



THE EXPERT ACCOUNTANTS APPEAR

In this extract from *The Mediator's Log: A Day in the Life of a Mediator*, Core's **John Sturrock** explains the role of the accountants in the mediation process

14.10: The mediator would often ask apparently naïve questions of the lawyers in order to draw out the underlying issues. “What about the accountancy experts? Are they relevant anymore?” “Yes, we need to have their views on valuation”, offers one, looking at his opposite number: “We certainly don’t agree with your guy”. It is clear that there is a conflict which might need to be addressed. “How about bringing them together and asking them to present to each client directly?” asks the mediator. “It can often be really useful for the client to hear what is being said on the other side. Again, it’s about understanding risk, not persuading either side that they are right or wrong.” “But would we be present?” asks one lawyer. “I’m not particularly happy about them being alone with the clients”. “That’s not a problem”, replies the mediator, “but maybe your role can be as an observer in this session?”

14.20: It has been agreed that the mediator would meet with the accountants first and discuss with them what the main differences are between them. The mediator knows from experience that, when experts actually sit down and talk through the issues together and gain a better understanding of the other perspective, the differences often diminish. Or, at least, the reasons for the differences become clearer. It was remarkable how highly experienced professionals could reach different views based apparently on



the same facts. The reason was usually an incomplete analysis, reliant as they were on the information provided to them by others. It was far better that they reached greater consensus – or indeed made concessions – now, in this confidential process, than after several days of cross-examination in a court. **14.25:** “What are the biggest differences between you?” asks the mediator. “Can you rank them in order, so that we can focus on what really matters? And can you identify why it is that you have these differences? When you’ve done that, I am going to ask you to come through to the main room together and take each topic in turn and I’ll ask you to tell the clients where you differ and why.” The experts know each other well – and

have a mutual respect – so, on this occasion, such a prospect is not too uncomfortable for them. (The mediator recalls some instances when this was not so. Such situations needed careful management). Nevertheless, the mediator is aware that professional prestige is to some extent at stake, especially as the lawyers will be watching. After all, like others, the experts relied on the lawyers for work. Would that influence them?

14.45: The mediator has left the accountants to talk and to prepare a rudimentary schedule of key issues. He gathers everyone else together, having made sure that he updates the clients on what was happening.

14.55: The mediator says: “OK. Let’s get started. This meeting is to invite the two expert accountants to set out where they are coming from. They have a lot in common but there are a number of matters where you are each receiving different advice from them. You need to understand why and the implications for decisions you need to make today”. **CA**

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➔ This is part five of *The Mediator's Log*. You can read parts one and four, and find out what happens next, at www.core-solutions.com/news-events/the-mediator-s-log/



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