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MEDIATION
THEORY AND PRACTICE

Third Edition

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Dedication

To Barry, Carol, and Midge.
Preface to the Third Edition

In the seven years since we published the second edition of *Mediation Theory and Practice*, there have been a number of significant new developments in the mediation field and some changes in our personal lives. Jim Alfini transitioned to Dean Emeritus at South Texas College of Law. Sharon Press left the Florida Dispute Resolution Center to join the faculty at Hamline University School of Law and become the Director of the Dispute Resolution Institute. Our colleague and friend, Jean Sternlight, became immersed in multiple projects that commanded her time and talent, and so opted to withdraw from participating in developing the new edition; we continue to benefit from Jean’s wise counsel and insights and we thank her for her extraordinary contributions to the first and second editions of this book.

Based on valued feedback from our colleagues in the mediation field who have used the text, as well as our experience with it, we have retained the primary content of the previous text but made significant changes to the manner in which we present and organize the materials. In particular, for this new edition, we importantly revised and updated the presentation of the materials in Chapter 1 and developed a new final chapter (Chapter 11) that captures in one place our previous discussion of the many contexts in which mediation is used and career possibilities in the field (previously Chapters 11 and 12). Further, we revised the order of presentation of materials in the following ways: Chapter 8 has been modified to focus exclusively on ethical issues in mediation, and the treatment of these materials is enriched by inclusion of notes and questions drawn from actual mediator grievances and advisory opinions. In addition, we moved the materials on mediator certification issues and judicial mediation to Chapter 9 (the institutionalization of mediation in the courts) and now follow that with Chapter 10, retitled as Mediation and the Lawyer as Advocate, with several new entries that reflect the increased focus on the lawyers’ role as advocate for their clients who will be participating in mediation sessions and the resulting ethical issues.

Prominent among the new developments in the mediation field were an increased focus on the role of advocates in mediation and increases in the depth and breadth of advisory ethics opinions for mediators and mediation case law, especially in the area of good faith participation. In addition, mediation is increasingly being used to deal with major societal problems such as the foreclosure crisis. This new edition addresses these matters in enriched ways. As in previous editions, we have tried to include excerpts from both classic and new literature sources in this field as well as references and excerpts from new case law developments. We were greatly aided by our colleagues in the mediation field who continue to point us in the right direction and in some cases were very generous in granting us royalty-free permission to republish excerpts from their works.

Once again, our home institutions provided us with very helpful support. We thank our colleagues at Hamline University School of Law, The Ohio State University, Michael E. Moritz College of Law, and South Texas College of Law. Professor Stulberg also extends his deep appreciation to Ikerbasque, the Basque Foundation for Science, for awarding him a 2012 Ikerbasque Fellowship that partially supported his research in preparing this new edition. Our students also provided us with excellent feedback in the classroom, letting us know of the strengths and weaknesses of the previous edition. We owe a great deal of thanks to Ben Lowndes, a second year student at Hamline University School of...
Preface to the Third Edition

Law and South Texas College of Law students Alanna Beck (3L) and Martin Pytlewski (2L) each of whom provided us with extraordinary research assistance in producing this third edition. Jennifer Beszley at Lexis Publishing also deserves our thanks for her editorial assistance and helpful direction through the publishing process.
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