

The Modern Mindset OF COMMERCIAL MEDIATION

Essential
ADR
Strategies
From...

**The Critical
Traits of a
Successful
Neutral**

...SSAM's
Commercial
Mediators



EDWIN M. BAUM, ESQ
SSAM ADR Commercial Mediator
Partner | Perkins Coie, LLP

"The critical personality traits for all mediators have been extensively explored in the literature - being effective listeners and communicators; trustworthiness; patience combined with persistence; and objectivity combined with empathy. But for commercial mediations, the often overlooked but equally essential traits are understanding what drives business leaders and litigants in assessing claims and exposures, and in making decisions on whether (and on what terms) to fight (litigate) or settle. Again, the mediator's function is to help the parties find a path to agreement, not to decide disputes. So for commercial mediators, the most important specialized skills are born from years or decades of counseling clients on objectively evaluating their cases, and deciding whether, and on what terms, to settle or fight; from understanding what drives client decisionmakers in making those decisions; from representing and advocating for clients in negotiating settlements (in mediation and otherwise) and ultimately from having counseled clients on how to address claims and disputes in ways that best serves their business objectives."

LAURENCE (LARRY) A. LEVY, ESQ
SSAM ADR Commercial Mediator
Greenberg Traurig



"An effective neutral must be an attentive and active listener, the neutral must be able to discern the truly important issues from hyperbole by helping the parties get past the rhetoric of classic legal disputes. The neutral must understand that the job is to help parties find a pathway that is mutually beneficial, rather than impose his or her views of a satisfactory resolution. The neutral must be able to work with the parties, recognizing that they are in control of the outcome, while the neutral is equally open to understanding and processing each sides position. The neutral can only influence the process if the parties recognize the neutral's competence, integrity, and absolute neutrality. As such the neutral must have strong analytical skills to follow a Socratic process that guides the parties, with patience and insight, to a path paved with self-interest for all."



MICHAEL STARR, ESQ
SSAM ADR Commercial Mediator
CEO, Michael Starr Mediation Services

"The most important traits of a mediator are persistence, patience and creativity. Knowledge of the legal issues in dispute and understanding the realities of litigation help, sparing the parties from having to take time explaining things to the mediator. But what "gets it done" is persistence – never giving up and never losing hope that there is a resolution that is better for each side than continued litigation; patience – calmly listening and letting the process proceed at its own pace, and creativity – being able to see and suggest ways of accomplishing a party's objectives that would actually be acceptable to the other side and doing so by shifting focus from positions and wants to interests and needs, which can often be met in ways different from what a party initially asserts it 'must have.'"



Edwin M. Baum, Laurence A. Levy and Michael Starr are members of SSAM's Commercial Mediation Panel.

As practitioners of law at the highest level, SSAM'S COMMERCIAL MEDIATION panel brings a unique currency and state-of-the-art strategies and solutions, to complex commercial dispute resolution. This modern perspective of commercial mediation is informed by the demands, priorities, risks and cross-discipline complexities facing today's C-suites and corporate boardrooms.

To work with the SSAM Commercial Mediation Team, please contact SSAM COO Lee Rosenbaum at leer@ssamadr.com