



PEPPERDINE | SCHOOL OF LAW
Straus Institute for Dispute Resolution

The International Task Force on Mixed Mode Dispute Resolution

Online Public Consultation Sessions
September 13-15, 2021

FUTURE DIRECTIONS: INTERACTIONS BETWEEN MEDIATORS AND ARBITRATORS

WORKING GROUP 7, DEBORAH MASUCCI & DILYARA NIGMATULLINA
15 SEPTEMBER 2021



MEMBERS OF WORKING GROUP 7



- Shahla Ali (Hong Kong)
- David Burt (USA)
- Maria Chedid (USA)
- Malik bin Rabea Dahlan (UK)
- Merrill Hirsh (USA)
- Phillip Howell-Richardson (UK)
- Jeremy Lack (CH/UK/IL/US)
- Christopher Miers (UK)
- Mark Morril (USA)
- Jackie Nolan-Haley (USA)
- Susan Nycum (USA)
- Jean-Francois Roberge (Canada)
- John Sherrill (USA)
- Joe Tirado (Spain)
- Christopher To (Hong Kong)
- Nancy Vanderlip (USA)

OUTLINE



1. FACTORS TO CONSIDER
2. POSSIBLE SCENARIOS
3. POSSIBLE MODES OF COMMUNICATION

I. FACTORS TO CONSIDER

the risks of tainting the arbitration process or an award

a strategy for managing those risks

an informed determination by all participants to proceed

well-documented consent

well-defined contingency arrangements & risk mitigation structures and policies

2. POSSIBLE SCENARIOS



STRUCTURE
DEVELOPMENT



SHADOW
ARBITRATION



SHADOW
MEDIATION



A MOSAIC



AN INTEGRATED
PROCESS

3. POSSIBLE MODES OF COMMUNICATION

1. consult without advance notice
2. consult without advance notice but only on specified topic
3. consult only upon all-party authorization
4. consult only if parties and counsel are present



**"HAVE
YOUR
SAY!"**

