

Mastering Alternative Dispute Resolution

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CAROLINA ACADEMIC PRESS
Durham, North Carolina

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Library of Congress Cataloging in Publication Data

Library of Congress Cataloging-in-Publication Data

Feeley, Kelly M., author.

Mastering alternative dispute resolution / Kelly M. Feeley and James
A. Sheehan.

pages cm. -- (Carolina Academic Press Mastering Series)

Includes bibliographical references and index.

ISBN 978-1-61163-201-9 (alk. paper)

1. Dispute resolution (Law)--United States. I. Sheehan, James,
1949- author. II. Title.

KF9084.F44 2014

347.73'9--dc23

2014035890

Carolina Academic Press
700 Kent Street
Durham, NC 27701
Telephone (919) 489-7486
Fax (919) 493-5668
www.cap-press.com

Printed in the United States of America

To Patty Ann

No one fought harder, smiled wider, or loved deeper. I love you, miss you and am inspired by you every day! You are truly my sister, my friend, and my hero.

Contents

Series Editor's Foreword	xiii
Introduction	xv
Chapter 1 · The ADR Process	3
Chapter 2 · Negotiation	5
Roadmap	5
I. Communication and Emotions	6
Stop Points	11
II. Preparation	11
Stop Points	17
III. The Negotiation	17
Checkpoints	25
Chapter 3 · Mediation	27
Roadmap	27
I. Mediators	31
Stop Points	34
A. Timing	35
Stop Point	37
B. Process	37
Stop Points	43
C. Strategy	43
Checkpoints	52
Chapter 4 · Arbitration	53
Roadmap	53
I. The Mechanics of Arbitration	55
A. Administered versus Non-Administered/Self-Administered Arbitration	55
1. Commencing Arbitration	55
2. Number of Arbitrators and How Chosen	57

3. Who Can Be an Arbitrator and How To Choose the Best Arbitrators	59
Stop Points	64
4. Rules Governing Arbitration and the Discovery Process	64
5. Time Frames for Arbitration	65
6. Binding v. Non-Binding Arbitration and Finality of Awards	66
Stop Points	69
7. Discovery	69
Stop Points	75
8. In-Person Hearing v. Telephonic/Virtual Appearance	76
9. The Final Award: Content, Timing, Fees, and Compliance	76
10. Confidentiality, Precedent, and Controlling Law	77
B. Mechanics Of Arbitration—The Wrap-Up	79
Checkpoints	80
Chapter 5 · An Arbitration Hearing Under the Microscope	81
Roadmap	81
I. The Arbitration Hearing—Procedure	83
II. Preliminary Matters	83
III. Opening Statements	83
A. What to Exclude from an Opening Statement	84
B. What to Include in an Opening Statement	85
C. Prepare to Answer Questions During Opening Statements	86
D. Order of the Opening Statements	87
IV. Direct Examination	88
V. Cross-Examination	92
VI. Redirect Examination	95
VII. Objections	96
VIII. Exhibits And Evidence	99
IX. Closing Statements/Summations	100
A. Theme or Theory	100
B. Prepare to Answer Questions During Summation	101
X. Conclusion	102
Checkpoints	103
Master Checklist	105
Negotiation — Communication and Emotion	105
Negotiation — Preparation	105
Negotiation — The Negotiation	105
Mediation — Mediation and Mediators	106

Mediation — Timing	106
Mediation — Process	106
Mediation—Strategy	107
Arbitration — The Mechanics of Arbitration: Commencement, Who and How Many Arbitrators	107
Arbitration — Rules, Time Frames, and Binding v. Non-Binding	108
Arbitration—Discovery	108
Arbitration — Wrapping up the Mechanics of Arbitration	109
Arbitration — The Hearing Under the Microscope	110
Index	111

Series Editor's Foreword

The Carolina Academic Press Mastering Series is designed to provide you with a tool that will enable you to easily and efficiently “master” the substance and content of law school courses. Throughout the series, the focus is on quality writing that makes legal concepts understandable. As a result, the series is designed to be easy to read and is not unduly cluttered with footnotes or cites to secondary sources.

In order to facilitate student mastery of topics, the Mastering Series includes a number of pedagogical features designed to improve learning and retention. At the beginning of each chapter, you will find a “Roadmap” that tells you about the chapter and provides you with a sense of the material that you will cover. A “Checkpoint” at the end of each chapter encourages you to stop and review the key concepts, reiterating what you have learned. Throughout the book, key terms are explained and emphasized. Finally, a “Master Checklist” at the end of each book reinforces what you have learned and helps you identify any areas that need review or further study.

We hope that you will enjoy studying with, and learning from, the Mastering Series.

Russell L. Weaver
Professor of Law & Distinguished University Scholar
University of Louisville, Louis D. Brandeis School of Law

Introduction

This is a book about negotiation, mediation, and arbitration. It's a handbook, an introduction to these three skills. You won't find a whole lot of footnotes in this book or case citations. Negotiation, mediation, and arbitration are skills. They are taught differently than most other law school subjects. They are usually taught by doing, although there are some fundamentals that need to be learned. This book will discuss the fundamentals and use examples to show how to put those fundamentals to practical use. It is designed to get you started on your understanding of these particular fields of endeavor. We, the authors of this book, were practicing attorneys before we were professors, and the skills we are going to discuss come primarily, but not exclusively, from our actual experience. Just as 100 people can look at the same piece of artwork and have 100 different perspectives and reactions, there are many theories about how negotiations, mediations, and arbitrations are to be conducted. We couldn't and are not going to cover every theory or every possibility. This book will give you a general overview of the three subjects, which will give you some basic tools, and from there you can develop your own style of doing things through your experience and your own research. Think of this book as helping to stock your legal tool belt, along with the knowledge to know when and how to use a particular tool.

With these initial thoughts in mind, let's begin.

