

LET'S

Mediate

DECEMBER 2025 ISSUE #18

MIMM AND THE
GAUTENG HIGH COURT
MEDIATION DIRECTIVE

IS MEDIATION WORTHWHILE IN MEDICAL
NEGLIGENCE CASES ?

TO TESTIFY OR NOT?
THE SUBPOENA DILEMMA

*Exciting
News*

NEW – MIMM CPD POINTS





FROM THE EDITOR

“Opportunities multiply as they are seized.” — Sun Tzu

Dear MiMM Members,

As we step into this next chapter together, we’re reminded that strength lies in unity and in the courage to embrace opportunity. The momentum we’re experiencing in the mediation space is proof that collaboration, commitment, and a shared vision truly create exciting times ahead.

MiMM is thrilled to bring you another edition of Let’s Mediate — a title that has never been more fitting. Across the board, we’re witnessing more and more members actively mediating, more regularly than ever before. The Gauteng High Court (GHC) Directive mediations are in full swing, and our members are stepping up — gaining certification through observation and co-mediation, and building valuable experience. Those with provisional certification are seeking out certified mediators to co-mediate with, and this is both exciting and deeply encouraging.

More and more members are being certified. We are especially fortunate to have the very capable Esta Lotter leading the GHC mediations. Under her guidance, the process continues to grow from strength to strength. We warmly welcome her and look forward to her sharing more in this edition.

Beyond medical mediations — including RAF and medical negligence matters — we are delighted to see a notable rise in civil mediations, signalling the widening recognition of mediation’s effectiveness and allowing more mediators to mediate to their strengths.

In keeping with the GHC Directive certification requirements, we encourage all members to familiarise themselves with the MiMM policy on continued professional development to ensure that certification is maintained. Details and links can be found in this newsletter.

If you’ve ever wondered, *“Is mediation worthwhile in medical negligence cases?”*, you’ll find that Adv Scott takes on this very question with thought-provoking insight in this issue.

And on a lighter note — MiMM, together with Bouwer & Olivier Inc., was proud to co-sponsor a hole at the Gauteng Attorneys Association Golf Day. The event was a wonderful success — filled with laughter, games, prizes, and, most importantly, conversations about mediation. What stood out was that while interest is growing, there remains a real need for continued education and engagement. We therefore challenge every member: involve as many attorneys as possible in mediation so they can see, firsthand, the immense value it offers.

“Mediation is not just an alternative — it’s a value proposition: a pathway to resolution, restoration, and renewed relationships.”

Susan Verhoef



LETTER FROM THE CHAIR

Dear MiMM Members,

As we reach the end of this year, I write with a deep sense of pride and gratitude for what Mediation in Motion Mediators (MiMM) has achieved together. It has been a year of real consolidation and growth structurally, operationally, and in terms of our impact on the justice and health systems of South Africa.

Over the past months we have moved decisively from “good intentions” to measurable progress. Following our AGM, your EXCO has implemented a refreshed governance and operations model, with a Chief Operating Officer and clearly defined Pillar Leads responsible for Finance, CPD, Medicolegal Mediation, Gauteng High Court, Compliance & Discipline, and Membership Engagement. This structure has now bedded down and is already improving coordination, accountability, and service to members.

We have strengthened our leadership bench, co-opting colleagues such as Mrs Esta Lotter and Mrs Susan Verhoef to support the Gauteng High Court and medicolegal portfolios and outreach. Their energy and practical insight have been invaluable as we step up to manage increasingly complex and high-volume projects on behalf of the courts and public sector partners.

Operationally, MiMM has invested in building a small but effective secretariat and administrative backbone, enabling us to manage demanding projects like the Gauteng High Court Mediation Project and the Gauteng Department of Health Mediation Project with professionalism and reliability. We have also progressed our registration on the Central Supplier Database (CSD), an important milestone in ensuring that MiMM can be paid by state entities for the work our members perform.

On the project front, MiMM has continued to punch above its weight:

- Our EXCO and members have played leading roles in the Road Accident Fund (RAF) Mediation Project, the Gauteng High Court Mediation Project, and the Gauteng MEC for Health Mediation Project, helping to make court-annexed mediation a lived reality rather than just a policy aspiration.
- We have maintained and deepened our medicolegal collaboration with the South African Medical Association (SAMA) and are working towards a potential pilot with the Eastern Cape Department of Health, expanding MiMM's public-interest footprint into new provinces.
- In parallel, MiMM has continued to contribute to the establishment of a professional body for mediators via ADRP-SA, aligning our self-regulation and accreditation efforts with broader national standards.

We have also made important strides in professionalisation and self-regulation. Our revised CPD Policy has been completed and adopted by EXCO, widening recognition of qualifying learning events and providing a clearer, high-quality development pathway for members. Further work is underway to streamline the issuing of MiMM CPD certificates and to communicate the new system through Lunch & Learn sessions and newsletter articles. Linked to this, MiMM has formalised a certificate of competence framework aligned with the expectations of the Gauteng High Court Mediation Directive. This ensures that MiMM-certified mediators meet minimum legal, experiential, and ethical standards while remaining inclusive and supportive of member growth.

Our external visibility and relationships have also grown meaningfully. This year, MiMM partnered with Bouver & Olivier Inc. to sponsor the Gauteng Attorneys Association Golf Day, not just a pleasant day out, but a strategic opportunity to build our brand and open new doors for members within the legal fraternity.

All of this has been built on foundations laid earlier in the year through the revamp of our website, the establishment of a dedicated secretariat, and our strategic decision to support ADRP-SA in pursuing SAQA accreditation as the future regulatory body for mediation in South Africa.

None of these achievements would have been possible without the extraordinary commitment of your EXCO. Every EXCO member serves on a voluntary basis, often after long professional days, juggling demanding practices, families, and other responsibilities, yet they continue to show up, to think strategically, and to do the unglamorous operational work that keeps MiMM moving forward.

To each EXCO colleague, thank you for your leadership, your resilience, and your belief in what MiMM can become. Your willingness to give of your time and expertise is the backbone of this organisation, and I am deeply grateful.

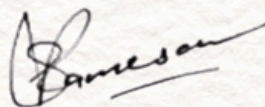
To our members, both longstanding and newly joined: thank you for your unwavering support and patience during a year of intense restructuring and growth. While we have been refining policies, adjusting governance, and responding to major external changes such as the Gauteng High Court Directive, you have continued to trust MiMM, participate in projects, attend trainings, and offer constructive feedback.

We know that change can be uncomfortable and that some of our processes are still being refined. Your willingness to journey with us, to lean in, to raise concerns respectfully, and to stay committed is what turns MiMM from a structure into a professional community.

On behalf of the entire EXCO, I wish you and your loved ones a restful, safe and joy-filled festive season. May this time bring you the space to recharge, reconnect, and reflect on the meaningful work you do every day as mediators in a country that urgently needs peaceful, constructive ways of resolving conflict.

Thank you for walking this path with us. I look forward to building on our shared achievements in the new year, as we continue to position MiMM as a trusted, professional, and transformative force in the South African mediation landscape.

Best wishes,



Dr. Shamal Ramesar
Chairman
Mediation in Motion Mediators (NPO)





Is Mediation Worthwhile in Medical Negligence Cases ?

A lawyer made the following comment regarding the use of mediation in medical negligence cases:

"My problem is, most medical negligence cases are 'either/or' (for example, the patient is seldom in a position to be contributorily negligent). If there's risk, you'd be happy to settle on a risk discount, and mediation might be ideal. But it does seem to me that if you are satisfied that you have a 100% case, mediation won't be worthwhile (except as an exercise in simply getting it done, because you have to get it done) unless you either are able to convince your opponent to give in, or are for some reason willing to take a percentage shave."

This statement indicates a complete misunderstanding of mediation and how it works. In many medical negligence cases, the issues to be dealt with are diverse and complex. Surgery has gone horribly wrong. Was that due to the negligence of the doctor or one of the vagaries of that kind of surgery? Did the doctor have a discussion about this with the patient in advance of the surgery? Did the patient accept that there were risks? What sequelae has the patient suffered as a result of any possible negligence? And, importantly, what is the patient looking for from the doctor to ameliorate his or her suffering? Sometimes all the patient really wants is acknowledgement and an apology.

Here is a summarised version of a story from the book "Stories Mediators Tell". It is entitled "Noah's Gift"[1] and is written by Debra Gerardi, who was the mediator in the matter.

Just a few weeks after he was born, Noah was hospitalised with an electrolyte imbalance and fever. Three days later, and after no cause for his condition could be ascertained, he was discharged home, and his mother was given instructions to bring him back to the hospital if his condition recurred. A few days later, Noah's condition deteriorated, and he was readmitted to the hospital. Upon readmission, several attempts were made to insert an IV catheter, which is difficult in small babies and more so when they are dehydrated. Several attempts by the nurses failed and Dr Chang, a paediatrician, was summoned to see if he could insert the IV catheter. His attempts also failed. Whilst these attempts were being made, Noah's condition started to deteriorate. This deterioration was noted by Noah's mother, Megan, but not by anyone else. Noah stopped breathing and died, aged ten weeks.....

A few years passed, with Noah's parents, and the doctor and hospital staff in dispute

[1] Debra Gerardi, 'Noah's Gift' in Eric R. Galton and Lela P. Love (eds), *Stories Mediators Tell* (ABA Publishing 2012).

PATRICK'S PONDERINGS

Eventually, the matter was referred to mediation. The mediation provided the opportunity for the participants to ask questions and receive answers without rebuttals, justifications or attacks. Megan acknowledged that she wanted Dr Chang to hurry on the day of Noah's readmission and wondered why Dr Chang did not notice Noah's deterioration. At the mediation she told Dr Chang that "I wanted you to hurry, but I didn't want to be seen as a hysterical family member." Dr Chang acknowledged that he recognised the subtle signals from Megan that he had missed. He explained how he had changed his own practice. He said "I entered the room that day as a technician and not a physician. And I will never do that again." Dr Chang not only took responsibility but assured the parents that no blame for what had happened could be attributed to them. These were things that they needed to hear.

Noah's parents felt that, after Noah's death and their quest for information, the hospital had created a wall of resistance and this was canvassed at the mediation, with the hospital staff considering how to approach similar matters in the future.

The mediation brought about a healing process that enabled all the parties to move forward. Dr Chang would not have had the opportunity to address the situation without mediation, due to legal procedures, hierarchical conventions and liability concerns.

I will conclude the story with a comment from the mediator:

"Noah's story also reflects an attempt by representatives of both the legal and healthcare systems to approach their work differently through creation of a process that could bridge the transition from a legalistic, rights-based approach to patient harm to one that restores human connection, instills safer practices, allows for healing, and generates hope."

Patrick



Patrick Scott has a Master's degree in Mediation and Conflict Resolution from the University of Strathclyde in Glasgow, serves on the Board of Mediation in Motion Mediators and practises as a mediator in Scotland and South Africa (remotely).

MiMM and the Gauteng High Court Mediation Directive

MiMM and the Gauteng High Court Mediation Directive

With the implementation of the Gauteng High Court (GHC) Mediation Directive came significant administrative, compliance, and reporting responsibilities for all Recognised Mediation Organisations (RMOs).

To meet these requirements, MiMM established a dedicated GHC Directive Pillar, and I was honoured to be appointed as its lead.

I, Esta Lotter, completed my mediation training in 2023 on the beautiful Nelson Wine Farm and further expanded my knowledge through a Family Law Mediation course, which included the Psychology of Family Mediation. After many hours of pro bono mediations – gaining valuable experience and building professional relationships – I now run a full-time mediation practice and remain actively involved in the Pro Bono Mediation Project at the Benoni Magistrate's Court. MiMM and the Gauteng High Court Mediation Directive

The GHC Directive places the following responsibilities on RMOs:

- Supervising members operating under their auspices
- Ensuring member compliance with codes of conduct, policies, procedures, rules, and regulations
- Certifying members as suitably qualified and competent mediators
- Compiling and publishing a panel list of compliant mediators
- Managing complaints against panel members
- Reporting on mediation outcomes
- Allowing observers and/or co-mediators (trained mediators seeking experience for professional development) to attend court-annexed mediations.

The administrative load placed on RMOs is considerable and time-intensive. As a starting point for establishing a solid procedural foundation under the GHC Directive, the GHC Pillar has identified several process scenarios.

The GHC Pillar team continues to refine processes related to member compliance, mediator appointments, monitoring, and reporting. Members are encouraged to review these processes in the GHC Directive Pack

[Gauteng High Court Mediation Pack](#)



Reflecting on the Gauteng High Court Project

2025 brought exciting, new and unique opportunities to South African mediators. On 22 April 2025, Judge President Dunstan Mlambo officially published the Directive Introducing Mandatory Mediation in the Gauteng Division of the High Court, together with a comprehensive Protocol (Mandatory Mediation Directive & Protocol). This bold move aimed to not only alleviate the burden experienced by the Gauteng judiciaries, but to ultimately promote access to justice for all South Africans. The Directive elaborates on its purpose as follows:

“The right of access to Courts as guaranteed in section 34 of the Constitution is not capable of being properly honoured by the lead-time for dates of hearing, described above (i.e. 2031 date allocations / seven years in the future). It would be irresponsible ... to ignore this situation and not develop and initiate appropriate means in an effort to address and overcome the problem.

In order to filter the caseload to enable only cases warranting judicial attention to be enrolled, the diversion of cases capable of being resolved/settled after effective mediation by professional mediators is appropriate, to institutionalize in the processes of the Court, a methodology which can ensure that outcome.”

MiMM is proudly recognised as a Recognised Mediation Organisation (RMO) in terms of the Mandatory Mediation Directive and Protocol. With the publication of the Revised Directive and Protocol on 09 June 2025, MiMM's RMO status was publicly recognised in Annexure A to the Revised Directive with no comments or restrictions from the Judiciary. MiMM's RMO status confirmation required comprehensive compliance with the requirements set out in Annexures B and C of the Protocol, with a further obligation on MiMM to ensure that our members comply with the standards set out in Annexure A of the Protocol. MiMM's RMO status and the high standing our member mediators have in the industry is no small achievement.

To ensure ongoing compliance with the Mandatory Mediation Directive and Protocol, MiMM's EXCO created a new portfolio with the Gauteng High Court Project (GHC Project) as its sole purpose. Esta Lotter was elected as the GHC Project Pillar Lead and she, together with her workgroup, has worked tirelessly to implement the required processes, reporting forms, and administrative systems needed. This journey has certainly not been without challenges. The competence requirements set out in the Protocol are stringent and MiMM decided to implement a structured process in which members could be provisionally certified, benefit from observation and co-mediation opportunities and then progress towards final certification for the GHC Project.

Reflecting on the Gauteng High Court Project

This process has been met with some dissatisfaction from certain members, whilst others understand and support the approach without reservation. Ultimately, the process implemented remains flexible and subject to improvement, whilst the main goal of upholding MiMM's good name and standing in the mediation industry and providing support and opportunities to our members remains of paramount importance. We continue to encourage members to reach out to esta@mimmmediators.co.za with their questions or concerns.

We sincerely thank our members for the many compliments and words of encouragement along the way. One of our members commented that "I now see the value in the observation and co-mediation requirements, as I learned something from each mediation I participated in." This sentiment is further reflected in the observation and co-mediation reports we received with over 80% of participants requesting additional opportunities observation or co-mediation opportunities. This is encouraging and confirms that being an active participant in the MiMM community gives one the benefit of learning from a network of experienced and compassionate mediators, all from different backgrounds across South Africa.

Our aim for 2026 is to continue to streamline the process, uphold MiMM's high standard in the Gauteng legal sector and to increase MiMM's marketing for the benefit of our members. We look forward to continuing to make a difference through the GHC Project in 2026 – one mediation at a time!

"I now see the value in the observation and co-mediation requirements, as I learned something from each mediation I participated in."





Michael Lang on Reflective Practice

For over 40 years Michael Lang has mediated **family**, **workplace** and **organizational** disputes.

In addition to numerous published articles, Michael authored The Practitioners Guide to Reflective Practice in Conflict Resolution (2019), and a second edition published in 2024, and co-authored The Making of a Mediator: Developing Artistry in Practice, (2000). With Susanne Terry, he founded and is co-director of The Reflective Practice Institute International.

Michael received the John Haynes Distinguished Mediator Award from ACR in 2012 and was named Outstanding Professional Family Mediator for 2020 by the Academy of Professional Family Mediators.

Michael has kindly agreed to present a workshop on Reflective Practice, which will be presented online from his home in Florida.

14 jan 2026 : 18:00

EMPOWERING MEDIATORS: TO TESTIFY OR NOT? THE SUBPOENA DILEMMA

Recently, the writers were informed by an MiMM mediator that a reputable organisation was advised by their legal counsel not to engage in mediation as a dispute resolution mechanism since mediation is “not privileged” and the mediator can be subpoenaed to court to testify. That raises a question that is both important and widely misunderstood: “Can a mediator be subpoenaed and compelled to testify about what was said in a mediation?”. Understandably, this advice caused concern.

How accurate is this position? Should it dissuade organisations or professionals from engaging in or promoting mediation?

Let’s unpack the legal and practical implications of this comment and set the record straight.

Subpoena Power: A Procedural Reality

Technically, any person can be subpoenaed to appear in court. Mediators are no exception. A court may issue a subpoena to compel someone to testify (subpoena ad testificandum) or to produce documents (subpoena duces tecum). This is provided for in, respectively, the Rules Regulating the Conduct of the Proceedings of the Magistrates’ Courts of South Africa (for Magistrate, District and Regional Court proceedings) and the Uniform Rules of Court (for High Court proceedings) (collectively referred to hereinafter as the Rules). Importantly, this is usually a routine procedural request and does not mean that the subpoenaed person must or will be compelled to provide testimony. In practice, the clerk or registrar of the court (as the case may be) will issue a subpoena on the request of any party to the proceedings. It is typically not subject to judicial consideration before being issued and/or served. It is thus technically correct to state that a mediator may be subpoenaed to court to testify, but this creates an adverse perception that does not account for the full picture.

The real issue lies not in the ability to subpoena, but in the ability to compel testimony once the person appears in court. And that’s where things become interesting,— and far more protective of mediators than the comment might suggest. For evidence to be permitted in court proceedings, it must be both relevant and admissible.

Privilege, Confidentiality, and the Hearsay Shield

While South African law does not currently recognize an absolute legal privilege for mediators specifically, mediation is still protected by a strong combination of legal principles that, in practice, shield mediators from having to testify

1.The Without Prejudice Rule

This rule prevents parties from using genuine good-faith settlement discussions as evidence in court to establish liability. Most mediations fall under this rule by default, and even more so when explicitly stated in a signed Agreement to Mediate. Although by no means its only purpose, mediation almost always involves facilitating good-faith settlement negotiations.

2.Confidentiality by Contract

Proper Agreements to Mediate should include confidentiality clauses and clauses that prevent either party from calling the mediator as a witness. While these clauses do not legally prevent a court from issuing a subpoena, they do provide contractual grounds for the mediator to refuse to testify or disclose what happened during the mediation. The parties, or any one of them, will be able to object to the admissibility of this evidence being led in court.



**THE ROLE OF THE
MEDIATOR IS CLEARLY
NEITHER THAT OF A
REFEREE OR UMPIRE NOR
THAT OF AN
ADJUDICATOR.**

3. Public Policy Considerations

South African courts are increasingly supportive of mediation as an effective, private, and interest-based dispute resolution mechanism. Compelling a mediator to testify about confidential proceedings would undermine the entire purpose of mediation. Courts are very unlikely to endorse that – unless exceptional circumstances demand it.

4. The Hearsay Evidence Rule

Even if a mediator were compelled to testify, the testimony would often be inadmissible as hearsay and/or have little to no probative value, since parties are not under oath during mediation and the mediator cannot verify the truth of any statements made. Once again, the parties, or any one of them, will be able to object to this evidence being introduced in court. The Law of Evidence Amendment Act (section 3(1)(c)) does give courts discretion to admit hearsay "in the interests of justice", but the bar is high and rarely met in mediation contexts.

What about the documents?

Many of the principles above also apply to documents. However, documents generally pose a greater risk, including a risk of inadvertently breaching confidentiality on the part of the mediator: this is why our training and MiMM policies emphasise that any notes taken during a mediation should be destroyed afterwards, and why this must be recorded in the Agreement to Mediate. Mediators should keep only the Agreement to Mediate, the Settlement Agreement (if any), and, to the extent applicable, those documents required under law, such as the Rules and/or the Gauteng Mediation Directive and Protocol.

So, Is Mediation Privileged?

In the strict legal sense of statutory or common law privilege, the answer is no – mediation itself is not inherently privileged. However, when confidentiality agreements, public policy, the without prejudice rule, and hearsay protections are combined, they provide a robust legal shield.

In some situations, a mediator who is also a legal practitioner could potentially claim legal professional privilege, but this remains an open question in South African jurisprudence and cannot be relied on as a general rule.

Practical Risk vs Legal Fear

The key takeaway here is this: Yes, a mediator can be subpoenaed, but that does not mean they will be compelled to testify, nor does it mean they will provide any admissible or useful evidence if they do.

In fact, compelling a mediator to give evidence about a mediation is so problematic, contradictory to public policy, and legally tenuous that it is extremely rare in practice. Most courts will uphold the confidentiality of the mediation unless there are truly exceptional reasons not to.

Furthermore, a witness can only testify as to what they remember. And memories can be rather frail and fragile things...





Our Practical Advice

- Always use a robust Agreement to Mediate with clear clauses on confidentiality and non-testimony.
- Be prepared to invoke public policy and evidentiary rules if ever subpoenaed.
- Educate clients and organisations about the actual legal framework, not just procedural technicalities.
- Understand that while absolute privilege may not exist, practical immunity from compelled testimony is strong.

Mediation remains a highly protected, confidential, and efficient dispute resolution process. While no mediator is immune from being subpoenaed, the chances of being forced to testify, and of that testimony being admissible or impactful, are very low. The combined protection of contract law, evidentiary rules, and public policy makes mediation a safe and secure space for settlement.

In conclusion, even if a subpoena is issued, the mediator can appear in court but may invoke public policy grounds, confidentiality, and contractual obligations to refuse to answer questions about the content of the mediation. Let's not allow misplaced legal fears to derail one of the most promising tools in our facilitative mediation toolkit!



Anri
le Roux



Michiel
Bouwer

Written by Michiel Bouwer & Anri le Roux
Bouwer & Olivier Inc.
March 2024

N.s. If you ever find yourself subpoenaed as a MiMM mediator, please feel free to contact the writers to provide you with legal guidance and assistance.



U P C O M I N G

Mediation in Motion Training (Pty) Ltd

Civil and commercial mediation
- Remote (Zoom)

23 to 27
March
2026

Mediation Course for Legal
Practitioners - Nelson Wine
Farm, Paarl

7 to 11
April
2026



UCT Law @ work
Professional Development Project

CONTINUOUS PROFESSIONAL DEVELOPMENT AT MIMM

My portfolio on Mediation in Motion Mediators' Exco is to take charge of Continuing Professional Development (CPD) and to implement the CPD policy. Members are encouraged to attend as many workshops, conferences, "Ask the Expert" sessions and other mediation-related activities as possible, not just for CPD points but to increase their knowledge and understanding of mediation and mediation practice. For this reason, MiMM's approach will be to award points liberally.

I also encourage our members to participate in reflective practice – to write a written reflection after every mediation. I am attempting to arrange a workshop dealing with reflective practice and how it works, and will hopefully be able to set that up in the near future. I would like to get Michael Lang, who lives in Florida and who wrote the definitive book on Reflective Practice, to present a workshop. A member will earn 1 point per reflection. The reflection should be written and submitted to me, to enable me to monitor who is doing what. It is voluntary but encouraged. Members will also earn points for writing articles for "Let's Mediate" or any other mediation journal or newsletter.

I am exploring the possibility of MiMM joining Scottish Mediation as a group. This would enable our members to attend Scottish Mediation events as group members, which would give them a discounted rate for conferences and workshops. The Scottish Mediation annual conference is on 3 December and is a hybrid event, and I will circulate details of this nearer the time.

I have prepared a CPD log, which every member should keep and submit biannually for verification. A member's reporting cycle commences upon being certified by MiMM and the CPD requirements will need to be completed in full before the end of that CPD cycle. You will find the CPD log attached to the policy document.

Every member is encouraged to download and keep this up-to-date.

Continuing Professional Development Policy

Patrick



GOLF DAY

On 3 October 2025, the MiMM team, in collaboration with Bouwer & Olivier Inc, sponsored Hole Nr 10 and the two longest drive prizes at the Gauteng Attorneys Association (GAA) golf day held at Randpark Golfclub, Johannesburg.

MiMM proudly marketed the services of our mediators amongst the members of the GAA – who are, first and foremost, required to comply with the Gauteng Mediation Directive and Protocol.

In the spirit of mediation, we played a fun game on the putting green to see who could putt "the closest to consensus" in the "settlement zone". The players that were able to putt their way into the "settlement zone" were entered into a lucky draw to win a prize hamper. We highlighted the parallels between mediation and golf in this unique game, being:

- o The "ball" you are dealt is rarely perfect / smooth.
- o The "swing" may not always be easy, and will never be perfect.
- o The "outcome" is not always predictable, but consensus is achievable!

Ultimately, just like in mediation, it's not about how far you go, but whether you find common ground in the settlement zone!

N.s. Thank you to Esta, Susan, Tiffany and Anri for all your planning and enthusiasm in representing MiMM at this event. A special thank you to Michiel and Bouwer & Olivier Inc. for collaborating with MiMM to make this sponsorship possible.



SCOTTISH MEDIATIONS



Turning Disagreement into Opportunity

Mediation in Motion Mediators is now a member of Scottish Mediation

Scottish Mediation is the professional body for mediators in Scotland. It holds an annual conference in December every year, as well as a number of workshops throughout the year, which are of interest to mediators generally and which generate CPD points.

Members of Scottish Mediation qualify for a discount on fees for attending these events, usually in the region of 30%. Scottish Mediation also accommodates group membership which usually enables two members of the group to attend events at the discounted rate.

MiMM has joined Scottish Mediation as a group member and has negotiated a special dispensation whereby all members of MiMM will qualify for the discount. Events will be published on social media with registration details, which is usually through Eventbrite, an online platform for ticket sales and registration. All fees will be in pounds sterling (GBP).

If any member has any questions or difficulties regarding these events, they are welcome to contact me at the email address below and I will do my best to assist. I am a member of the Board of Scottish Mediation.



www.scottishmediation.org.uk

Patrick



LADIES IN MEDIATION

SAVE THE DATE

Join us for a morning of sun, sips, and inspiration
hosted by Mediation in Motion Mediators NPO.

LADIES *IN MEDIATION*

Date: 07 February 2026

Time: 09h00

Venue: TBC (Gauteng)

SAVE THE DATE for our first in-person ladies' morning
Join us on Saturday, 07 Feb 2026 as we celebrate being
ladies in mediation, enjoy an exciting morning of
inspiring discussions, and networking.

We hope to see you all there !





THE SOCIAL DESK

MAKING A DIFFERENCE, ONE MEDIATION AT A TIME

In 2024, we introduced the tagline “Making a difference, one mediation at a time,” and looking back, it’s clear that we’ve done just that. Behind the scenes, MIMM EXCO has worked tirelessly to build more than just an organisation, we’ve built a community. A place where mediators support, grow and empower one another. This culture of collaboration has taken root beautifully. Members are sharing opportunities, co-mediating, and opening their sessions for observation. Those deemed competent are mentoring others, and our collective commitment to quality and competence is beginning to earn MIMM a reputation of excellence within the industry.

It’s taken dedication from our EXCO, volunteers, and every member who believes in the power of mediation. There’s still work ahead, but seeing the tangible impact of our efforts is all the motivation we need to keep going. So, let’s keep the dialogue alive, the opportunities flowing, and the camaraderie strong because together, we’re not just making a difference; we’re creating a movement that’s changing the face of mediation in South Africa.



UPDATE ON SAMLA-MiMM COLLABORATION IN MEDICO- LEGAL MEDIATIONS

The project which commenced in 2020 as a pilot project mediating matters in which summonses, letters of demand and complaints had been lodged against the Gauteng MEC for Health has continued, with more than 100 matters now having been referred for mediation. The pace of mediations has picked up since the Gauteng High Court Directive on mandatory mediation and the Mediation Protocol came into effect in April 2025. While some of these mediations are initiated by formal Rule 41A notices and are managed in terms of the Directive, many are mediated on a voluntary and informal basis with the parties. These mediations continue to provide opportunities for co-mediation and observers in order for MiMM members to obtain full certification as mediators in terms of the Gauteng High Court Protocol.

Approximately 75% of the mediations have been settled within one or two sessions. Some remained open for further discussion between the parties after the mediation. Only a handful of the mediations were considered to have failed entirely. In the vast majority of the mediations, the claimants are given the opportunity to tell their stories and are listened to with empathy and respect. Where appropriate, apologies on behalf of the Department of Health are tendered and damages awarded based on precedent or otherwise justifiable claims. In many cases, restorative health services are provided by the province or purchased from private providers by the province. The outcomes are generally achieved through respectful discussion between the Departmental representatives and the claimant or their attorneys. Where there is no fault on the part of the facilities of the Health Department, claimants still have the opportunity to tell their stories and their pain and hurt is acknowledged, but no monetary compensation is tendered: counselling and further health services are still offered when necessary.

Our sincere thanks to Stacy Prinsloo for her organisation of these mediations and to the mediators for providing their time, expertise and willingness to provide learning opportunities.

Gauteng High Court Mediation Process

The attached flow diagram is a simplified overview of how the Gauteng High Court mediation process works.





MEDIATION IN MOTION MEDIATORS

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