

## PROFILES OF TRAINERS & COACHES AVAILABLE FOR THE MiM/MARC COMMERCIAL MEDIATION COURSE



**Jacques Joubert** is an ADR Group (UK) trained and accredited mediator with more than 20 years of conflict resolution experience, which includes practising as an arbitrator and mediator. He is a former member of the Cape Bar and has practised law in Canada. Jacques has trained mediators for the Department of Justice and the Royal Institute of Chartered Surveyors (RICS). He is one of South Africa's most experienced mediators. As an independent mediation analyst he regularly publishes articles on the status and prospects of mediation in South Africa.



**Alan Nelson SC** is a co-founder of Mediation in Motion (MiM). After spending 35 years as a highly successful high court advocate and trial lawyer, Alan resigned from the Cape Bar in 2006 and currently offers his expertise in all facets of civil and commercial law as a CEDR and CD accredited mediator. He serves as an elected member of the ADR Forum of the Western Cape Government. Alan frequently addresses audiences on mediation and has been a part of the UCT Mediation Training Team since its inception.



**Jade Roy** is a law major graduate with a passion for cross border trade and mediation. He is from Mauritius and qualified as an ADR group accredited civil and

commercial mediator in the UK in 2012. Jade's focus is on contract management in cross border transactions, Intellectual Property law, Copyrights and Audiovisual rights. Jade has been involved in Pro-Bono activities at the London Immigration Appeals tribunal and in poverty alleviation and social re-integration projects in Mauritius. Jade believes mediation is essential for business to flourish and for government to improve the quality of service delivery to the poor.



**Daniel Nelson** is a highly trained and experienced Information Technology specialist with international experience. He has played a key role in the development of MiM's innovative process that connects mediators with their prospective clients. Daniel first trained as mediator in 2011 and in 2014 successfully completed the UCT/MiM commercial mediation course. He has since become a member of the UCT/MiM team of trainers and recently lectured final year law students at the University of Cape Town in mediation. Daniel is a co-founder of Mediation in Motion and is passionate about promoting mediation, especially in the IT, business and agricultural sector.

### **OUTLINE OF THE MIM /MARC COURSE:**

MiM Training and the MARC of the Mauritius Chamber of Commerce proudly presents a five day commercial mediation course to lay the groundwork for delegates to become skilled mediators in their preferred areas of practice in Mauritius.

The course is consistent with international best practice for mediation training. To this end it is designed to be interactive with a strong emphasis on role-plays, to offer as many learning opportunities as possible.

Most of the case studies for the role plays emanate from real world of commercial disputes and will be adapted for the Mauritius environment with the assistance of Jade Roy. Jade is from Mauritius and one of the coaches during the course.

The course consists of 10 sessions (two per day) with specific goals to be achieved at various stages in the course.

The final role-playing sessions are filmed to assess the delegates against competencies that are internationally recognised.

#### **Session 1 (Mon 9:00 to 13:00)**

Presentation on commercial mediation, background, practice and theory of mediation. Interactive role-plays demonstrate the core features and stages of commercial mediation.

The specific outcome to be achieved during this session is for the delegates to know and understand:

- Mediation versus arbitration and litigation
- Different styles of mediation
- Definition and essential features of commercial mediation
- Different stages of commercial mediation
- Mediation script: introducing the mediation process to participants
- Dialogue-orientated versus settlement-orientated mediation
- Exploration and classification of interests
- Reality testing and option generation to overcome impasses
- “Don’t judge, explore, listen, negotiate and settle”

**Session 2** (Mon 14h00 – 17h00)

Fish bowl role play for delegates to begin to demonstrate introductions and exploration of the parties’ respective frames of references (interests) during private sessions.

The specific outcome to be achieved during this session is to pave the way for peer review and experiential learning during the remaining sessions of the course.

**Session 3** (Tue 9h00 – 13h00)

Continuation of the fish bowl for delegates to begin to experience the following stages of mediation:

1. Problem solving
2. Option generation
3. Reality Checking
4. Settlement.

**Session 4** (Tue 14h00 to 17h00)

Presentation on the general and cross-cultural communication skills required from mediators.

Active listening to overcome cross-cultural barriers to reach settlement in the context of mediation. Interactive role-plays are used to develop and demonstrate these skills.

The specific outcomes to be achieved during this sessions are to impart the following skills to the delegates:

- Active listening
- Summarising
- Open-ended questions
- Reframing
- The wisdom of compassion in commercial negotiation

**Sessions 5** (Wed 9h00 – 13h00)

Presentation on negotiation styles and strategies and an understanding of key concepts such as the batna or watna of the respective parties.

Presentation on how neuroscience helps negotiators negotiate better deals and what mediators can learn about the many biases that determine how people behave during negotiations and conflict.

The specific outcomes to be achieved from this session is to lay the groundwork for delegates to become better negotiators and to be able to identify the styles and strategies used by participants during mediation.

**Session 6:** (Wed 14h00 - 17:00)

Presentation on the role of mediation to achieve just outcomes.

Viewing and discussion of a role play based on a real world dispute that took 12 years before it was finally resolved on appeal.

Comparing the outcome offered by the court of appeal with the outcomes mediation offers.

The specific outcome to be achieved is an awareness of the potential of mediation against the backdrop of litigation.

**Session 7:** (Thu 9h00 – 13h00)

Presentation on building a commercial mediation practice & professional ethics<sup>1</sup> for mediators.

Thereafter long role-plays commence, followed by coaching, peer review and general feedback of 30 minutes.

All role-play activities on the day are filmed and delegates are given memory cards to view their performances at home to help prepare for Day 5 (final assessment mediation role-plays)

**Session 8:** (Thu 14h00to 17h00)

The long role-plays continue as above.

**Session 9:** ( Fri 9h00 to 13h00)

One-hour (dry run) role-plays followed by coaching, peer review and general feedback of 15 minutes. Each delegate will have the opportunity to play the role of mediator.

**Session 10:** (Fri 14h00 to 16h30)

A final one-hour role-play - filmed for assessment purposes only.

**Written exercises** are also required to demonstrate an understanding of the mediation process and techniques. Delegates are required to write a 1,500-word essay on a topic of their choice about the use of mediation in the industry or field they are involved in. A delegate with experience in insurance claims may for instance choose to write her essay on the insurance industry. We challenge delegates to consider the specificity of their industries or fields.

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Alternatively delegates may prepare a case study (role play) based on their experience of a dispute in your industry or field that could have been successfully mediated. The case study also has to be 1,500 words. It has to demonstrate their understanding of the mediation process.

**The delegates are required to mail their essays or case studies to Jacques Joubert at [jfjoubert@mweb.co.za](mailto:jfjoubert@mweb.co.za) or before a specified date.**