

MEDIATION MEANS SPEEDY JUSTICE



Emil Bihl qualified as a mediator with Conflict Dynamics. Emil brings 20+ years experience in the litigation, corporate, commercial and labour industries to mediation, not to act as an umpire, not to judge, not to advise on an outcome BUT to understand disputes and to guide the parties to work together in achieving a joint resolution to the dispute. Emil works well with the parties' legal representatives, as Emil understands the expectations clients put on legal professionals.

Due to Emil's experience, he is well aware of strategies and prejudices that legal professionals may want to use to exploit and delay mediation processes, and in identifying these strategies and accepting that clients are expecting results from their attorneys, Emil has the ability to deal with such situations respectfully and professionally.

ERASMUS MOTAUNG INC.
attorneys notaries conveyancers



FROM 22 APRIL 2025 MEDIATION IS MANDATORY IN HIGH COURT CASES IN GAUTENG.

The reason for this, is due to the heavy case load with the High Courts in Gauteng.

According to the directive issued by the Office of the Acting Judge President AP Ledwaba, as then was, is that trial dates are being awarded in 2031! [7 years into the future]

Our judiciary recognised that this is unacceptable and intolerable and even unconstitutional as we all have the right to timeous access to justice.

This situation caused for a revision of Court processes. Our Head of Gauteng Divisions Courts states in this directive that the majority of cases on the trial roll are capable of mediation, settlement and/or other dispute resolution means.

Here mediation is imposed as a means to filter the case load between cases warranting judicial attention and cases that are capable of being resolved.

MEDIATION IS COMMON SENSE!

You know that mediation as a means to resolve disputes is really something, when even the judiciary states in its mediation directive, that the process "is common sense". All parties meet as soon as practically possible to work together to resolve the dispute and usually the parties pay their own legal costs and share the mediator costs.

Delays are limited, costs can be managed and the fate of the dispute does not rest on the outcome of an official, but rests with all the concerned parties.

Mediation is always without prejudice, which means, that your rights to pursue your matter always remains if mediation is unsuccessful. If mediation was unsuccessful, then almost always, the issues in disputes are either limited as it was canvassed in mediation or the issues in disputes are crystalized.

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AI DISPUTE RESOLUTION VS MEDIATION

An objection to mediation, can very well be, that the parties consent to a decision of AI.
[Artificial Intelligence]

NO courts, no human intervention. Just the facts. Certainly you will get an answer to the dispute and certainly, one party will feel aggrieved and the other a winner. This is not the type of settlement that mediators work for. As I had to learn when qualifying for mediation, that the mediation of a dispute, is more than the facts and the law, which AI can certainly assist you with.

BUT for a resolution of a dispute, wherein all the parties participate in the outcome and resolution of such a dispute, the mediator needs to work to understand each party's interest in this matter and it always stretches more than what we deal with in litigation.

It's about feelings, interests, needs and identity...and all the stuff that our hardened litigates feel are fluff!

In reality and to succeed in a settlement wherein all parties participated, its usually in the "fluff", as we want to deem it, that parties' interests are explored and addressed.

This is why it is important to seek the services of professional mediators that take the parties to explore those areas, often to great frustration of the attorneys representing their clients but the success is considering these aspects, cannot be denied.



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