faq.html>)

To date, the practice of mediation is unregulated in most jurisdictions which means virtually anyone can set up shop as a mediator with a little training and even less actual experience. Much has been written, and many people and organizations have tackled the issues of what professional standards should be applied to mediators, and what are the resulting ethical issues of mediation in general.

In America it is a constant topic of debate, and indeed, Nancy Peterson, Director of The Mediation Agency and past Director of Education for NY State Dispute Resolution, spent the better part of two years dealing with mediator certification, including training requirements, testing, and continuing education for mediators, all intended to raise the standards of mediation offered in New York State. Nancy brings that level of global understanding to our training, instilling in students the necessity for working with high professional standards and adopting strong ethical guidelines for the practice of mediation.

Mediator Professionalism

In our course we talk at great length about “paying respect” to mediation and to the people who choose to use it instead of the more adversarial choices for the resolution of conflict. It is important to keep students aware of the importance of their role as mediator, and the serious impact of that position upon the parties. No matter how trivial or simple the issues may appear to an outsider, *each and every mediation* should be approached with respect and professionalism.

During this section of the class we say, *“You must assume that on a scale of one to ten in stress levels, that the parties are hovering around the 10 mark – and that one of the reasons for their anxiety is that this may be the most important day in their life.”* We need to make students aware that even though it is our neutrality that makes us able to act as a mediator, we are only able to do so because we are not personally involved in the problem – but that does not excuse us from realising the gravity of the occasion, and indeed empathising with and acknowledging the parties feelings and stress levels. We want our students to know that mediators have respect at the onset of mediation – and it is theirs to lose if they behave unprofessionally or callously.

Keeping a Mediators Neutrality Intact

We also deal with the challenges often presented to mediators in keeping their personal bias and prejudgment out of the mediation. We teach students to be prepared, if necessary, to recuse themselves if unable deal with their own personal feelings about an issue or a party. It is an insidious danger that often sneaks up on mediators during mediations and making students aware of this is a crucial part of their training. Many of our role-plays are used to test a student’s perception of sex, race, religion and other similar issues to make them aware that everyone comes built-in with some bias and good mediators need to form methods to overcome those inclinations.

Joining Mediation Organisations

Towards the end of the course, we discuss the various options of joining alternative dispute resolution organizations. Joining a professional organization is a method to subscribe formally to a code of conduct and ethical boundaries for mediators. This allows a mediator to, by association, publically state his or her subscription to a formally established set of standards of ethics and practice.

Advanced Role-Plays and Competency Assessments

Real-world Role Plays

We have commented earlier in this document on the nature of role-plays and the quality of the role-plays used in our training program.

Many of our role-plays are used to test a student's perception of sex, race, religion...

Each role-play is complex with many different issues and different parties involved. They are designed to highlight that which was learned in the previous session so that there is a direct connection between the academic and practical aspects of our training. As stated above all of the role-plays are real and are actual cases in which either one or other of our instructors has been involved.

Co Mediation Experience in Role-Play

Our course also includes an understanding of and practice with co-mediation and both are instructors have very considerable experience in this and all over forms and styles of mediation. During the course each student will have the opportunity of mediating on a minimum of three occasions.

Competency Assessment

On the conclusion of the course we will be in a position to give an accurate assessment of each mediator's capability and provide of advice for ongoing study, practice and experience.

Post Course Mentoring

It is worth pointing out, at this point, that we take our responsibility as instructors extremely seriously. Our objective is to train and prepare serious students for the complex skills of mediation. Many students take readily to the experience while others need more encouragement with their self confidence and belief. We remain in contact with our students for as long as it takes to get them to the point where they can do justice to the skills they have acquired.

We are always available by telephone or e-mail to deal with questions and we encourage students to meet together on a regular basis to practice with new role-plays. We will happily provide many sample role-plays for their ongoing study.

We are also happy to provide online real time coaching long after the class has ended. This is something we have done for previous students in the past. The purpose of this is to re-emphasize the need for students to understand that acquiring mediation skills is not something that ends at the conclusion of the course but rather is an ongoing experience.

Outline of Manual (Coursework Materials)

Below you will find the table of contents from our October 2007 course held on the Isle of Man. Within it you will see the headings of topics we cover during our course.

Introductions and Course Overview

Informality rules and questions are allowed at any time

The Workplace Experience

1. Types of cases where workplace mediation can be helpful:

- Suspected discrimination
- Disputes about terms and conditions
- Harassment problems
- Perceived unfairness by a supervisor
- Insubordination
- Team building
- Interpersonal issues that impact the productivity of staff
- Issues of policy
- Issues relating to perceived abuses of policy, e.g. excessive sick leave, poor time keeping
- Communication problems

What should I expect from the course?

- A clear understanding of the principles of mediation
- An understanding and experience of "real world" mediation
- A brand new toolbox
- An ability to make a difference in the home, school, workplace or community
- An ability to use new skills in day-to-day situations
- An awareness of connecting solutions with relationships
- An understanding of conflict and an appreciation of its subtleties
- That we will help you to gain a clear understanding of yourself
- My own experience
- To discover that you already are a mediator
- How to acquire the skills but remain yourself

The use of "silly breaks" – a tension relieving break that also has a learning component

What Is Mediation And How Did It Evolve?

The range of dispute resolution options:

- Litigation
- Arbitration
- Mediation
- The hybrids

The Orange and the Two Sisters – a good story from Harvard that explains mediation conceptually very well

Group discussion: Why a mediator would have easily resolved that dispute

Types of mediation:

- Facilitative
- Evaluative
- Transformative

- Discussion on the differences

Are there cases for which mediation is not appropriate?

Understanding Perception

Is there a way to identify if misperception exists?

Simple Addition

Their Bark Was Worse Than Their Bite

Positions And Interests: What's The Difference?

- Understanding positions
- Understanding interests

Ask questions that get to the interests, like:

- What's most important to you?
- What bothers you about this?
- This seems to affect you deeply; can you help me to understand why?
- What is your particular problem with all of this?
- It's important for me to understand all of this, so would you please tell me your view of it?
- Or even: What's really going on here?

Consensus Building

- A class exercise in consensus building
- Class discussion

A Mediator's Responsibility

The importance of confidentiality and the agreement to mediate

Workplace mediation and confidentiality

The truth: How important is it?

Should a mediator "get to the bottom" of a dispute?

Understand the power of "Yes, but..."

- Point it out
- Explain it
- It helps to focus parties

The Opening Statement

- The greeting
- Introduce yourself
- Express your preference for first names and check if that is acceptable with all parties
- Explain that most cases are resolved but some--a small percentage--will not be
- The mediator's role; I am here to help you reach an agreement. I stress I am:
- Going to try to un-complicate things
- Not trying to find right and wrong
- Not being judgmental
- Not going to favour one side or the other
- What will happen?
- Each side should take a few minutes to outline their case
- Explain the open meeting and caucus options
- Confidentiality
- Explain the process and the agreement
- If there is something that is totally private identify it
- No cell phones, pagers, tape recorders, etc.

The Mediation Agency

Professional Mediation Services & Training

Overview of The Mediation Agency's Mediation Training Course

- There may come the time when I need to ask tough questions. Don't interpret them as bias.
- We are talking about emotional matters. Do your best to properly articulate these.
- Our target is agreement, so keep your eyes on the goal!

The Structure of Mediation

- The welcome
- Introductions
- Seating
- The Opening Statement
- Opening addresses by the parties
- Separate positions & identify interests
- Ask open-ended questions
- Seek areas of common interest
- Deflect personal attacks as being attacks on the problem
- Test and expand the areas of consensus
- Exude optimism
- Constantly restate elements where there is progress and agreement
- Move towards agreement
- Carefully recap every item of agreement
- Write it and recap again
- Complete the agreement
- The finale
- Circulate the agreement
- Congratulate the parties
- Terminate the session
- If working with a co-mediator, take time to exchange valuable feedback

SWOT – a tool to help people in assessing their position of strength

Humour, The Most Effective Tool

The Mediator and What S/he Should Be Thinking

What is a mediator's authority?

- Exude trust
- Formal versus informal
- Informal is preferable; less strained
- Sometimes the relationship between the parties is already formal (e.g., an employer and employee). Always sound out the most comfortable option.

Seating arrangements

- Is this important?
- Neutralize perceived power imbalance
- Make the parties feel involved in a way a courtroom cannot
- Tables have corners. Use them

Am I really a judge?

- You are never a judge. Ensure that everyone knows you are neutral.

Avoid pomposity at all cost

When the opening merges into the first joint session

A mediator has 2 ear's and 1 mouth: Use them in proportion!

Class discussion on mediator's role, seating and tactics

The Mediation Agency

Professional Mediation Services & Training

Overview of The Mediation Agency's Mediation Training Course

Body Language

- Four types
 - RESPONSIVE
 - REFLECTIVE
 - FUGITIVE
 - COMBATIVE

Congruency

When do we start working?

Body language can always cancel words but never vice versa

- Be careful not to use time restricting words like "only"
- I only have a few minutes"
- "I can only talk for 30 minutes"
- Remember intonation of the voice is part of your body language and NOT part of the spoken words

How to react to someone who has "shut down"

- If necessary, confront it
- Be jovial to help them loosen up
- Use a caucus, if necessary, to help you understand their problem
- Check if they have pre-conceived views
- Make them move
- Tell them that you understand anger
- Help them to understand their anger is at the problem and not you

What About Co-mediation?

- Class discussion on co-mediation
- How should co-mediators prepare?
- Should they agree a subdivision of the mediation ahead of time?
- Should they decide that one is the "leader?"
- Should someone be in charge?
- Who decides who the lead mediator is?
- Who goes first?
- Should they have pre-arranged signals?
- What happens if the co-mediator hogs the show?
- Should they split the caucuses so that a mediator is speaking to each party at the same time?
- How do we ensure that two mediators don't confuse the parties?
- How do you know what your co-mediator might do?
- Should mediators ever split up?

Listening

- Let's talk about listening
- You must want to do it
- Concentration
- Listen with your eyes
- It is an action, not a reaction
- Give the party your absolute attention.
- Don't finish their sentences.
- Don't jump to conclusions.

The Mediation Agency

Professional Mediation Services & Training

Overview of The Mediation Agency's Mediation Training Course

- Use minimal encouragers
- Mirroring and parroting
- The main faults of bad listeners
- Failing to concentrate or losing concentration.
- Jumping to conclusions
- Not actively thinking
- Are we social snobs?
- You know you aren't listening and hearing if you...
- Are waiting for a suitable opening to enable you to say what you want
- Are thinking about the next question to ask
- Already know the information
- Are thinking that the person isn't expressing him- or herself very well
- Are trying to write down everything the speaker is trying to say
- Are waiting to talk about yourself
- Are thinking of a great piece of advice to pass on
- Are thinking about tonight's dinner
- Are worrying whether you remembered to put money in the parking meter

The Caucus

- Why split up? So you can...
 - Gather information
 - Elicit sensitive facts
 - Identify interests
 - Begin seeking options
 - When do you do it?

The mediator's role summarized

Start with interests important to that party

Ask open-ended questions

Show empathy

Always translate and clarify

Constantly refresh: *"Let's be sure I understand what you want to happen"*

Confidentiality within a caucus

Understand the need to "test drive" solutions

- Get them to believe it's their idea!
- Use hypotheses
- Try to get several solutions
- Ask them what they feel a good solution would be
- Don't try to enforce your idea
- It occurs to me, have you thought about XYZ with the other party?
- Watch the answer-- it will tell you a lot
- If it is not an absolute rejection then try it on the other party
- Try not to act as if you are claiming the solution
- If it doesn't work it will be perceived as your fault
- Even though a solution seems close do not stop listening

Other techniques for test driving, try these styles:

The Mediation Agency

Professional Mediation Services & Training

Overview of The Mediation Agency's Mediation Training Course

- "I haven't spoken to the other side so I don't know what they will say. Let's say they suggested something like...what way would you react?"
- "May I be the devil's advocate here...What if..."
- "You strike me as the sort of person who might just favor...am I reading you correctly?"
- Constantly direct the parties to their interests then to possible solutions and then painstakingly, to agreement

Question Asking Techniques

- Open-ended questions
- Most questions are open-ended
 - Open-ended questions...
 - Don't suggest an answer
 - Won't leave the party feeling as though they have been steered towards an answer
 - Won't impose the mediator's views on the discussion
 - Provide an opportunity for the party to be expansive
 - Help to focus the party
 - **Examples:**
 - Closed-ended questions
 - Are the exact opposite to the above
 - Are designed to elicit a yes or no answer
 - Example: Do you have a good relationship with Mr. Smith?
 - Are designed to focus a party on a specific point. Consider this sequence:
 - The party starts to ramble...
 - Closed-ended question: Would you say your employer has treated you badly?
 - he answer to that focuses the party to a yes or no answer...then asks an open-ended question: Maybe you could tell me about that?
 - Thus, you have controlled the moment
 - Can also divert a rambling party back on track

Mistakes in questioning

- Don't cross the line between presenting possibilities and suggesting or controlling
- Tone of voice can cause as much damage as anything else
- (e.g., "I don't think so")
- Stop yourself from saying things like:
 - "You're not making any sense!"
 - "Do you expect anyone to really believe that?"
 - "What were you thinking?"
 - "I want to know why you did that!"
- What if I can't think of a decent question to ask?

Reframing

- What exactly is reframing?
- A reframing "silly break"
- Some samples:
 - Hey! I See The Solution!
 - Encouraging because...

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Professional Mediation Services & Training

Overview of The Mediation Agency's Mediation Training Course

- Dangerous because...
- So the lesson is...
- Remember...

The Three Brothers: A story with a twist

Breaking Impasse

What goes on in conflict?

- The passage of time
 - The ten year old and the stolen car
 - And then the wedding day

Reciprocal affection

Be sure you understand the interests of each individual party

Consider role reversal

Create value expand the scenario

Understanding the BATNA and WATNA

- These are only relevant to negotiation

The Power of Yes

Silly Break

Re frame to change perceptions

- Considering one party's options ask the other. "Why not?"
- Exude optimism
- Be relentless and good natured
- If there are more than 2 parties, focus on the most agreeable ones
- Use timeouts as often as needed
- Take a break
- Give the parties homework
- Sometimes agreement is not possible, if so...
- Identify the obstacles to a meaningful agreement
- Narrow the dividing issues
- Try to secure a partial agreement
- Explore other processes

The Verbal Sleight of Hand

- To summarize
- Class discussion on these and other ideas for breaking impasse

How to React to Strong Emotions

- Anger
 - Step to their side
 - Agree as much as you can
 - It's difficult to argue with someone who is agreeing with you
 - Show concern and ask if they are OK
- Tears
 - Go with it. If s/he is able to carry on then, as we have learned, it can actually be productive to allow the other side to see the depth of hurt.
 - Try saying nothing: Pregnant pauses are very often more loquacious than babbled words.

The Mediation Agency

Professional Mediation Services & Training

Overview of The Mediation Agency's Mediation Training Course

- Suggest that s/he might feel like taking a time out if s/he is becoming overwhelmed or embarrassed by their show of emotion
- Take a caucus if you aren't already in one
- If the object of his/her upset is someone who is in the room, assess the pros and cons of splitting them up
- Avoid, like the plague, the temptation to patronize. If you are beginning to sound like you are talking to a child you have gone too far!
- Don't lose your patience. Phrases like, "Come on now, grow up!" are guaranteed to ruin everything!
- The "Take it or Leave it" syndrome
 - Where unreasonableness becomes "a matter of principle"
- The silent treatment
 - If lack of cooperation persists you may have to terminate the mediation--but don't do it peremptorily

Negotiation: Should I Get Involved?

- The upside
- I see an opportunity for agreement
- The downside
- I may begin to appear partisan
- The reality
- Understand the difference between empathy and sympathy
- Summary of negotiation techniques
- Three party negotiation
- Points for discussion
- What techniques were used?
- What attitudes were displayed?
- Did someone's attitude affect the way you behaved?
- Did you want to bring them to their knees or to their senses?
- Did you miss a better deal by being too greedy or not sufficiently assertive?
- If you had it to do again, would you secure a better deal for your company? This is, fundamentally, the most beneficial question to focus on.
- Things A Mediator Can Add To Negotiations

Open communication

- Help parties to understand the interests
- Help generate creative solutions
- Help discover mutually acceptable standards
- Bring closure
- Help attain ratification
- Help to coordinate large numbers of parties

Negotiations

- Remember the negotiation exercise
- Usually, the teams that stayed most silent got the best results
- The teams that opened often moved backwards
- In mediation you will be in the middle of such negotiations
- Preserve your neutrality
- If you appear to be easy, then people will take advantage

The Mediation Agency

Professional Mediation Services & Training

Overview of The Mediation Agency's Mediation Training Course

- Treat angry responses as a challenge
- Try to agree as much as you can. It's hard to be angry with someone who is agreeing with you.
- Don't bring them to their knees, bring them to their senses

Understanding the Power of Influence

- Reciprocation
- Scarcity
- Authority
- Consistency
- Consensus or Social proof
- Liking

The Role of the Apology

- Apologies loom large in mediations
- Beware of "I demand an apology": It is both a position and an interest
- Be wary of the need for a written apology, they are hard to get
- Reference can be made to an apology in an agreement. That usually suffices.
- Perspectives on apology and regret

There Comes a Time to Quit...*sometimes!*

One party indicates by his or her behaviour that s/he cannot participate fairly if s/he:

- Is threatening in demeanour
- Keeps revisiting points that have already been agreed
- Sits in sullen silence
- Refuses to understand reasonable explanations
- Becomes abusive or even potentially violent
- Makes it clear that they are using the process as a fact-finding exercise for future litigation
- One party is using the mediation to suppress information relating to other cases
- The proposed agreement is illegal or prejudicial to people not represented in the mediation
- Try to salvage something from the process. Look for some progress that has been made.

Final Joint Session

- Clarify the agreement, go through it line by line
- Acknowledge that there is no agreement, if appropriate
- State partial agreement and clarify the outstanding issues in depth
- Discuss with the parties whether an adjournment of the mediation is a good idea

How Do I Handle Lawyers During Mediations?

- Be wary of an imbalance of power
- The dispute belongs to the parties
- Techniques for respectfully sidelining lawyers
- Remember, he or she is an adviser to one of the parties
- How to benefit from the presence of lawyers
- Class discussion on the different approaches to take

The Agreement

- Background
- Is it Resolution or Agreement?
- What exactly is an agreement?
- Are they legally binding?

- Are Agreements in Mediation any different?
- What do we mean by "expanding the Agreement?"
- Reciprocal agreements
- Pay respect to mediation
- Sample clauses
- Agreement for discussion

A workplace problem

- The Role of The Mediator as a Facilitator
- Ethical Considerations And Guidance
- Professional indemnity insurance

Membership of professional bodies

- ACR
- Mediators Institute of Ireland (MII)

Know your limitations

Appendices

Recommended Reading

- Getting to Yes
- Getting Past No
- Settling Disputes
- The Gentle Art of Verbal Self Defence at Work
- Dispute Resolution
- Getting Disputes Resolved
- Beyond Reason : Using Emotions as You Negotiate
- The Psychology of Persuasion: How to Persuade Others to Your Way of Thinking

Instructor's Curriculum Vitae



Frank Hanna, D. Med.

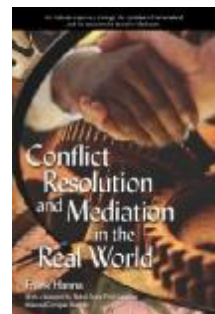
Professional Career Overview

Frank Hanna brings a substantial level of experience to the world of Conflict Resolution. He has been one of Ireland's most prominent lawyers for over 30 years specialising in personal injury law, commercial law, employment law and property related law. From the early 1980s and through the 1990s, Frank was the senior partner of Francis Hanna and Company, a leading law firm in Belfast, Northern Ireland. His academic study of conflict resolution was at Harvard Law School and Pepperdine University, Malibu in California.

Frank has also been a member of the Chartered Institute of Journalists since 1969 and has written and broadcast on a wide range of topics since then. He was one of the founders of the Association of Personal Injury Lawyers (APIL) and served on its Board from its inception until 1999 when he resigned to follow his career in the USA. His expertise in computer technology led to the incorporation of Merge Management Limited, a company specialising in the design and development of computer software for law firms. The Royal Bank of Scotland and the Scottish Law Society recognised his efforts in 1996 when his designs won the prestigious Legal office Innovation award. He has mediated some complex issues in this area.

He has served on the Board of numerous different companies, including The Ulster Symphony Orchestra and Maydown Precision Engineering; he is a past President of the Arizona Dispute Resolution Association and has served as a council member and director for the Mediators Institute of Ireland (MII). He co-founded The Mediation Agency <http://www.mediationagency.com> to develop and expand a mediation-teaching programme throughout the United States and Europe.

Frank's reputation as a world-class mediator has been well deserved having been involved in many high profile cases both in the US and Europe. He was a contract mediator for the Equal Employment Opportunity Commission for six years. In 2004 Frank's first book, *Conflict Resolution and Mediation in the Real World*, was published. It was well received by academics within the field of conflict resolution and mediation. It is thought to be the first book of its kind to be written from an autobiographical standpoint. Read an excerpt from Frank's book by visiting the link below; <http://www.mediationagency.com/pdf/chapter%202.pdf>



The Mediation Agency

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Overview of The Mediation Agency's Mediation Training Course

Qualifications

- Solicitor of the Supreme Court of Justice in Northern Ireland (retired)
- Doctor of Mediation (D.Med)

Education

- *University College Dublin,*
- *Incorporated Law Society of Ireland*
- *Queens University Belfast*
- *The Law Society of Northern Ireland*
- *Institute for Professional Legal Studies*
- *Harvard Law School*
- *Pepperdine University*



*Frank lecturing at Arizona State University
before law graduate students*

Mediation Experience

Frank Hanna has mediated over 2000 cases at the highest level in the United States, and globally. He was hired by the US Government as a contract mediator for six years as well as having a vibrant private practice throughout the USA and Europe. He has mediated cases that fall under the description of commercial, workplace, family, environmental, community, personal injury, discrimination and others.

Career Path and History

Frank Hanna was a practicing solicitor for over 30 years in Belfast N Ireland. He developed a passion for mediation some 20 years ago when his firm led the way in a substantial class action suit for people suffering from noise induced deafness throughout industry in the UK and Ireland. As a result some 28,000 Industrial Deafness cases were processed. Frank pursued his professional training in mediation at Harvard Law School and more recently in Pepperdine University in California.

From 1999 to 2005 Frank was one of only three independent mediators in Arizona and Utah under contract to the Equal Employment Opportunities Commission (EEOC), and has mediated hundreds of high profile workplace discrimination cases.

In 2003 Frank was the President of the Arizona Dispute Resolution Association (ADRA) in Arizona. In his capacity as President of ADRA, he introduced two major initiatives to Arizona; a programme that brought peer mediation to schools and a state-wide community mediation programme - both of which remain in operation today. Continuing his passion for raising the standards of mediation world-wide, Frank was a council member and director for the Mediators Institute of Ireland (MII) from 2005 until 2007. Frank's remarkable teaching skill and innovative training style has been a source of inspiration for many students of mediation. In the USA The Mediation Agency's training programme, is fully accredited through the Graduate Theological Foundation of Indiana as an advanced credit towards a Masters (M.Med.) or Doctorate Degree (D.Med.) in mediation, and with Cloverdale College, it is accredited towards a Bachelors Degree in Mediation (B.Med.) The Mediation Agency is also a mediation training facility for SICA®-FICA®, a European Union based charitable foundation based in The Hague and dedicated to advancing the principles of fairness, equality, impartiality, independence

The Mediation Agency

Professional Mediation Services & Training

Overview of The Mediation Agency's Mediation Training Course

and other rules of Natural Justice as well as raising the standards and quality of Dispute Resolution and Governance throughout the world. [See <http://www.sica-fica.org/>]

Recent Teaching History

- Douglas, Isle of Man (60-hour Mediation Training)
- New York, New York (NYU seminar for professional mediators)
- 40-hour Mediation Training for;
 - City of Phoenix
 - Phoenix Police Department
 - City of Mesa, City of Chandler
 - Mesa Police Department
 - Town of Gilbert
 - City of Avondale
 - Equal Employment Opportunities Commission
 - The South Eastern Valley Neighbourhood Leadership Centre (an amalgam of the Cities of Mesa, Chandler and Gilbert)
 - The Leadership Centre
 - Office of the Attorney General
 - Arizona Affirmative Action Association
 - Maricopa Association of Governments
 - The National Conference for Community and Justice
- Guest lecturer at Arizona State University for Law Graduate Students
- And many other in-house programmes held for companies



Nancy Peterson, M. Med.

Mediation Career Overview

With a career that has been hallmarked by an interest in helping people, Nancy has a substantial background in mediation, as a mediation trainer and related coursework writer, workplace conflict counselor and bespoke programme designer. Along with partner, Frank Hanna, D.Med, Nancy co-founded The Mediation Agency in 1998. Since its inception, it has become one of the most successful mediation and conflict maintenance service providers in the USA and the UK. Additionally Nancy is a journalist, a web site designer and created and maintains The Mediation Agency web site; <http://www.mediationagency.com>

Within the field of mediation, Nancy has worked with the USA Justice Department as a part of their Mediation Programme, as a mediator for the Attorney General's office, and for the Probation Court Mediation Programme in Maricopa County, Arizona. From 2000 until 2002, Nancy used her mediation experience as a volunteer group counselor in the substance abuse programme for Salvation Army and found the experience to be rewarding as well as enlightening into the power of mediation concepts used in counseling programmes.

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Professional Mediation Services & Training

Overview of The Mediation Agency's Mediation Training Course

In 2004, at the request of students, Nancy created The Mediation Dictionary, an on-line resource of the terminologies and language of mediation; <http://www.mediationdictionary.com>

In 2005, Nancy developed an on-line course of study for Cloverdale College in Indiana. She designed it with a focus to help students understand the basics of mediation and to inspire them to learn more. In 2006 Cloverdale College was officially made the undergraduate school for Graduate Theological Foundation and Nancy was asked to design a bachelor's degree programme for mediation. The Cloverdale College bachelor's degree in mediation (B.Med.) programme was publicly presented in July of 2006. Dr. Hanna and Nancy continue to play a key role in its continuing development and operation. http://www.gtfeducation.org/html/Academics/Cloverdale_College/Degrees/BMed.html

Employment

- **New York State Dispute Resolution Association, Inc. (NYSdra)** [<http://www.nysdra.org>] October 2005 – (No longer active, but still acting in an advisory capacity.)

¹Director of Education and Professional Development

NYSdra operates statewide as an organization representing 62 community mediation centers. As director of education, Nancy was charged with the responsibility and privilege of educating and raising standards throughout New York. Her mission was two-fold; she organized alternative dispute resolution training events for members and trained or spoke professionally on behalf of NYSDRA. Projects included the on-going development of a mediator certification program for New York State, a statewide conference in collaboration with Association for Conflict Resolution Greater New York (ACRGNY) in Autumn of 2006, and a Kodak sponsored regional workplace symposium which was held September 2006 in Buffalo, New York. Additionally Nancy created the NYSDRA sponsorship whitepaper and a syllabus of proposal for sourcing business opportunities with NYSDRA to help develop its revenue streams to support its non profit programmes and operation.



Nancy video teaching an Arizona law office from her New York office

The Mediation Agency

October 1998 – Current

Co-Founder / Director

- The Mediation Agency Co founder / Director 1998 to present
The Mediation Agency was established in 1998 by Frank Hanna and Nancy Peterson to offer professional mediation services. In 2001 those services were expanded to include a 40-hour mediation training programme. The training programme, lead by Frank Hanna, became recognised as one of the best in the USA and was one of only three recognised institutions certified in Mediation Training in Arizona. Since that time, Nancy and Frank have trained over 600 mediators worldwide, and have been instructed by the Cities of Phoenix, Mesa, Town of Gilbert and Chandler in Arizona to train staff and as mediators to resolve conflict within city departments. In 2000 they recognized a growing need for conflict resolution within the workplace and expanded their services to offer a mediation consultancy service to help companies establish in-house adult peer mediation programmes.

¹ Nancy's affiliation with The Mediation Agency continued without interruption during her term of employment with NYSDRA as in doing so posed no direct conflict of interest.

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In 2007, The Mediation Agency moved its base of operation to the UK and expanded their mediation training programme to 60 hours to include emerging conflict psychologists' and new workplace mediation applications.

Education

- Bachelor of Art at Cloverdale College of Indiana – With an emphasis in Mediation (Transcript available upon request)
- Masters Degree in Mediation from Graduate Theological Foundation (M.Med.) (Transcript available upon request)
- Member Chartered Institute of Journalists – London, England
- Arizona National Guard – Advanced Mediation Training (August 1999)
- Arizona Adult Probation Department – Mediation / Facilitation Training (August 2000)
- Certified 60-Hour Mediation Training – On-going teaching assignments with Dr. Frank Hanna at the Mediation Agency
- Department of the USA Attorney General Mediation Certification (September 1998)
- Salvation Army (ARC) (October of 2000 to 2002) Drug and Alcohol Substance Abuse Internship – Counseling men and women in a substance abuse recovery program at the Salvation Army's Rehabilitation Center in Phoenix Arizona.

