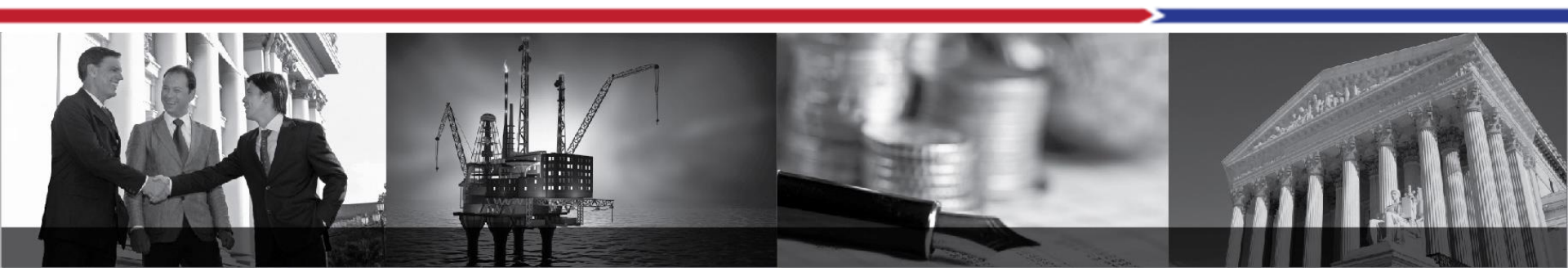




# Mediation Counsel Practice & Ethics: Growing a Mediation Counsel Practice



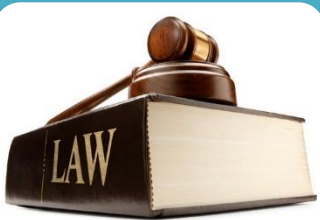
## TIPS ON MONETISING YOUR MEDIATION PRACTICE

**TONY NGUYEN**  
FCI Arb, LLM (hon.),  
CI Arb Accr. Mediator  
VIAC Arbitrator  
VMC Mediator, Dty Director

**Hanoi, 22 September 2020**

# TIPS ON MONETISING YOUR MEDIATION PRACTICE

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**BECOME A PROFESSIONAL COUNSEL**



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## BECOME A PROFESSIONAL COUNSEL

### 1. Common misunderstandings

#### **Counsels usually confuse:**

1. Mediation is not effective, as parties could walk away any time.
2. Mediation is waste of time and money, because if it fails the parties must still go to court/arbitration proceedings
3. Counsels should present all the statements and evidence to submit in mediation to support the Clients' case.
4. Counsels should discourage mediation, because they will lose their fees if clients choose mediation over litigation/arbitration.

### 2. Why Mediation Counsel

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#### Why mediation counsel?

- Mediation counsels work could be more fee productive than litigation as for each mediation session, he will have to be present.
- Mediation counsels stand to earn from their clients more than just focusing on their litigation practice.



### 2. Why Mediation Counsel

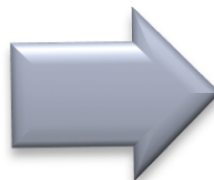
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#### Fee strategy:

- Fees vs. bonus.
- Speed over volume.

#### Mediation

- Lawyer and client determine if mediation is suitable for the case



#### Fees

- Lawyer and client agree on fee budget at the outset of the case
- Bonus for swift resolution
- Penalty for delay

## **2. Why Mediation Counsel**

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### **Fee strategy:**

- Fees vs. bonus.
- Speed over volume.

#### ***Settlement at mediation***

Gross Amount: \$30,000

Attorneys' Fees:  
\$10,000

Costs: \$ 2,000

Subrogated Party: \$

5,000

#### ***Verdict at Trial***

Gross Amount: \$50,000

Attorneys' Fees: \$16,666

Costs: \$10,000

Subrogated Party:  
\$15,000

**Net to Plaintiff: \$ 8,334**

## BECOME A PROFESSIONAL COUNSEL

### 2. Why Mediation Counsel

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- Helps diversify services
- Helps increase business opportunities
- Satisfy his/her self-respect

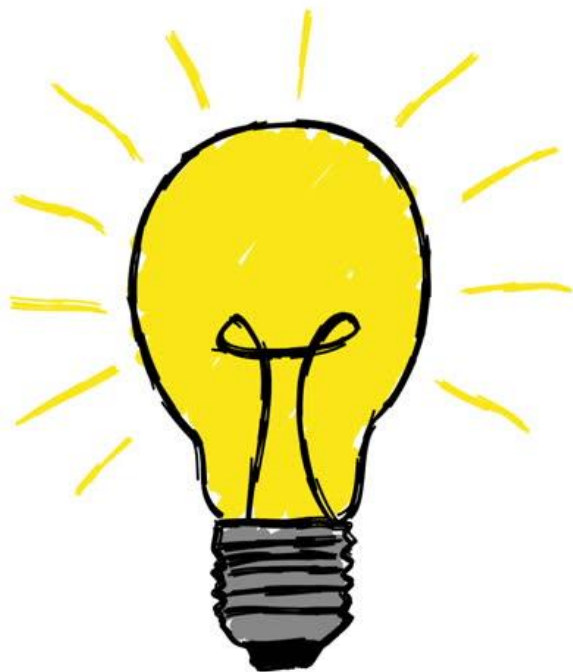
- Successful mediation helps increase counsel's credit
- Mediation helps counsels expand their business
- Mediation add values to counsel's practice



# BECOME A PROFESSIONAL COUNSEL

## 3. Determine an area of speciality

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1. What types of disputes would you be best at resolving?
2. What style of mediation do you prefer?
3. What groups of people do you want to work with?
4. Do you have past experience to draw upon?



# BECOME A PROFESSIONAL COUNSEL

## 3. Refining your knowledge and skills

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Speciality

Communication skills

English

Human Psychology

Information Technology

Presentation

# BECOME A PROFESSIONAL LAWYER

## 3. Refining your knowledge and skills

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***A lawyer who adopts a persuasive rather than adversarial or aggressive approach and acknowledges the concerns of the other side is more likely to contribute to a better result.***



# MARKETING YOUR BUSINESS

## 1. SELL YOUR PRODUCT, SELL YOURSELF

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# MARKETING YOUR BUSINESS

## 1. SELL YOUR PRODUCT, SELL YOURSELF

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***Do not expect Clients to come to you,  
come and get them***  
**1 – 2 – 4 Principle**



# MARKETING YOUR BUSINESS

## 2. INVISIBLE MARKETING

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**Get involved** - Join a professional association and get involved.

- Discuss: join the conversation/seminar/events, especially if it's about your area of practice.
- Publish articles in the association's newsletter.
- Keep a position: Committees, Boards, and Liaison positions.
- Coordinate: training courses for new members, community informational presentations sponsored by the association.



### Writing and Publishing

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**Alternative Dispute Resolution (ADR) In Pakistan: The Role of Lawyers in Mediation Procedure**

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#### ABSTRACT

Alternative Dispute Resolution (ADR) is becoming an important part of the legal systems of every country in the world. Especially the mediation has getting more attraction because of inexpensive, gives access to fast justice and avoids the suffering of litigation. Mediation comprises by courts and may be part of pre-action needed in various jurisdictions. The lawyers can play an important role in this regard and explore the cooperative approaches that lawyers can adopt when representing their clients in mediation. It is also necessary that the lawyers must modify their practice according to the needs of the clients in fluctuating legal environment. This paper will discuss the relevant dispute settlement laws and their development in Pakistan; especially the mediation and the role of lawyers in mediation procedure. It will help the legal actors to find out their role of mediation development and strengthening the alternative dispute resolution system.

**Key words:**  
Dispute Settle  
Mediation, La

Available online: <https://journals.pen2print.org/index.php/ijr/>

#### Firms suggested using mediation to resolve commercial disputes

Oct 26, 2019

Phan Trong Dat, Deputy Secretary General of the Vietnam International Arbitration Centre (VIAC) and Deputy Director of the VMC, said mediation is appropriate for Asian culture since Asians prefer to settle disputes in a peaceful way.

#### Kluwer Arbitration Blog

ARBITRATION. CODE OF ETHICS. IBA GUIDELINES ON CONFLICTS OF INTEREST. PORTUGAL

#### Incorporating IBA Guidelines Into A "Code of Ethics": A Step Too Far?

Duarte Gorjão Henriques (BCH Advogados) / January 31, 2014 / 1 Comment

The Board of Directors of the "ACI Arbitration Centre" (the Arbitration Centre of the "Portuguese Chamber of Commerce and Industry - Lisbon Commercial Association") recently approved a new set of rules for arbitration proceedings administrated under its auspices. Along with the new rules, the Board also approved an "Arbitrator's Code of Ethics". Divided into 9 articles, this Code addresses issues such as the duty of disclosure, impartiality, independence, diligence and confidentiality. It also addresses issues concerning ex-parte communications and the prohibition on soliciting appointments. All these are important principles, but on this occasion I want to draw your attention to the general principle provided for in Art. 1(3): 'This Code of Ethics shall be interpreted and integrated bearing in mind the IBA Guidelines on Conflicts of Interest in International Arbitration.'

Many issues may be raised in respect of the wording of this provision, in particular as to the



Source: VNA)

inflicts not only helps enterprises save time but also in Ho Chi Minh City on August 16. and Industry (VCCI)'s HCM City office, said greater on increasing number of commercial disputes. could consider using mediation and arbitration to e and more businesses around the world. ie the second country in Southeast Asia after



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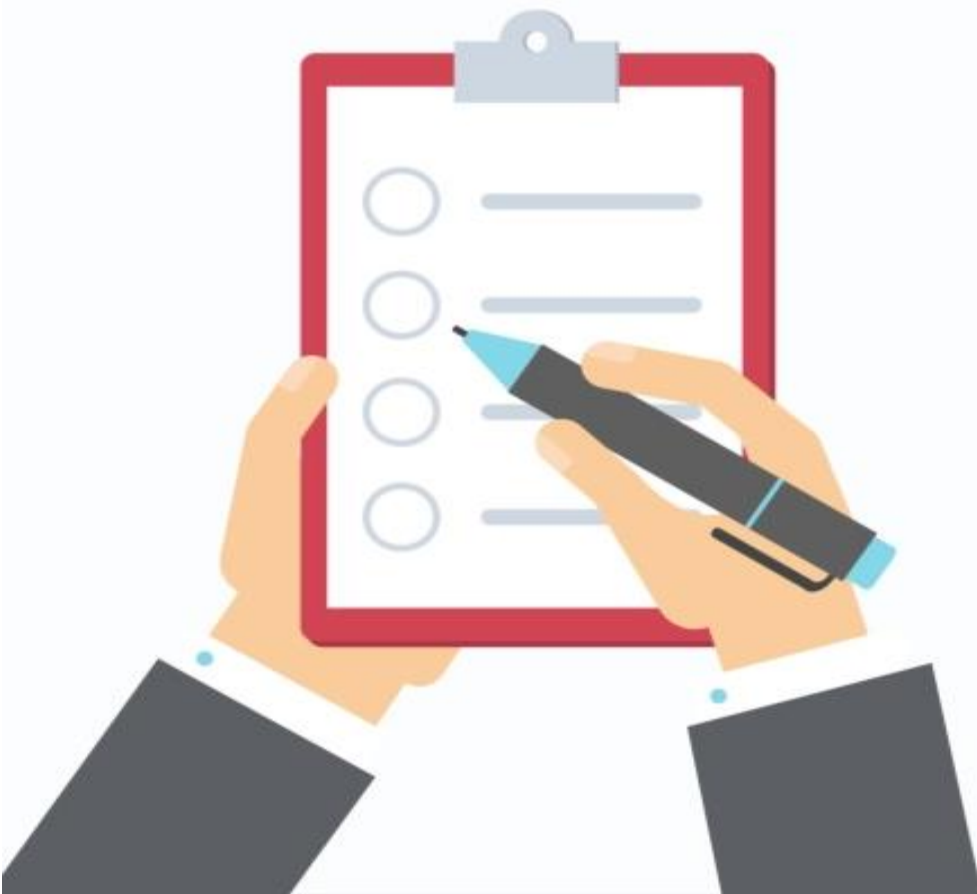
## 2. INVISIBLE MARKETING

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**Share similarities, create connections,  
and close the deal**







### **PRESENCE ON SOCIAL MEDIA CHANNELS:**

- Useful, searchable website's content
- Digital profiles on professional platforms
- Get active on relevant social media platforms
- Hold Webinars
- Create a marketing directory of potential clients/referral sources (*names, phone numbers, and email addresses*)

# EXPAND YOUR BUSINESS

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# EXPAND YOUR BUSINESS

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## Diversify

- Expand offered services
- Train/Mentor staff
- Form a partnership with other mediators/lawyers

## Reduce risk

- Extend lawyer liability insurance

## Revise marketing plan

- Update on new platforms/IT
- Tighten marketing focus
- New target markets

# Questions?

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