Forewords

Cliff Hendler

As an early pioneer in the field of commercial mediation, I have found Hal Abramson's research and writings valuable for informing and improving my mediation practice, now in its 30th year. In Abramson's newest book, *Beyond the Courtroom*, he brings together in a single source for practitioners like me many of his most illuminating publications over his more than thirty years of work in the field of dispute resolution.

I first met Hal in 2006 at the inaugural year of the International Chamber of Commerce Mediation Competition in Paris. He was a member of the committee that launched this global competition and helped design its rules. It was clear to me then, as it is for all of those who have interacted with him over the past decades: Hal is dedicated to identifying and promoting best practices that are not just theoretical. He focuses on practices that are realistic and practical for disputants, their advocates, and mediators, for preparing and participating in mediations.

Hal has taught students, advocates and mediators around the world. His seminal book, *Mediation Representation*, is used world-wide. I use the book as guidance for the advocates in my mediations and for insights into the hundreds of mediations I conduct annually.

Because of his thoughtful and enduring contributions to improving practice, I approached Hal in 2014 to design for the International Academy of Mediators (IAM) a program that would engage academics with the membership of this peer-selected organization of full-time mediators from around the world. He proposed various options to the IAM Board, and it ultimately adopted a Scholar in Residence Program (SIR) with rotational academic appointments. Hal served as the inaugural SIR for two years. The purpose of the program is to create a mutually beneficial dialogue between academics and practitioners. There is often a tension between theory and practice, and through this robust exchange the SIR program has been able to bring about understanding and growth between academics serving as SIRs and the membership of senior mediators who handle complex disputes.

Hal has had a profound impact on the establishment and growth of the ADR field and profession during his academic career. This new book, *Beyond the Courtroom*, compiles his top publications as a ready and useful reference for negotiators, advocates and mediators.

Cliff Hendler

Mediator

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January, 2020

Jeremy Lack

As a practitioner who has been involved in many international negotiations, mediations and other dispute resolution processes as an advocate and neutral, I have benefited greatly from the publications and trainings of Hal Abramson, who is the consummate “pracademic.” He brings together a rare combination of highly regarded academic scholarship (as evidenced by his award-winning publications) and practical experience (as evidenced by having been selected every year since its inauguration by the *International Who’s Who of Commercial Mediation*).

As demonstrated in this book, Hal excels in taking complex processes, analyzing them, and distilling what he learns into practical insights and techniques that can be readily applied by students, scholars, or professionals, whether in Common Law or Civil Law jurisdictions.

I first met Hal in Paris in February 2007 at the second ICC International Commercial Mediation Competition. What initially struck me about Hal was his dedication to learning and education, as illustrated by his chance encounter with a two student team without a coach from the National Law School of India, Bangalore. After the team passed the first round without a coach, Hal offered to help them if they were interested. They welcomed his support, having self-funded the trip to come alone to Paris. It was impressive to see the working relationship that quickly developed between Hal and these students as they prepared for each of the subsequent rounds. They knew nothing about Hal’s background as a professor and practitioner, and he did not want these talented students to know and risk feeling they should be deferential to him. The team reached the finals and took the second place by a split vote. Their prizes included a copy of Hal’s book, *Mediation Representation*. It was only then that they learned who Hal was and the erudition that had accompanied his coaching.

As a partner to a Swiss law firm, I subsequently invited Hal to Zurich and Geneva to give trainings to seasoned lawyers and in-house counsel. Within one day, he taught us new practical skills in negotiation and mediation advocacy that will remain with us for the rest of our careers. What was particularly noteworthy was Hal’s ability to induce us to revisit our engrained patterns for resolving disputes and to open our minds to new ways for improving our skills. The trainings also involved a different approach to preparing for negotiations and mediations, which included formulating a representation plan and actively working with clients. His advice to “always keep your eye on the 3 i’s” (interests, impediments, and information) has proven to be a simple and memorable

encapsulation of three key ideas that has been extremely helpful to me on many occasions.

I subsequently convinced Hal to become actively involved in the International Mediation Institute (IMI) and to co-chair its new task force on cross-cultural mediation. I served as a member. The task force was set up to foster mediation as a global profession and to design standards for certifying cross-cultural mediators. Here too Hal's ability to approach a complex topic by breaking it into simple and useful concepts was invaluable, especially in formulating "Cultural Focus Areas" or "CFAs" as guides for possible interventions in multicultural mediations (see Chapter 11). Hal went on to advise IMI on several more projects, most recently on the drafting of the Singapore Mediation Convention, which opened for ratification in August 2019. His recent article and edited book on the challenges and choices made in drafting the Convention shed illuminating light on this important new treaty (see Chapter 14).

Finally, a key finding of the Global Pound Conference Series in 2016 (an international project in 22 countries on access to justice and how to improve the future of dispute resolution) illustrates once again how Hal is forward-thinking. He had already thought through and written about one of the most important saliences to emerge from that project—the growing interest in "mixed mode" processes for combining mediation, conciliation and arbitration to generate bespoke, cost-effective dispute resolution processes. Seventeen years earlier, Hal had published an article entitled *Protocols for International Arbitrators Who Dare to Settle Cases* (see Chapter 8). This article and the appendices on final offer arbitration and minitrial procedures in his *Mediation Representation* book were prescient. They are likely to continue to influence academics and practitioners for years to come.

This collection of publications highlights Hal's vocation and "superpower"—to translate his vast understanding of the ADR field into simple, elegant and easy-to-remember insights that can be used in practice and remain fresh for all levels of experience. This book enriches the professional lives not only of newcomers, but seasoned lawyers and practitioners as well. It is a welcome compendium for everyone interested in studying or practicing ADR.

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January, 2020

Lela Love

As an academic, I have been impressed with how Hal Abramson's academic work speaks to multiple worlds. His work reaches practitioners looking for foundational ideas and best practices in negotiations, mediation advocacy, and mediations, including those interested in navigating cultural differences in international negotiations and mediations.

To take one of his foci, representation in mediation, discussed in Part I of this book, his published work grew out of and then informed his practice as a law school professor, a trainer of lawyers and neutrals, and a widely popular speaker at conferences and professional organizations. While legal academics must face the fact that their written work—in textbooks and law journals—are not inherently popular beyond those who are assigned to read them in the classroom or those looking for additional footnotes, in the case of Hal Abramson, his fate has been different. He has combined his written work (the stuff of academia) with practice, speaking and training, which has given his published work a reach and impact that are not typical of many academics.

I have had the privilege of co-teaching with Hal for over ten years an intensive course on Representation in Mediation at Cardozo Law School. It was “intensive” because it involved 28 hours of teaching in one week. It was also intense. Hal became deeply involved—one could say obsessed—with the theories he was working on, and that quality of focus and passion was translated into his written work. In the case of Representation in Mediation, his text *Mediation Representation: Advocating as a Problem Solver* won the 2004 coveted CPR Award for best book and has survived into a 3d edition and into the minds and hearts of both law students and professionals taking continuing educational programs and attending conferences.

The development of the book, in turn, provided fuel for the development of national and international mediation representation competitions, especially for the American Bar Association and the International Chamber of Commerce. The book also fueled the creation of a whole other dimension in law school teaching—courses on Representation in Mediation to parallel the longstanding focus in law schools on Moot Court and Trial Advocacy. As the academic world shifts to serve new fields, the world of practice is also influenced—and vice versa.

His other works also have had a practical impact. Hal's work on cultural competence for mediators has impacted international standards. His work on negotiations have been used for teaching students and training practitioners

and most recently as a basis for building a negotiation program at the US Air Force Academy.

If this book is a compilation of Hal's top written contributions to date, then it is evident that he has influenced law schools and academia—while also influencing the real world of practitioners and organizations. He has made many meaningful contributions to the field of dispute resolution. I look forward to seeing the next chapter of his work.

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January, 2020