

LET'S

# Mediate

AUGUST 2026 ISSUE #20

UNPREPARED PARTIES – WHAT “ADVICE” CAN  
MEDIATORS SHARE WITH PARTIES AND IN  
WHAT WAY SHOULD THIS BE SHARED?

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THANK YOU SASHA & ETTIAN







# FROM THE EDITOR

## Passing the Baton, Keeping the Conversation Going

If there is one theme that runs through this edition of Let's Mediate, it is that mediation is no longer waiting politely at the sidelines. Whether in our courts, our healthcare system, our workplaces, or even international investment disputes, mediation continues to move steadily toward the centre of how people solve complex problems.

This issue marks a significant moment for MiMM as we say thank you to our outgoing Chairperson, Dr Shamal Ramesar, and welcome our new Chairperson and Executive Committee (EXCO). Leadership transitions are often compared to passing the baton in a relay race. In mediation terms, we prefer to think of it as a carefully facilitated handover where everyone remains on speaking terms afterwards.

Dr Ramesar's reflections remind us how far MiMM has come in a relatively short time. Stronger governance, growing membership, expanding influence in the Gauteng High Court mediation project, and increased recognition in the medico-legal space have all contributed to an organisation that is increasingly helping shape the future of mediation in South Africa.

In this edition, we also explore some fascinating questions and developments.

One article tackles a classic mediator's dilemma: how do we help parties reality-test their case without crossing the line into giving advice? As many mediators know, neutrality is not about saying nothing. Sometimes it is about asking exactly the right question.

We also cast our gaze further afield to the landmark 2026 UNCITRAL reforms, which signal a major shift in international dispute resolution. It seems the rest of the world is beginning to catch up with what mediators have known all along: conversations can often achieve what litigation cannot.

Closer to home, we recap on the successful MiMM & MPS workshop held in Pretoria on 01 August 2026. The Empowering Mediator's article reminds us that mediation is not just a dispute-resolution process. It is a leadership skill. The ability to listen, reframe, de-escalate and build trust may be just as valuable in the boardroom as it is in the mediation room.

As we look ahead, there is much to be excited about.

*If you could listen to one song for the rest of your life, what would it be?*

*Who answered:*

*Lauren Daigle – Be Okay, and You Say (I know it is two, but they fit together...)*

We have upcoming mediation training opportunities on the horizon, our next Ask the Expert session on 14 October, and a new EXCO ready to build on the strong foundations that have been laid.





Finally, a heartfelt thank you to all our outgoing EXCO members, including Dr Shamal Ramesar, Dr Ettian Raubenheimer, Ryno Pohl and Sasha Wait for their dedication, vision and service.

**Organisations grow because people give generously of their time, energy and expertise, and MiMM has been fortunate to benefit from exactly that.**

We welcome the new EXCO, whom you will meet later in this edition. You will also find some interesting facts scattered around this edition – can you guess which interesting fact belongs to which new Exco member?

We asked Exco members to answer the following questions:

- 1.If you could listen to one song for the rest of your life, what would it be?
- 2.What's the best piece of advice you've ever received?
- 3.What's a recent film you've watched and loved?

Wherever you are reading this newsletter, whether between mediations, in chambers, at your desk, or while pretending to catch up on emails, we hope this edition leaves you informed, inspired and perhaps with a few new questions to ponder.

After all, mediation has always started with a conversation.

Warm regards,  
The Editor

*Susan Verhoef*



*What's the best piece of advice you've ever received?*

*Who answered:*

*"Always respond thinking that one day a Judge may read your letter or it may become public – always come across as measured."*





# REFLECTIONS FROM THE OUTGOING CHAIRPERSON

Dear MiMM Members, Colleagues and Friends,

As I prepare to hand over the reins, I find myself reflecting on what has been a remarkably rewarding year for MiMM.

The mediation landscape in South Africa continues to evolve, and this past year has been an important one, particularly with the implementation of the revised Gauteng High Court Mediation Directive. It is encouraging to see mediation becoming an increasingly integral part of our civil justice system, and MiMM has been well positioned to contribute meaningfully to that progress.

What has impressed me most is not only what we have achieved, but how we have achieved it. Together, we have moved from planning to action, strengthening our role as a Recognised Mediation Organisation (RMO) and creating real opportunities for our members to participate in a rapidly changing environment.

Behind the scenes, we have invested considerable effort in building stronger foundations for the organisation. A refreshed governance structure, clearer responsibilities and greater operational focus have improved accountability, collaboration and service delivery across MiMM. While these changes may not always be the most visible part of our work, they are essential in ensuring that MiMM remains sustainable, professional and responsive to the needs of its members.

None of this would have been possible without the dedication of our Board, committee members, volunteers and the many practitioners who continue to give generously of their time and expertise.

I extend sincere appreciation to Mr Ryno Pohl for his service as Treasurer. His contribution to strengthening financial systems, accounting compliance and organisational stability has been deeply valued.

I further want to extend my gratitude to Mrs. Sasha Wait, for transforming our digital presence

and member communication. Her contribution has allowed our organisation to grow in leaps and bounds that it has over the recent years.

Dr Ettian Raubenheimer, as outgoing Pillar Lead for Standards, Compliance and Discipline, played a pivotal role in strengthening the governance and professional standards of our organisation. His wisdom and sound judgement will be missed.

I thank every EXCO member, pillar lead, mediator, observer and volunteer who has given generously of their time and expertise.

Our priorities for the year ahead include consolidating the Gauteng High Court project, expanding observation and co-mediation opportunities, strengthening medicolegal mediation, improving financial and administrative sustainability, and deepening engagement with government, the legal profession and healthcare stakeholders.

As I step down, I do so with confidence in MiMM's future. The organisation is stronger than it was a year ago, our membership continues to grow, and the opportunities ahead are significant. Most importantly, the values that brought us together remain firmly at the heart of everything we do.

Thank you for your trust, your support and your commitment to the MiMM community. It has been an honour to serve as Chairperson, and I look forward to watching the organisation continue to thrive in the years ahead.

*Shamudh Ramessar*





# LETTER FROM THE NEW CHAIRPERSON

It is both an honour and a responsibility to write to you as the incoming Chairperson of Mediation in Motion Mediators and I do so with deep gratitude to this organisation for what it has achieved under the previous leadership.

First, on behalf of our entire membership, I want to thank Dr Shamal Ramesar for his leadership as outgoing Chairperson. Under his guidance MiMM has grown from strength to strength – increasing the number of members, refreshing our governance and administration, and taking a leading role in the Gauteng High Court mediation process. I also wish to pay tribute to the former EXCO members who have contributed so much – Dr Ettian Raubenheimer, Ryno Pohl and Sasha Wait, all of whom continue to offer their expertise.

Advocate Alan Nelson and Dr Ramesar in their Honorary Life President and Honorary Life EXCO Member roles will continue to provide experienced guidance to the EXCO.

I am equally pleased to welcome our new incoming Executive Committee. Portfolios will be allocated in the coming weeks according to each member's interests and strengths, guided by the organisation's priorities. Building on the refreshed structure introduced this past year, the team will carry clear areas of responsibility across professional development, professionalisation of mediation, skilled mediation services in the Gauteng High Court and medico-legal space, finance, compliance,

membership and active engagement as new opportunities in mediation open up. This work also requires that we build o administrative capacity so that MiMM can serve its members reliably for years to come.

We step into this new chapter with confidence, optimism and purpose. The opportunities ahead are significant. I look forward to walking this road with all of you.

*Trevor Frankish*



***Who do you think recently watched and loved the film - Nuremberg?***

***What's the best piece of advice you've ever received?***

***Who answered:  
"Perfection is the biggest enemy of good."***





## Unprepared Parties – What “advice” can mediators share with parties and in what way should this be shared?

A question arose on the WhatsApp members' chat group some while back which I thought would be a good topic to ponder. The question was a simple one, namely “Can you, as a mediator, advise the plaintiff attorney to instruct certain experts, such as an actuary, for their matter?”

There were a number of comments posted in response, with some members of the view that, by doing so, you would compromise your ethical duty of neutrality and be stepping into an evaluative or advisory role. Others felt that you could discuss the need for experts with both parties at the same time during a joint pre-mediation meeting, but that you should not suggest to one of the parties in a private session that they should approach an expert. I thought that this would be a good point to ponder.

I will start with the concept of “fairness”. I recently wrote a ponder for “Mediation Matters!” entitled “Mediation and Fairness”.<sup>[1]</sup> And I am going to repeat a part of my reference to Omer Shapira in that article: “A further meaning of mediation fairness is that mediators employ a substantive-realist rather than a formal-technical approach to the interpretation and application of mediation standards, in accordance with the spirit and purpose of the standards.”

For example, they intervene to address circumstances in which parties seem to be ignorant of relevant information in order to ensure a true as opposed to formal exercise of party self-determination.”<sup>[1]</sup>

[1] Omer Shapira, *A Theory of Mediators' Ethics* (Cambridge University Press 2016) 310.

The next concept to ponder is reality testing. In other words, if the matter goes to court, how does the plaintiff intend proving their claim.

Let us look at the following scenario. A plaintiff is injured in a motor vehicle accident and has a claim against the Road Accident Fund (“RAF”).<sup>[\*]</sup> Part of the claim is for future loss of earnings. Ideally, the plaintiff would need an actuarial calculation to prove this head of damages. It would also be a good idea to have that calculation available at the mediation. However, the plaintiff does not have such a report.

The mediator has a pre-mediation meeting with the parties and their lawyers. Can this mediator alert the plaintiff or his or her lawyer, to the fact that he or she would do well to have such a report? And, if so, how does the mediator go about this?

If I was the mediator, I would ask the plaintiff how he or she intends proving the quantum of the claim for future loss of earnings and, depending on the reply, explore that further with the plaintiff. This is not giving advice to the plaintiff but helping him or her to themselves identify the necessity for an actuarial report.

*[\*] For readers outside South Africa, the Road Accident Fund (RAF) is a South African state insurer that provides liability and collision insurance coverage to all drivers in South Africa.*





## PATRICK'S PONDERINGS

What about fairness to the parties? Is it not fair that a plaintiff is able to properly present their case to the court and at mediation? What about the defendant, the RAF? Is it unfair to the defendant if you alert the plaintiff to the necessity for an actuarial report? As the mediator, my question would be "Why would it be unfair?" The answer to that may be that, if the plaintiff is not able to properly prove his or her loss of earnings, the case may be dismissed. Firstly, how could this be fair? A plaintiff being non-suited due to being ignorant of proper court procedures in a claim against a fund created to compensate parties who are injured in motor vehicle collisions, can hardly be described as fair. And, in any event, that is not the likely outcome. The judge in the case would more likely postpone the matter to enable the plaintiff to obtain an actuarial report, with unnecessary cost implications and inconvenience to both parties.

Would the situation be any different if the plaintiff had legal representation? I think not, save that it is less likely that the lawyer would not be aware of the necessity of an actuarial report, but may not have obtained one in time for the mediation. By dealing with the issue as outlined above, the parties would be better prepared to discuss this head of damages at the mediation, with a better prospect of reaching a settlement.

A good point to remember as a mediator is that it is often not what we do, but how we do it that determines whether or not our conduct passes muster.

*Patrick Scott*



*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).*

***What's the best piece of advice  
you've ever received?***

***Who answered:***

***"If you take care of the small things,  
the big things take care of  
themselves." - Emily Dickinson***



# THE ROLE OF MEDIATION IN RESOLVING INVESTOR-STATE DISPUTES

## 1. Introduction

The global landscape of Investor-State Dispute Settlement (ISDS) has long been characterized by a reliance on formal, adjudicatory arbitration. While this adversarial model was intended to provide a stable, neutral forum for resolving investment conflicts, it has increasingly been criticized for its exorbitant financial costs, extended timelines, and the erosion of the amicable relationships essential to foreign direct investment. The necessity for a systemic transition toward more flexible, consensual modes of dispute resolution has reached a critical juncture. On 2 July 2026, the United Nations Commission on International Trade Law (UNCITRAL) finalized a landmark series of reforms that seek to address these structural deficits.

The central thesis of this article is that the 2026 UNCITRAL reforms do not merely supplement the existing ISDS regime; they fundamentally shift mediation from a peripheral, underutilized alternative to an integral, procedurally embedded mechanism. By institutionalizing systemic support and establishing clear procedural mandates, these reforms transform mediation into a primary pillar of the dispute settlement architecture. This shift is facilitated primarily by two transformative instruments: the Statute of the Advisory Centre on International Investment Dispute Resolution, which provides the necessary institutional and capacity-building framework for states, and the Supplementary Provisions on the Conduct of Proceedings, which codify the procedural

mechanics required to integrate mediation into ongoing legal disputes.

This article proceeds in four subsequent parts to analyse this evolution. Section 2 examines the imperative for reform, detailing the specific systemic crises—including cost volatility and procedural gridlock—that rendered the traditional arbitral approach insufficient. Section 3 analyses the institutional role of the Advisory Centre and the procedural innovations introduced by the Supplementary Provisions, demonstrating how these reforms create a durable environment for mediation. Section 4 delves into the procedural mechanics, specifically assessing how the rules govern the interaction between mediation and active arbitration, including the "without prejudice" protections and mechanisms for stay of proceedings. Finally, the article concludes that the successful implementation of these reforms will dictate the future efficacy and legitimacy of the international investment legal order.

## 2. The Imperative for Reform in ISDS

The traditional model of Investor-State Dispute Settlement (ISDS), largely rooted in the investment treaty practices of the late 20th century, has faced an escalating crisis of confidence. For decades, the reliance on ad hoc arbitration—originally designed to bypass local courts in favour of neutral, international adjudication—has generated significant externalities. The reform efforts undertaken by UNCITRAL Working Group III were not merely cosmetic; they were a necessary response to deep-seated systemic failures that threatened the functional utility of the international investment regime.



## 2.1 Economic and Procedural Inefficiencies

The primary impetus for reform stems from the prohibitively high costs associated with international investment arbitration. Empirical data suggests that legal fees and administrative costs for a single case often exceed \$5 million, with overall dispute resolution expenses frequently reaching as high as \$8 million to \$10 million for states and investors alike. Beyond monetary costs, the duration of proceedings has become a significant concern. Cases often languish for four to six years, creating a "chilling effect" on public policy, where states become hesitant to exercise their regulatory functions for fear of long-standing, unpredictable arbitration outcomes. This procedural gridlock has led to a perception that the system serves only the most affluent claimants while imposing a significant fiscal burden on respondent developing nations.

## 2.2 The Legitimacy Deficit

Parallel to the concerns regarding efficiency are broader questions concerning the legitimacy of the ISDS system. Critics have long contended that the adversarial, "winner-takes-all" nature of arbitration is inherently ill-suited to resolving disputes that often involve complex public interest considerations, such as environmental regulations, tax reforms, or human rights obligations. Because arbitral awards are often perceived as divorced from the domestic democratic process, the system has faced significant "backlash" from civil society and sovereign states. This perceived lack of democratic accountability necessitated a shift toward mechanisms that allow for more flexible, context-specific settlements where the parties themselves remain in control of the outcome.

## 2.3 The Necessity of Institutional Mediation

The shortcomings of traditional arbitration necessitated the transition toward a system where mediation is no longer a peripheral option but an institutionalized priority. By addressing the imbalance of power and resources, the UNCITRAL mandate sought to integrate mediation as a primary vehicle for resolving disputes before they reach the point of irreparable harm to the investor-state relationship. It is within this context of systemic inefficiency and eroding legitimacy that the 2026 reforms were codified, providing a structural escape hatch for parties to avoid the constraints of rigid, adversarial proceedings.

## 3. The 2026 UNCITRAL Reforms: Institutional and Procedural Support for Mediation

The 2026 UNCITRAL reforms represent a paradigm shift in investor-state dispute resolution by providing the necessary scaffolding to elevate mediation from a voluntary, often neglected option to a robust, institutionally supported mechanism. This transformation is anchored by two foundational instruments that operate in tandem: the Statute of the Advisory Centre on International Investment Dispute Resolution (the "Statute") and the Supplementary Provisions on the Conduct of Proceedings (the "Supplementary Provisions"). Together, these instruments resolve the historical lack of institutional capacity and procedural clarity that previously discouraged the use of mediation in the investment context.

### 3.1 Institutional Empowerment: The Role of the Advisory Centre

A primary barrier to the widespread adoption of mediation has historically been the asymmetry of resources between multinational investors and developing states. The Statute of the Advisory Centre addresses this by creating a centralized, permanent institution dedicated to providing expert legal assistance and technical capacity-building.

Unlike the ad hoc nature of traditional arbitration, the Advisory Centre offers state parties a repository of mediators specifically trained in the nuances of international investment law and the complexities of sovereign regulatory mandates.

*If you could listen to one song for the rest of your life, what would it be?*

*Who answered:  
Ophelia - Lumineers*





The Advisory Centre's mandate goes beyond mere representation; it serves as a proactive hub for mediation advocacy. By providing states with independent legal analysis on the merits of a dispute, the Centre empowers governments to evaluate whether a conflict is suitable for a mediated settlement rather than entering into costly, protracted arbitration. This institutional support minimizes the political risk often associated with settlement, as state negotiators can rely on the Centre's objective assessment of legal liability and recommended terms of agreement.

### 3.2 Legal Architecture: The Supplementary Provisions

While the Advisory Centre provides the necessary support structure, the Supplementary Provisions on the Conduct of Proceedings serve as the procedural bedrock that integrates mediation directly into the life cycle of a dispute. These Provisions formalize the role of mediation by establishing standardized rules that ensure consistency across different arbitral forums. Key features of this legal architecture include:

- **Procedural Linkage:** The Provisions mandate that tribunals proactively encourage parties to consider mediation at the initial stages of a proceeding, effectively integrating a "cooling-off" period where mediation becomes a default expectation.
- **Confidentiality Protections:** By clearly codifying the "without prejudice" nature of all disclosures, the Provisions eliminate the fear that statements made during a failed mediation attempt will be used against the parties in subsequent arbitration.
- **Enforcement Synchronization:** The Provisions create a mechanism for recording a mediated settlement agreement as an enforceable arbitral award, thereby removing the legal uncertainty that previously clouded the finality of negotiated settlements.

Through this dual approach of institutional empowerment via the Advisory Centre and procedural integration via the Supplementary Provisions, UNCITRAL has effectively removed the systemic "friction" that once relegated mediation to the fringes of investment law. These reforms ensure that mediation is not only a viable choice but a structurally facilitated one, capable of addressing the needs of both the investor and the host state with far greater efficiency than the legacy model.

## 4. The Procedural Mechanics of Mediation in ISDS

The shift toward a mediated model of investor-state dispute resolution relies on the precise operationalization of procedural rules. The 2026 Supplementary Provisions provide a robust framework that transforms mediation from an informal negotiation into a structured legal process. By codifying how mediation interacts with ongoing or prospective arbitral claims, the new rules resolve the uncertainty that previously deterred parties from engaging in settlement discussions.

### 4.1 Procedural Synchronicity and the Stay of Proceedings

A critical innovation within the 2026 framework is the seamless synchronization between mediation and formal arbitration. Under Article 12 of the Supplementary Provisions, parties are empowered to initiate mediation at any point during an active dispute. Crucially, the rules stipulate that the commencement of mediation does not automatically constitute a waiver of any procedural rights in the parallel arbitration.

Upon the mutual agreement of the parties to mediate, the tribunal is mandated to grant a stay of the arbitral proceedings for a specified period—typically 90 days—to allow the mediation process to conclude without the pressure of active litigation deadlines. This mechanism ensures that parties do not face the "dual-track" burden of financing arbitration while simultaneously negotiating a settlement.



4.2 Evidentiary Protection and Confidentiality

To foster an environment of candour, the Supplementary Provisions explicitly incorporate "without prejudice" protections for all communications occurring during the mediation phase. Article 14 ensures that any concessions, settlement proposals, or admissions made by either party during the mediation cannot be introduced as evidence in the event that the mediation fails and the dispute reverts to the arbitral tribunal.

This shield is essential for preventing the strategic misuse of settlement-related information and guarantees that parties can explore creative solutions without fear that their "bottom-line" positions will be weaponized in subsequent arbitration.

4.3 Enforceability and the Singapore Convention

Perhaps the most significant procedural advancement is the explicit alignment of the new framework with the United Nations Convention on International Settlement Agreements Resulting from Mediation (the "Singapore Convention"). By utilizing the model clauses provided in the 2026 guidelines, parties can ensure that their settlement agreements are structured to meet the criteria for international enforcement.

| Procedural Component | Mechanism                                                                |
|----------------------|--------------------------------------------------------------------------|
| Triggering Mediation | May be initiated by either party or suggested by the Tribunal (Art. 12). |
| Stay of Proceedings  | Mandatory suspension upon party request to avoid procedural overlap.     |
| Confidentiality      | "Without prejudice" status covering all oral/written communications.     |

By linking mediated settlements to the mechanisms of the Singapore Convention, the 2026 reforms move mediation from the realm of non-binding agreements into the domain of directly enforceable international legal instruments. This provides investors with the security that their agreement will be respected and gives states the confidence that their settlement obligations are legally binding within the framework of their international treaty commitments.

5. Conclusion

The 2026 UNCITRAL reforms mark a definitive departure from the rigid, adversarial status quo that has long defined the Investor-State Dispute Settlement (ISDS) regime. As this article has demonstrated, the transition from a system centred exclusively on formal adjudication to one that embraces institutionalized mediation is not merely a procedural adjustment, but a fundamental redesign of the international investment legal architecture. By dismantling the barriers that previously relegated mediation to a peripheral alternative, these reforms have firmly established consensual resolution as a central, proactive pillar of investment protection.

The success of this shift rests upon the synergy between the two primary instruments analysed: the Advisory Centre and the Supplementary Provisions. The Advisory Centre provides the necessary institutional scaffolding to bridge the persistent resource and capacity gaps between sovereign states and multinational investors. Simultaneously, the Supplementary Provisions offer a precise, legally binding procedural framework that ensures mediation can be seamlessly integrated into the lifecycle of any dispute. These mechanisms, bolstered by the enforceability protocols of the Singapore Convention, provide the clarity and confidence required for parties to move beyond the high-cost, time-intensive constraints of traditional arbitration.

Looking forward, the long-term impact of these reforms will depend on the commitment of states and investors to move beyond the legacy mindset of "litigation-first."



The 2026 instruments provide the tools for a more efficient, cost-effective, and—most importantly—legitimate system of resolving investment disputes. If adopted with the rigor envisioned by UNCITRAL, these reforms will not only reduce the fiscal and diplomatic burden of ISDS but will also contribute to a more sustainable and balanced environment for global capital.

The era of mediation as an afterthought in international investment law has ended; the era of mediation as a core component of the dispute resolution toolkit has now begun.

*Ettian  
Raubenheimer*



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*Who considers the following piece of advice valuable?*

*"People always say that you only live once but that is not true, you only die once so live every day like it is your last."*





# MEET THE NEW EXCO

## CHAIRPERSON: DR TREVOR FRANKISH

It is a privilege to take up the role of Chairperson of Mediation in Motion Mediators NPO in 2026. My journey with mediation began in 2016 with MiM's Commercial and Healthcare Sector



Mediation Training — an experience that reshaped how I understand conflict and its resolution. Since then I have worked to promote mediation in medico-legal matters, while appreciating how widely it applies across other fields of practice.

As a specialist family physician with an MSC (Med) in Bioethics and Health Law, I have been fortunate to gain management experience across the public and private healthcare sectors, and I currently serve as a clinical management consultant within a major private hospital group.

Having served on MiMM's EXCO since July 2022 I have been privileged to contribute to SAMLA/MiMM pilot projects with several provincial Departments of Health and the Road Accident Fund, as well as with the SA Medical Association — work that has shown the value of mediation in personal injury and medical negligence disputes. In this role I hope to support MiMM's governance, growth and strategic direction as best I can and that mediators across all fields are recognised for their competence, professionalism and

contribution to society.

I remain excited about promoting access to healthcare services as well as mediation and I enjoy local travel, audio books, motor cycling and walking.

## VICE-CHAIRPERSON: ESTA LOTTER

I have been running my full-time mediation practice since completing the UCT/Mediation in Motion Mediators (MiMM) Mediation Training Course in 2023. Mediation is a profession that I find both meaningful and deeply rewarding, allowing me to assist parties in resolving disputes with dignity, respect, and practical solutions.



It has been my honour to serve on the Executive Committee (Exco) of Mediation in Motion Mediators (MiMM) for the past year, where I have had the privilege of leading the Gauteng High Court (GHC) Pillar. In this role, I have overseen the development and implementation of MiMM's processes to ensure compliance with the Gauteng High Court Mandatory Mediation Directive and its associated protocols. This has included developing procedures, supporting fellow mediators, and helping to ensure that MiMM consistently meets its responsibilities as a Recognised Mediation Organisation.

I am also actively involved in the





Pro Bono Benoni Magistrate's Court Mediation Project, where we primarily mediate family matters while providing newly trained South African Association of Mediators (SAAM) family law mediators with the opportunity to observe mediations as part of their membership requirements. Mentoring and empowering fellow mediators is one of my greatest passions. I firmly believe that no matter how experienced we become, we are never too old or too wise to learn from one another.

## **TREASURER:** **CECILIA PRINSLOO-VAN DER LINDE**

It is an honour and privilege to have been elected as Treasurer of Mediation in Motion Mediators NPO, and I look forward to serving alongside my fellow Exco members as we continue to grow and strengthen our organisation.



I hold BLC, LL.B and LL.M (cum laude) degrees from the University of Pretoria and have practised as an attorney since 2002, operating my own boutique legal practice since 2008. My practice focuses on commercial law, commercial litigation and dispute resolution, with an emphasis on practical, solution-driven outcomes. In 2021, I completed the North-West University Business School's Leadership in the Connected Economy short course

programme, which broadened my perspective on leadership, collaboration and strategic thinking within the agricultural sector.

Earlier this year, I qualified as a mediator through Mediation in Motion. Mediation is a natural extension of my professional philosophy of resolving disputes constructively, and I recently established dedicated mediation facilities at my Pretoria offices.

Outside the legal profession, I am a Nguni stud breeder and currently serve on the Council of the Nguni Cattle Breeders' Society of South Africa. I value sound governance, financial accountability and effective administration, and I look forward to contributing these principles in my role as Treasurer while supporting the continued success of Mediation in Motion.

## **SECRETARY:** **ANRI ERASMUS**

I am humbled to have been re-elected as MiMM's Secretary, and am grateful to be able to continue serving my fellow MiMM-members in this capacity.



Since joining the EXCO in 2024, I have taken part in various stakeholder engagements (i.e. to implement the Gauteng HC Mediation Directive and Protocol), helped strengthen MiMM's administrative and





compliance structures and taken initiative in respect of the internal co-mediator and observer model. I also enjoy planning and participating in networking events (like the Ladies in Mediation mornings). I have acted as a lead mediator in the Gauteng High Court and SAMLA/Gauteng Department of Health projects, and enjoy sharing these mediator experiences with my fellow MiMM mediators – to me, this community is worth gold.

I have an academic background in law, and hold an LLB and an LLM in Medical Law and Ethics (*cum laude*). I am also currently completing an MSc Med in Bioethics and Health Law as I've always had a special interest in this field. My personal philosophy is to always continue learning, growing and improving oneself.

Professionally, I am an admitted and practising attorney with right of appearance in the High Courts of South Africa, a Notary Public, and a member of both the International Association of Bioethics and the Declaration of Istanbul Custodian Group, and a proud MiMM-mediator.

What keeps me loyal to, and excited about MiMM is the model itself – facilitative mediation built around human dignity. Having completed the training in-person at the Nelson Peace Centre in Paarl during June 2023, was a life-changing experience for me. I truly wish that all South Africans can embrace a dignified approach to how we co-exist and celebrate each other.

In my free time I enjoy travelling (both locally and internationally), playing padel, reading, baking, and spending time with my family and friends.

## General EXCO Member **PATRICK SCOTT**

I practised as an advocate in South Africa for 30 years. My first contact with mediation was in 2016, when I did the Mediation in Motion training course.



In 2017, personal circumstances resulted in my wife and me relocating to the Isle of Arran, off the west coast of Scotland. In that same year, I enrolled for a Master's degree in Mediation and Conflict Resolution at the University of Strathclyde, in Glasgow. After graduating in 2019, with distinction, I commenced a mediation practice, which has grown steadily since then.

I joined the MiMM Exco in 2020. Since then, I have served continuously and I have been able to offer insights from a different perspective as I am also a trustee of Scottish Mediation, which is the professional body for mediators in Scotland. Due to the fact that I live on an island, my preferred method of mediating is remotely. I think, however, that that would be my preferred method, even if I lived somewhere else.

When not mediating, I enjoy time with my wife and daughter, as well as our six cats, two ducks and two parrots. Both my wife and I are also actively involved in amateur theatre.





## General EXCO Member Michiel Bouwer

I am the managing director of Bouwer & Olivier Inc., where I practise as an attorney in the corporate and commercial litigation department. I hold an LLB (cum laude) from North-West University.



I completed my MiM training in June 2023, after personally experiencing the transformative effect of the MiMM mediation style in my own litigation practice — an experience that convinced me mediation could revolutionise the legal industry and become the default mechanism for resolving conflict. I joined the EXCO's legal sub-committee shortly after training, began mediating actively, and contributed to the SAMLA-Gauteng Department of Health mediation initiative.

I served as Vice-Chairman of the MiMM EXCO from 2024 to 2026, working closely with the Chairperson to drive the organisation's strategic vision, including constitutional modernisation and the pillar system. Beyond MiMM, I co-chaired the Steering Committee for the Gauteng High Court Mediation Project and served on the RAF Mediation Implementation Committee, work that contributed to the Gauteng High Court Mediation Directive and Protocol. I also serve as a board member of ADRP-SA.

I continue to serve on the MiMM EXCO in a new capacity and am a devoted father of two who values integrity, collaboration, and excellence in all I do.

## General EXCO Member Susan Verhoef

I have been happily married for 34 years and am the proud mother of three wonderful adult children and grandmother to two precious grandchildren, all of whom bring immense joy and meaning to my life. Professionally, I am an occupational therapist and have had the privilege of working in the medico-legal field for the past 31 years. It has been an extraordinary journey of continuous learning, personal growth, and the opportunity to meet some truly remarkable people along the way.

Those experiences have not only enriched my career but have also shaped my perspective on people, resilience, and the value of understanding different viewpoints. In 2017, I listened to my heart and embarked on mediation training.

At the time, it felt like the longest and most challenging five days of my life, yet it led to one of the most rewarding chapters of my professional journey. Since then, I have been privileged to participate actively in both the SAMLA-RAF and SAMLA-MEC mediation pilot projects and now mediate under Rule 41A.

Mediation has become a passion, allowing me to help people find constructive paths forward. The rest, as they say, is history, and a story that would take far more than 200 words to tell.





## General EXCO Member Retief Strauss



Retief holds a Master of Medicine in Anaesthesiology and is registered with the HPCSA as a Specialist Anaesthetist.

He has been in private specialist practice for the last 30 years in an 11-person practice in the Eastern Cape. Apart from his clinical experience, he has built up a solid knowledge of the private healthcare sector in South Africa. In 2022 Dr Strauss did the Medical Negligence and Health Sector Mediation Training through Mediation in Motion and UCT. Since then, he has been involved with medico-legal mediations, as part of the SAMLA and Gauteng Department of Health initiative. Dr Strauss is an EXCO member of MiM Mediators and a member of SAMLA, SASA and SAMA. He is also registered on the ADR Technologies site as a mediator approved for RAF mediations. Dr Strauss has a passion for taking mediation from a principle to a practice, and is part of the UFS Mediation Working Group, doing research around mediation in the medico legal space. He is a grant recipient from The MPS Foundation in the UK. As the private practice liaison for this group, he networks with the medical Indemnifiers, private hospital groups, Hospersa, and the various specialist societies. He loves his wife, children, mountain biking, running, hiking, travelling, wine, and food.

*If you could listen to one song for the rest of your life, what would it be?*

*Who answered:  
Caledonia - Dougie MacLean*



## General EXCO Member Andries Stander

He established Stander Attorneys in March 2024, after nearly fifteen years in practice, ten of them as a director of an established Pretoria firm. I have successfully represented parties in the Electoral Court, Equality Court, Supreme Court of Appeal and Constitutional Court, yet I am increasingly convinced that most disputes are better resolved around a table than in a courtroom.

My work spans commercial disputes, family law, construction, personal injury and criminal defence, which has taught me how closely these fields interact, and how seldom a legal victory is a resolution.

I came to law by accident. As a child I wanted to be a marine biologist, and I arrived expecting courtroom glory. My strength lies in helping people find common ground. A close-knit upbringing taught me compassion and perseverance; in the mediation room I pair those with patience, careful analysis and a preference for practical solutions over sentiment.

Twenty-five commercial, workplace, family and personal injury mediations in the past year have left me keenly aware of how much there is to learn, and eager to learn it from fellow MiMM members.

Outside practice I coach youth rugby, and spend my time with family, in nature or behind a camera.







## General EXCO Member Belinda Scriba

I have been a practicing attorney for more than 20 years, and for most of that as a commercial litigator.



I was raised on the ethos that settlement is at most times better for a client if it can be achieved, so have always embraced the idea and thinking behind mediation.

Like most members, I am a MiMM trained mediator, and am super excited that mediation is finally getting the platform and recognition it deserves. I feel truly honored and privileged to be part of an organisation that is at the forefront of negotiating and promoting these advances, while ensuring standards are maintained to ensure mediation is showcased in the best possible light.

My passion project in the mediation space is to grow the use of mediation in the corporate and commercial sectors.

At home there is a lot of hiking, tennis and padel. We also love spending time in the kitchen preparing meals for family and friends, and pouring our hearts out over a glass of wine.

*Who do you think gave the following answer to the question -  
What's a recent film you've watched and loved?*

*"I am a reader and can read for hours, and find the silver screen a challenge, considering the time it takes. I do, however, enjoy the annual Silwerskerm short film festival and marvel in the incredible art made locally for the silver screen – such as Noise & Neighbours a 2024 South African 20-minute drama short film directed by Liza Ludick."*

*If you could listen to one song for the rest of your life, what would it be?*

*Who answered:  
I am still standing – Elton John*

*What's the best piece of advice you've ever received?*

*Who answered:  
"The fear of the Lord is the beginning of wisdom"*



# MiMM & MPS WORKSHOP

On Saturday, 01 August 2026, Mediation in Motion Mediators (MiMM) and the Medical Protection Society of South Africa (MPS-SA) had a workshop on mediation in medico-legal dispute resolution sponsored by MPS. This workshop was held in-person in Pretoria. Apart from 8 EXCO members of MiMM, MPS-SA had a total of 29 case and claim managers attending, the South African Medical Association (SAMA) had 4 of their EXCO members present, and the South African Society of Anaesthesiologists (SASA) EXCO was represented by Lezelle Britz and Mike Blackburn. A handful of other attorneys and MiMM members attend as well.

After a word of welcome from Shamal Ramesar, Alan Nelson started the workshop detailing his own personal and professional journey giving up a very successful litigation practice as an advocate, to become a true champion for mediation in South Africa.

The few dry eyes in the audience also filled up during the two case presentations, describing the reality, emotions and trauma of medico-legal conflict, including the contrast between litigation and mediation. Mike Blackburn did the first presentation, and Anri le Roux and Adam Prinsloo (a Netcare-contracted lawyer) did the second presentation. Esta Lotter and Trevor Frankish then presented some statistics around the Gauteng Department of Health pilot project, and Esta Lotter did the same for the Gauteng High Court mediation program. The last presentation was done by Retief Strauss, and he summarized the research of the UFS Mediation Working Group, and some of the results of their questionnaires to both SASA and SAMLA members.

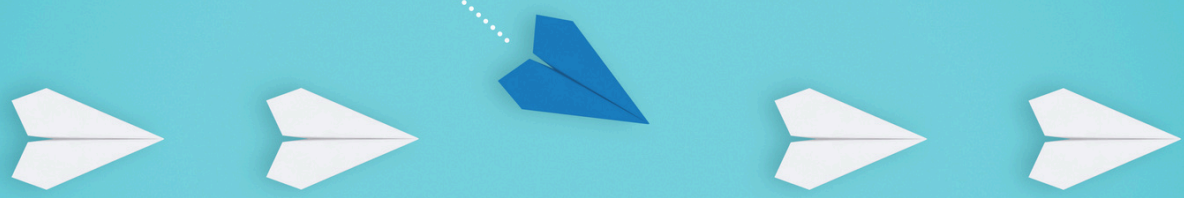
After a short break, a very lively open discussion took place that ran into and over lunch. MPS-SA shared valuable insight into their day-to-day running, and the changes they have instituted over the last few years.



After a short break, a very lively open discussion took place that ran into and over lunch. MPS-SA shared valuable insight into their day-to-day running, and the changes they have instituted over the last few years.

The biggest change that has far-reaching potential, is the fact that once a doctor has reported a concern, complication, dispute, or summons, he or she will be appointed a local Pretoria-based case manager. The healthcare professional can then personally liaise with this case manager and request a pro-mediation legal representative. There are already numerous lawyers on their panel with mediation training (one firm has more than 20 such





*What's the best piece of advice you've ever received?*

*Who answered:*

*"Always put in the effort to make small moments memorable - as all of these small moments ultimately build your life."*

lawyers). Many of them were trained through MiMM Training too.

In summary, I believe it has been a very successful opportunity to give MPS-SA a look into medico-legal conflict from a client's perspective, and the many, many extra benefits that mediation offer over litigation. This was excellent networking between MiMM, MPS-SA, SASA & SAMA and we will most definitely attempt to spread this message far and wide, and make mediation move from a principle to a practice.

Another invitation for MPS-SA case managers to attend MiMM training has been extended.

Personally, this was a reminder to me again as a mediator to never forget that at the heart of every medico-legal conflict or dispute, there are two main parties that the mediator should focus on. Everything and everybody else are background noise and of secondary importance.

The message to me as a healthcare professional is to play a much more active role in the dispute that I am party to, and demand what my professional indemnifier profess, namely being a mutually owned organization that listen to their members. We have been subcontracting our responsibilities in this area for far too long and to our own detriment.

In the words of Barack Obama, **"Change will not come if we wait for some other person or some other time. We are the ones we've been waiting for. We are the change that we seek."**

*Retief Strauss*



**A few of the MiMM EXCO Members after the Workshop.**





# EMPOWERING MEDIATORS

## Mediation as a Leadership Tool — Not Just a Legal Process

For many people, mediation is associated with legal disputes, settlement negotiations, or courtroom alternatives. But the most effective leaders understand something important: mediation is not only a legal process — it is a leadership skill.

Long before conflicts escalate into formal disputes, they usually begin inside organisations. Miscommunication between departments. Personality clashes within teams. Frustration over decision-making. Tension around performance, accountability, or change.

Strong leaders do not wait for conflict to become destructive. They manage it early, strategically, and constructively. That is where mediation principles become invaluable.

### **Leadership Is Often About Conflict Management**

Every organisation experiences conflict. The question is not whether disagreement exists — it is whether leadership knows how to handle it productively.

Poorly managed conflict creates:

- Reduced productivity
- Employee disengagement
- Increased staff turnover
- Damaged workplace culture
- Distrust between management and teams
- Escalation into formal grievances or litigation

In contrast, leaders who understand mediation principles are often able to:

- De-escalate tension before positions harden
- Encourage constructive communication
- Preserve professional relationships
- Improve decision-making
- Create psychologically safer workplaces
- Resolve issues without unnecessary confrontation

In practice, many successful leaders already use mediation techniques instinctively — even if they do not formally describe them that way.

### **Mediation Skills Are Leadership Skills**

One of the biggest misconceptions about mediation is that it is merely a process used when things have already gone wrong. In reality, mediation principles are proactive leadership tools. Some of the most valuable include:

#### Active Listening

Employees and stakeholders are far more likely to cooperate when they feel genuinely heard. Listening is not simply waiting to respond. It involves understanding concerns, motivations, frustrations, and underlying interests. Many workplace conflicts escalate because people believe leadership is hearing the words — but missing the issue underneath them.

#### Neutral Framing

Strong leaders avoid inflammatory language and emotionally charged responses. The ability to reframe difficult conversations calmly and constructively is often the difference between resolution and escalation.



A leader who says: “Help me understand your concern” usually creates a very different outcome from one who says: “You are overreacting.”

## **Managing Emotion Without Avoiding Accountability**

Mediation does not mean avoiding difficult conversations. Effective leaders still address poor performance, misconduct, or operational problems. The difference is that they do so in a manner that reduces defensiveness and increases the likelihood of cooperation. People are more receptive to accountability when they are treated with fairness and respect.

## **Focusing on Interests Instead of Positions**

In many workplace disputes, parties become locked into positions:

- “I refuse to work with that department.”
- “Management never listens.”
- “This policy cannot change.”

Mediation teaches leaders to move beyond positions and identify interests:

- What is the real concern?
- What outcome does the person actually need?
- What pressure or fear is driving the conflict?

That shift often creates practical solutions that positional arguments cannot reach.

## **Internal Conflict Is Often a Leadership Test**

One of the clearest indicators of leadership maturity is how conflict is handled internally. Some leaders rely heavily on authority, hierarchy, or formal process. Others avoid conflict entirely until it becomes unmanageable. Neither approach is particularly effective long term. The strongest organisational leaders understand that unresolved internal conflict rarely disappears on its own. It usually spreads:

- into team morale,

- operational inefficiency,
- client relationships,
- and eventually reputational risk.

## **Mediation Culture Creates Stronger Organisations**

Organisations that embrace mediation-oriented leadership often experience:

- Better communication
- Improved staff retention
- Faster problem-solving
- Reduced workplace hostility
- Greater trust between teams and management
- More resilient organisational culture

Importantly, this does not create “soft” leadership. In many cases, it creates stronger leadership — because difficult issues are addressed directly, but constructively. There is a significant difference between avoiding conflict and managing it intelligently.

The future of leadership is not simply about authority, technical expertise, or decision-making speed. It is increasingly about the ability to manage people, communication, and conflict effectively. That is why mediation should not be viewed only as a legal mechanism used after relationships break down. It is also a leadership framework:

- for navigating complexity,
- maintaining trust,
- improving communication,
- and strengthening organisations from within.

The leaders who understand this are often the ones who resolve problems earlier, retain stronger teams, and create more sustainable professional environments.

*Cecilia  
Prinsloo-Van der Linde*



**[\\*Click here to read more about  
Prinsloo-Van der Linde Attorneys.](#)**





## SAVE THE DATE



**Wednesday, 14 October  
2026**



**Free to MiMM Members  
R300.00 to non-members**



**18h00 – 19h00**



**1 MiMM CPD  
Point**



**Online via Zoom**

*Which two EXCO members do you  
think could listen to Queen's  
“Bohemian Rhapsody” for the rest of  
their lives?*

**ASK THE  
EXPERT**



# Thank You

Mediation in Motion Mediators (NPO) extends its heartfelt appreciation to Sasha Wait for her dedicated service as an EXCO Member. Throughout her time serving on the Executive Committee, Sasha gave generously of her time, energy, and expertise, consistently demonstrating a genuine commitment to the growth and success of MiMM.



During her service, Sasha played a significant role in the development and expansion of MiMM's membership. Her efforts to strengthen and improve our membership processes have contributed greatly to creating a more efficient, professional, and welcoming experience for both prospective and existing members. In addition, she was instrumental in the development and enhancement of the MiMM website, helping to improve its functionality, accessibility, and overall user experience. Through her insight, dedication, and willingness to continually improve our systems and digital presence, she has helped lay a strong foundation for the organisation's continued growth.

Beyond her specific responsibilities, Sasha devoted countless hours to supporting MiMM's initiatives and contributing wherever assistance was needed. Her collaborative spirit, professionalism, and unwavering commitment to the organisation have been deeply valued by her fellow EXCO members and the wider MiMM community. Her passion for serving the organisation has made a lasting impact on both our operations and our members.

On behalf of Mediation in Motion Mediators (NPO), we extend our sincere gratitude to Sasha for her outstanding service, dedication, and the many hours she invested in helping MiMM flourish. We wish her every success and happiness in all her future endeavours and trust that her connection with our organisation will remain a valued and cherished one.



# Thank You



The Executive Committee and members of Mediation in Motion Mediators (NPO) extends our sincere appreciation to Dr. Ettian Raubenheimer for his unwavering commitment, exceptional leadership and invaluable service to MiMM over the past six years.

As Pillar Lead for Standards, Compliance and Discipline, Dr. Raubenheimer played a pivotal role in strengthening the governance and professional standards of our organisation. His meticulous approach and sound judgement helped establish a strong foundation that continues to guide MiMM today.

Dr. Raubenheimer also led the SAQA accreditation process on behalf of MiMM, dedicating countless hours to ensuring that our vision for accredited mediator training became a reality. When the accreditation process was later transitioned to ADRP SA, he remained actively involved, providing continuity and expert guidance to support its successful progression.

His contributions extended well beyond internal governance. Dr. Raubenheimer was instrumental in the Gauteng High Court mediation initiative, helping advance the recognition of mediation as the preferred first mechanism for resolving disputes. His expertise was invaluable in the development of the court protocols that continue to shape the future of court annexed mediation.

Throughout his years of service, Dr. Raubenheimer generously shared his knowledge, wisdom and practical experience, always placing the interests of MiMM and the mediation profession above his own. His thoughtful advice, professionalism and steadfast commitment have left a lasting legacy that will continue to benefit the organisation for many years to come.

On behalf of the Executive Committee and the entire MiMM community, we express our deepest gratitude to Dr. Ettian Raubenheimer for his remarkable service and wish him every success in his future endeavours. His contributions will always be remembered and greatly appreciated.



U P C O M I N G

## Mediation in Motion Training (Pty) Ltd

### 2026 Course Dates

3 to 7 August - Advocates, attorneys and other qualified legal practitioners mediation.

21 to 25 September - Advocates, attorneys and other qualified legal practitioners mediation.

12 to 16 October - Civil and commercial mediation

7 to 11 December - Medical negligence and health sector mediation

### 2027 Course Dates

5 to 9 April - Advocates, attorneys and other qualified legal practitioners mediation

21 to 25 June - Advocates, attorneys and other qualified legal practitioners mediation

12 to 16 July - Advocates, attorneys and other qualified legal practitioners mediation

27 September to 1 October - Civil and commercial mediation

11 to 15 October - Civil and commercial mediation

25 to 29 October - Medical negligence and health sector mediation

6 to 10 December - Medical negligence and health sector mediation

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