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Mediation Resume for John Morgan – Barrister-at-Law

Mediation issues and my suitability

It is the primary responsibility of a mediator to facilitate agreement between the parties prior to (and instead of) running the legal action. This avoids the expense and uncertainty of litigation. Mediation has been enormously successful in Melbourne as a result.

It is not the job of the Mediator to be more expert in the arguments of each party than the parties themselves. That is the job of their legal representatives to both understand their case and to be able to articulate it.

Having said that, I do call for the key documents and a succinct summary of each that party's case. And I read those papers carefully.

Bearing all of that in mind, I do have qualities, which will assist in that process greatly. Firstly, I have been in practice for 34 years of which 10 years has been at the Victorian Bar. In that time I have seen a great deal. This is assisted because my tax specialty has involved me in largely commercial matters, including a variety of structures and the transactions they entered into. It also involved me understanding the general law on which the tax law sits. Further, this specialty also taught me to diligently read the requisite documents.

Finally I have another quality, which is very valuable for mediation. I am capable of following the tread of various arguments, even when they become complicated.

Prior experience as a Mediator

- I co-mediated a Testators Family Maintenance Claim.
- I co-mediated a claim alleging negligence of a solicitor, who in turn was insured.
- I co-mediated a claim by a liquidator for the return of an alleged preference payment to a creditor of the liquidated company.
- I co-mediated a claim by the owner of brewery for alleged negligence of a contractor who damaged a vat whilst installing it. The contractor was insured.
- I co-mediated a Family Law property settlement where the key issue was the value of private company shares.
- I co-mediated a claim by the Plaintiffs for the first Defendant to account for rents received from a jointly held set of two factories, where the Plaintiffs had joined the two tenants as the second and third Defendants. Having released the second and third Defendants on the first day, the matter resumed for a second day to settle the issue of accounting for rents.

- I co-mediated a Family Law property settlement between two parties to a de facto marriage. The issues included valuing various properties including a large ‘trophy’ home in regional Victoria.
- I co-mediated a claim for payment of an extra amount under a variation to a building contract for the fit out of a retail shop.
- I co-mediated a Family Law property settlement between a husband and a wife prior to any proceedings being issued.
- I co-mediated a Family Law property settlement between two parties to a defacto marriage with children from an earlier marriage.
- I co-mediated a Family Law property law settlement between parties that had been married for a long time, save that the Husband had returned to his home country some years prior.

Qualifications

- I signed the Bar Roll on 29 April 2004 (10 years practice as a Barrister-at-Law).
- I was admitted to Practice as a Legal Practitioner of the Supreme Court of Victoria on 1 May 2000 (34 years practice as a Lawyer and 24 years practice as a Solicitor).
- I practiced as Solicitor in the following firms (in chronological order): as a partner of Phillips Fox (now the international firm of DLA Piper); as a partner of Blake Dawson Waldron (now the international firm of Ashurst); as partner of Freehills (now the international firm of Herbert Smith Freehills).
- I specialised in tax law for the majority of this time before diversifying into mediation also. The tax practice exposed me to a wide variety of legal structures and the transactions they enter into. This requires a high ability to follow all the legal issues.
