

“Mediation is a process in which a neutral third party facilitates the communication and negotiation between disputing parties with a view to them reaching a settlement agreement”

Mediation is becoming increasingly common practice in South Africa. High Court **Rule 41A** “requires parties to consider mediation before proceeding with litigation in the High court. In addition, the Court may require parties to consider mediation and recommend mediation if it deems it appropriate.” In the Magistrates’ Courts, Chapter 2 (70 to 87) amends the rules of Conduct to cater for mediation. This “provides the procedure for the voluntary submission of civil disputes to mediation in selected courts” (72). [John Brand, Felicity Steadman and Chris Todd, *Commercial Mediation: A user’s guide to court-referred and voluntary mediation in South Africa*, Cape Town, Juta and Company, Second Edition, 2016]



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***Alan Kirkaldy
Mediation
Services***



Our Team

Our founder, Professor Emeritus Alan Kirkaldy, has extensive experience in representing unions in negotiations, mediating disputes, handling disciplinary hearings and acting as a neutral chair in facilitating discussions aimed at defusing tense situations. He has dealt with a range of issues such as misuse of power, sexual harassment, workplace tensions, disputes about intellectual property and creative rights, tensions between sports practitioners and within sporting organizations, and even witchcraft accusations.

Alan is a Conflict Dynamics, CEDR and DiSAC Accredited Mediator, International Mediation Institute Qualified and Listed Mediator and a Conflict Dynamics Panel Member

Strato Zacharellis is a Junior Mediator with Alan Kirkaldy Mediation services. Alan and Strato work closely together in all mediation matters covering the full range of services offered by Alan Kirkaldy Mediation Services



Advantages of Mediation

Flexibility and Informality - While the process of mediation is structured, it is flexible. There is the freedom to make changes or adapt decisions made during the mediation process

Quicker - Mediation often only takes a day. Complex lawsuits can take much longer; there are often delays in securing a court date. Mediation allows for a more reasonable timetable for resolving a dispute.

Less Expensive – Mediation is vastly less expensive than a typical lawsuit. In South Africa, parties typically share the cost of mediation.

Preserves Relationships – Mediation can preserve business and personal relationships that may be destroyed through litigation. It is a collaborative rather than an adversarial process.

Better Results – because the settlement is mutually agreed upon parties are generally more satisfied through mediation.

When is Mediation appropriate?

- Maintaining relationships is important.
- The parties want to retain control over the outcome.
- Both sides believe that they have a good case.
- Speed is crucial.
- There are highly-complex technical issues involved.
- Confidentiality is paramount.
- It is in the best interest of both parties to seek a mutually agreed upon solution.

For more information

Please feel free to contact us via phone, email or by visiting our website.

