

What Happened?

A Mediation Story
Featuring RPS Coach
Teacher's Manual



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Table of Contents

<u>Introduction</u>	1
Chapter 1: <u>Early Optimism</u>	6
Chapter 2: <u>Signs of Trouble</u>	9
Chapter 3: <u>Looking for Guidance</u>	12
Chapter 4: <u>Laying the Groundwork for Mediation</u>	15
Chapter 5: <u>Preparing for the Mediation Session</u>	19
Chapter 6: <u>The Mediation Session</u>	24
Chapter 7: <u>Epilogue</u>	29

Introduction

Purpose of this Teacher's Manual

This Teacher's Manual is designed to help instructors use *What Happened? A Mediation Story Featuring RPS Coach* in mediation, interviewing, counseling, and negotiation, an ADR survey course, or related courses. It provides chapter summaries, teaching suggestions, discussion questions, and classroom exercises that you can adapt to your own teaching objectives, course structures, and educational philosophies. The materials are intended to be flexible, recognizing that instructors differ in their goals, teaching styles, and approaches to dispute resolution.

The story is designed not only to illustrate mediation practice but also to help students understand how thoughtful professionals make decisions before, during, and after dispute resolution processes and continue developing throughout their careers through deliberate reflection. The story is about a commercial mediation, but its broader purpose is to illustrate professional judgment, intentional preparation, collaborative problem-solving, reflective practice, and the thoughtful use of artificial intelligence (AI) and other technologies throughout the dispute resolution process in many types of disputes.

The story is intentionally descriptive rather than prescriptive. It illustrates one thoughtful approach to representing clients, conducting mediation, and incorporating AI into professional practice, rather than suggesting that there is a single correct way to counsel clients, negotiate, mediate, or use AI. Throughout this Teacher's Manual, instructors are encouraged to invite students to critique the participants' decisions, compare alternative approaches, and reflect on how their own professional practices may evolve over time.

The story can be incorporated into courses in various ways. You might assign the story early in a course so that students develop an overall understanding of the dispute resolution process before examining individual topics in greater depth. Students can read the entire story in about one hour. Reading the story early in a semester gives students a concrete example of the complete dispute resolution process that they can revisit as you cover specific topics such as client counseling, process selection, mediation preparation, mediator selection, conduct of mediation sessions, joint and private sessions, settlement drafting, implementation, and professional reflection. As you focus on specific topics like these, you can assign students to read individual chapters, scenes, or documents.

It can be particularly valuable to assign students to read the two mediation memos. For many students, this may be one of the few opportunities they will have to see examples of documents that they may be required to draft early in their careers. The two memos in this case are quite different from each other, and you may ask students to discuss the similarities and differences between them. You may also want

to assign students to read the original agreement and memorandum of understanding, which illustrate the kinds of documents that lawyers commonly review, negotiate, and draft in practice.

The story can be used effectively near the end of a course as a capstone experience that encourages students to integrate concepts they have studied separately throughout the semester. Alternatively, you may assign selected chapters, scenes, or documents independently to illustrate particular topics without requiring students to read the entire story. The Teacher's Manual is organized to support each of these approaches.

Organization of this Teacher's Manual

This Teacher's Manual is organized to help you understand the story, identify its principal educational themes, and incorporate them into your teaching. Each chapter of this Teacher's Manual is divided into two principal parts. The first part, "Understanding this Chapter," describes the chapter's role in the story and identifies its principal educational themes. The second part, "Teaching this Chapter," provides suggestions for incorporating the chapter into classroom instruction.

The first part begins with an overview summarizing the story's events in the chapter. The "Key Takeaways" highlight the principal educational points. Most chapters also include sections describing how the materials illustrate Real Practice Systems (RPS) Theory, the litigation interest and risk assessment (LIRA) framework, and the use of AI. Most chapters include a "Looking Ahead" section to help you and your students anticipate how the decisions in the current chapter influence later events in the story.

The "Teaching this Chapter" section is designed to help you stimulate thoughtful classroom discussion. The "Challenging Issues" sections identify common assumptions or misconceptions that students may bring to the chapter and suggest ways you can address them. The "Discussion Questions" encourage students to analyze the participants' decisions, compare alternative approaches, and reflect on broader themes. The "Classroom Exercises" section provides opportunities for students to apply the ideas illustrated in the story through writing, analysis, role-playing, drafting, and the thoughtful use of AI.

The materials are intended to be adapted rather than followed mechanically. You should feel free to omit sections, modify discussion questions, substitute classroom exercises, or emphasize themes that best support your own teaching objectives. The goal of the Teacher's Manual is to provide a flexible set of resources that you can adapt to your own course and teaching objectives rather than to prescribe a particular method of teaching mediation or dispute resolution.

What Makes This Story Distinctive?

What Happened? A Mediation Story Featuring RPS Coach differs from many mediation simulations and case studies in three important respects. First, it is organized around RPS Theory, which emphasizes that professionals operate within individual practice systems reflecting their experience, values, habits, objectives, and preferred ways of working. Second, it illustrates the LIRA framework as a practical method for helping lawyers and clients make informed decisions throughout the dispute resolution process. Third, it demonstrates how AI can become a thoughtful collaborator throughout professional practice rather than simply a source of information or legal research.

These three themes are woven throughout the story rather than presented as separate topics. As you and your students follow the participants from the beginning of the dispute through the epilogue, you will see how RPS Theory, LIRA, and AI influence decisions before, during, and after the mediation session. Together, they encourage students to view dispute resolution as an integrated process involving thoughtful preparation, intentional decision-making, implementation, and continued professional development.

RPS Theory

RPS Theory provides the principal conceptual framework for the story. RPS Theory recognizes that lawyers, mediators, clients, and other professionals develop individual practice systems reflecting their experience, values, habits, objectives, and preferred ways of working. Rather than assuming that there is a single correct way to negotiate, mediate, or represent clients, RPS Theory encourages professionals to become more aware of their own practice systems, understand the systems used by others, and refine their own practices through intentional reflection and experience.

The story illustrates that mediation is not an isolated event or simply a mediation session. Instead, mediation is part of a broader dispute resolution process that includes deciding whether mediation is appropriate, designing the process, preparing for the mediation session, conducting the mediation session, drafting agreements, implementing the parties' commitments, and reflecting on the experience afterward. Throughout the story, students are encouraged to analyze the participants' decisions, compare alternative approaches, and consider how their own professional practices may develop over time.

Here's a [brief summary of RPS Theory](#).

LIRA

Litigation interest and risk assessment (LIRA) is a structured process for helping lawyers and clients evaluate expected court outcomes, expected litigation costs, and the parties' important interests in order to make informed decisions about negotiation, mediation, litigation, and settlement. Rather than treating legal analysis as separate from business, operational, relational, or personal considerations, LIRA integrates these factors into a single decision-making framework.

Traditional descriptions of negotiation typically distinguish between discussions emphasizing expected court outcomes and those emphasizing the parties' underlying interests. The LIRA framework recognizes that parties are generally concerned about both, so effective professional decision-making ordinarily requires consideration of both. Lawyers, clients, and mediators should consider expected court outcomes, expected litigation costs, business and personal interests, relationships, implementation concerns, and other relevant considerations together rather than treating them as competing approaches. The relative importance of these considerations may change throughout a dispute, and LIRA provides a structured framework for integrating these considerations as participants evaluate options and make decisions throughout the dispute resolution process.

The story illustrates that LIRA is useful throughout the dispute resolution process. The participants use it not only in deciding whether to settle but also in evaluating dispute resolution processes, preparing for mediation sessions, assessing settlement proposals, and making informed decisions as circumstances change.

[This blog post collects resources for teaching about LIRA.](#)

Artificial Intelligence

AI is woven throughout the story because it is becoming an increasingly important tool in professional practice. It illustrates how professionals can incorporate AI thoughtfully at different stages of the dispute resolution process while continuing to exercise their own judgment and responsibility.

The participants use RPS Coach in various ways. They consult AI before deciding how to respond to a dispute, use it to help prepare for conversations with clients and counterpart attorneys, evaluate alternative dispute resolution processes, prepare for mediation sessions, organize information, identify issues for further analysis, generate alternative approaches to resolving disputes, and draft professional documents such as emails, mediation memos, and a memorandum of understanding. After the mediation session concludes, the mediator also uses AI as a structured tool for post-session reflection and professional development.

You can use the story effectively even if you do not want to focus on AI in your course. Many of the questions, observations, and suggestions generated by RPS Coach reflect the kinds of analyses that experienced lawyers, mediators, clients, and other professionals routinely perform without AI. The AI conversations simply make those thought processes more explicit. You may therefore choose to focus primarily on the participants' reasoning and decision-making rather than on the AI tool itself.

The story also illustrates thoughtful and responsible use of AI. Throughout the story, the participants protect confidential information by avoiding identifying details and using pseudonyms when appropriate. They evaluate AI-generated analyses and suggestions critically rather than accepting them automatically, recognizing that AI can promote professional thinking but cannot replace professional judgment, experience, observations, relationships, or responsibility for the decisions that people make.

The [RPS Coach homepage](#) identifies its underlying values and provides numerous publications and practical resources.

Chapter 1: Early Optimism

Scene 1: Pat and Elena Nail Down the Details of the Contract Allied-CAS Contract

Understanding this Chapter

Overview

This chapter introduces the principal business and legal relationships that shape the story. Allied Manufacturing seeks to modernize its operations by hiring Computer Applications Systems (CAS) to develop and implement a customized enterprise software system. Pat Dorsey, Allied's director of operations, and Elena, CAS's chief technology officer, develop a productive working relationship as they negotiate the business arrangement. They share a common goal of launching a successful project and generally trust one another's competence and good faith.

Jordan Imani, a young lawyer in Allied's legal department, reviewed the draft contract and expressed concerns about several provisions that limited Allied's legal protections. He ultimately signed off on the agreement because Allied wanted to approve the contract quickly and he was reluctant to press his objections. Pat recognizes Jordan's concerns but believes that her productive working relationship with Elena, together with their shared commitment to the project's success, will enable them to resolve any problems that arise during implementation.

This chapter illustrates how a negotiation can produce an agreement that leaves important assumptions, expectations, and risks unresolved until implementation.

Key Takeaways

- People acting reasonably and in good faith can make decisions that contribute to later disputes.
- Successful business negotiations often depend on trust, but that same trust may lead parties to omit important assumptions and expectations.
- Contracts translate business understandings into legal obligations, but they rarely capture all operational assumptions or expectations. Negotiators must decide which understandings belong in the contract and which are better left to ongoing business relationships.
- Good contracts do not eliminate uncertainty; they allocate risk.

- Lawyers and business executives often evaluate the same negotiation differently because their professional roles lead them to emphasize different objectives and risks.

Illustrations of RPS Theory

RPS Theory emphasizes that people make decisions within their own practice systems, which are shaped by their professional experiences, organizational roles, relationships, values, and responsibilities. This chapter begins to reveal the practice systems of Pat, Elena, and Jordan. Their later decisions become more understandable because readers first see how each approaches professional judgment, relationships, and problem-solving.

Illustrations of the LIRA Framework

This chapter establishes many of the facts that later become relevant when the characters use the LIRA framework to evaluate expected court outcomes, litigation costs, business interests, and strategic choices.

Looking Ahead

Students should watch for how the matters introduced in this chapter reappear as the project unfolds. These include training, implementation timing, performance expectations, liability limitations, responsiveness, and communication within and between the organizations. The later dispute develops from the interaction of the parties' assumptions, contractual choices, organizational pressures, and implementation decisions – not from a single mistake.

Teaching this Chapter

Challenging Issues

- Students may be tempted to evaluate the parties' decisions based on how the project ultimately unfolds rather than on the information and reasonable assumptions available when the decisions were made. Encourage students to consider thoughtful decision-making and how to avoid hindsight bias.
- Students may oversimplify the differing perspectives of Pat, Elena, and Jordan. Encourage discussion of how their professional roles, organizational responsibilities, and legitimate objectives lead them to evaluate the same negotiation differently.
- Students may assume that better contract drafting alone would have prevented the later dispute. Encourage discussion of the limits of contract language and

the continuing importance of communication, organizational decision-making, and implementation after the agreement is signed.

Discussion Questions

- Why do Pat and Elena develop confidence in one another? How does that confidence affect the way they negotiate the agreement?
- Which assumptions are reflected in the contract, and which important assumptions remain unstated?
- Why do Pat and Jordan evaluate the contract differently? How do their professional roles influence their judgments?
- Was Pat's reliance on her relationship with Elena reasonable based on the information available at the time? Why or why not?
- Should Jordan have pressed his concerns more forcefully? What considerations support or undermine that conclusion?
- How might AI have helped identify important unstated assumptions before finalizing the contract?

Classroom Exercises

- Redraft one or more contract provisions to address assumptions or risks that seem likely to result in misunderstandings.
- Role-play a meeting among Pat, Elena, and Jordan discussing the proposed liability limitation. Ask each participant to explain and defend their position before deciding whether to revise the contract.
- Identify important assumptions that are not expressly addressed in the contract. For each assumption, discuss whether it should have been included in the agreement and why.
- Predict where the business relationship is most likely to encounter difficulties during implementation. Explain the evidence or assumptions on which your prediction is based.

Chapter 2: Signs of Trouble

Scene 2: Pat and Elena Confront the Breakdown

Understanding this Chapter

Overview

Following the execution of the contract, Allied and CAS begin implementing the new software system. During the implementation, problems emerge involving pricing data, employee training, and system performance. Employees in both organizations recognize different aspects of these problems. As information moves through and between the organizations, important details are delayed, filtered, or interpreted differently, contributing to growing misunderstandings about the problems.

Pat Dorsey, Allied's operations director, and Elena Morales, CAS's chief technology officer, initially continue to approach the situation as a business problem that can be resolved through cooperation. As additional information becomes available, they have different perspectives about the source of the pricing errors, the parties' contractual responsibilities, and the financial consequences of the problems. Jordan Imani, Allied's inside counsel, becomes increasingly involved as the legal implications of the dispute begin to emerge.

By the end of the chapter, Pat and Elena recognize that they are no longer addressing routine implementation difficulties. The issues now involve questions of responsibility, contractual risk allocation, and potential legal exposure. They anticipate the transition from a successful business relationship into a legal dispute.

The technical details in the story provide a plausible factual context for the dispute, but students do not need to understand those details to evaluate the negotiation, mediation, and decision-making issues.

Key Takeaways

- Disputes often emerge gradually through a series of reasonable decisions rather than from a single mistake or wrongful act.
- Communication within and between organizations shapes how problems are understood, prioritized, and addressed. Information that is delayed, filtered, or incomplete can contribute significantly to later disputes.
- Individuals make decisions based on the information available to them, their organizational responsibilities, and the incentives they face. Evaluating those decisions requires understanding their perspectives at the time.

- As business relationships come under stress, discussions often shift from solving operational problems to determining responsibility and allocating risk.
- Lawyers often become involved only after business decisions have narrowed the available options and increased the potential consequences of the dispute.

Illustrations of RPS Theory

This chapter illustrates that individual practice systems operate within larger organizational practice systems. Decisions are shaped not only by the judgments of individual professionals but also by patterns of communication, reporting relationships, organizational routines, and institutional expectations. Understanding disputes therefore requires examining both individual and organizational practice systems and the ways they interact.

Looking Ahead

Students should watch for how the communication patterns, organizational decisions, and unresolved questions introduced in this chapter influence the lawyers' advice, the parties' preparation, the litigation interest and risk assessment, and the eventual mediation. The implementation problems evolve into disagreements about responsibility, contractual obligations, and financial consequences that shape every later stage of the dispute.

Teaching this Chapter

Challenging Issues

- Students may be tempted to search for a single mistake or individual to blame for the developing dispute. Encourage discussion of how organizational systems, communication practices, and reasonable decisions can interact over time to produce significant conflicts even when no one behaves irresponsibly.
- Students may assume that identifying the technical source of the implementation problem resolves the dispute. Encourage discussion of the distinction between technical causation, contractual responsibility, organizational accountability, and business decision-making.
- Students may underestimate the influence of organizational structures on individual decision-making. Encourage discussion of how reporting relationships, communication practices, organizational incentives, and escalation procedures affect when and how information reaches decision-makers.

- Students may continue viewing the situation as an implementation problem after the parties have begun treating it as a dispute. Encourage discussion of the point at which business problem-solving gives way to questions of responsibility, legal risk, and future strategy.

Discussion Questions

- Why were early warning signs of problems not communicated more effectively?
- How did communication within and between the organizations influence the way the problems were – and were not – addressed?
- To what extent was Pat justified in expecting CAS to identify the pricing problem?
- To what extent was Elena justified in relying on Allied's source data?
- What organizational practices might have helped Pat and Elena recognize and respond to the developing problems sooner?
- How might AI have detected patterns of delayed communication, inconsistent information, or other early warning signs of a developing dispute?

Classroom Exercises

- Design a communication and escalation protocol for Allied and CAS. Specify what information should be reported, who should receive it, when it should be communicated, and what events should trigger escalation.
- Role-play the August 27 telephone call between Pat and Elena. Ask students to remain in character while exploring how different questions, disclosures, or responses might have changed the course of the conversation.
- Develop a joint action plan following the telephone call. Identify the immediate steps the parties should take, who should be responsible for each action, and how they should monitor progress and communicate with one another.
- Identify the assumptions Pat, Elena, and Jordan make about one another and about the other organization. For each assumption, discuss whether it is supported by the information available at the time.

Chapter 3: Looking for Guidance

Scenes 3 and 4: Pat and Jordan Consult RPS Coach

Understanding this Chapter

Overview

As the implementation problems evolve into a dispute, Pat Dorsey and Jordan Imani separately seek guidance from RPS Coach before meeting to discuss Allied's response. Each independently consults RPS Coach, which asks a series of questions designed to help them analyze the dispute before deciding how to proceed. Rather than offering immediate recommendations, the coaching process encourages them to clarify their objectives, identify assumptions, consider the perspectives of other participants, and recognize the organizational and legal issues influencing the dispute.

As the consultations continue, Pat and Jordan explore the strengths and weaknesses of their respective positions, consider how the dispute developed, and examine possible responses. RPS Coach introduces the LIRA framework and guides them through evaluating expected court outcomes, litigation costs, business interests, and strategic alternatives. Although they consider many of the same facts, their discussions differ because they have different professional responsibilities, organizational roles, and decision-making objectives.

Key Takeaways

- Careful preparation can improve decision-making and dispute resolution processes.
- Effective preparation begins by understanding problems, clarifying objectives, and testing assumptions before selecting a negotiation or dispute resolution strategy.
- People with different professional roles and organizational responsibilities may evaluate the same dispute differently.
- The LIRA framework can help people evaluate expected court outcomes, litigation costs, business interests, and strategic alternatives before deciding how to proceed.
- AI can promote thoughtful professional judgment by structuring analysis, asking useful questions, and identifying issues to consider.

Illustrations of RPS Theory

This chapter illustrates RPS Theory as a framework for preparation that is applied differently depending on the user's professional role, organizational responsibilities, and objectives.

Illustrations of LIRA Framework

This chapter provides the first illustration of applying the LIRA framework to an ongoing dispute. It demonstrates how the framework can help people make more informed decisions rather than prescribing particular decisions.

AI Issues

This chapter illustrates AI as a coaching and decision-support tool rather than simply a source of information or drafting assistance. The conversations emphasize how AI can promote more systematic thinking by asking structured questions, clarifying objectives, and helping users identify issues for further consideration.

Looking Ahead

Students should watch how the preparation in this chapter influences the parties' later decisions, the lawyers' advice, LIRA assessment, negotiation strategy, and mediation. They should pay attention to how the questions explored in Pat's and Jordan's coaching conversations continue to shape their understanding of the dispute as new information becomes available.

Teaching this Chapter

Challenging Issues

- Students may focus primarily on the advice that RPS Coach provides rather than on the coaching process itself. Encourage discussion of how sequencing questions, testing assumptions, clarifying objectives, and considering alternative perspectives improve decision-making before any recommendations are made.
- Students may assume that effective preparation begins by selecting a negotiation or dispute resolution strategy. Encourage discussion of why understanding the problem, clarifying objectives, and evaluating available information should generally precede decisions about process or strategy.
- Students may view RPS Coach as a source of authoritative answers rather than as a decision-support tool. Encourage discussion of how AI can structure

analysis and improve thinking while leaving responsibility for decision-making with the user.

Discussion Questions

- How does the LIRA framework contribute to decision-making beyond evaluating the legal merits of the dispute?
- Why does RPS Coach focus on clarifying objectives and understanding the dispute before discussing possible responses?
- How does RPS Coach help users think more clearly and systematically rather than simply providing information?
- Which of RPS Coach's questions was most effective in improving Pat's or Jordan's thinking? Why?
- What are the advantages and limitations of using AI to evaluate a dispute and decide how to proceed?

Classroom Exercises

- Prepare separate LIRA assessments for Pat and Jordan using only the information available at this point in the story. Compare how their professional roles and responsibilities influence their analyses and recommendations.
- Role-play one of the consultations with RPS Coach. After completing the chat, identify the questions that most influenced the user's thinking and explain why.
- Prepare an agenda for Pat's and Jordan's upcoming meeting. Identify the objectives, information to be exchanged, issues requiring further investigation, and decisions that should be made during the meeting.
- Design an alternative coaching sequence for one of the consultations. Identify the questions you would ask first, explain why you chose that sequence, and compare it with the approach used by RPS Coach.

Chapter 4: Laying the Groundwork for Mediation

Scene 5: Pat and Jordan Discuss Their Strategy

Scene 6: Jordan and Jared Select a Mediator

Understanding this Chapter

Overview

Following their separate consultations with RPS Coach in Chapter 3, Pat Dorsey and Jordan Imani meet to discuss Allied's response to the dispute. Rather than assuming that litigation, direct negotiation, or mediation is the obvious next step, they compare the advantages and disadvantages of available dispute resolution processes. Pat and Jordan conclude that mediation may be the most appropriate process in their situation.

Jordan contacts Jared Bennett, CAS's outside counsel, to discuss whether CAS would be open to mediating the dispute. Although they continue to disagree about the merits of the case, they both recognize potential advantages of mediation and begin negotiating the design of the process itself. They discuss the timing and scope of the mediation, the characteristics they seek in a mediator, and the selection of a mediator acceptable to both parties.

This chapter illustrates that mediation begins well before the mediation session. Careful analysis, internal agreement, lawyer-to-lawyer communication, and thoughtful process design establish the foundation for the mediation process that follows.

Key Takeaways

- Choosing how to address a dispute is itself an important strategic decision.
- Parties should compare available dispute resolution processes in light of their objectives, legal risks, business interests, relationships, timing, and available resources rather than simply defaulting to a familiar process.
- Agreeing to mediate does not require agreement about the merits of a dispute. Parties and lawyers can preserve their legal positions while cooperating to design a mediation process.
- Lawyers often negotiate important features of mediation before the mediation session, including its timing, scope, logistics, and choice of mediator.
- Selecting a mediator requires judgments about the mediator's experience, approach, credibility with the participants, and suitability for the particular dispute.

Illustrations of RPS Theory

This chapter illustrates that, under RPS Theory, mediation begins well before the mediation session itself. Pat and Jordan carefully evaluate possible dispute resolution processes before deciding that mediation best serves Allied's objectives. The lawyers then work together to design the mediation by discussing its timing, scope, logistics, and the selection of an appropriate mediator. Rather than treating mediation as a standardized procedure, the participants consciously tailor the process to the parties' needs in this dispute. The chapter thus illustrates RPS Theory's emphasis on intentional preparation, process design, and thoughtful decision-making throughout the dispute resolution process.

Illustrations of the LIRA Framework

This chapter illustrates that the LIRA framework informs process choice as well as settlement decisions. After considering expected court outcomes, expected litigation costs, and the parties' business and relationship interests, Pat and Jordan conclude that mediation offers a better opportunity to advance Allied's objectives than either continued direct negotiation or immediate litigation. Their analysis provides a structured basis for comparing available dispute resolution processes before deciding how to proceed.

AI Issues

This chapter illustrates AI as a collaborative planning tool rather than simply a source of information or legal analysis. Pat and Jordan continue their conversation with RPS Coach to evaluate the advantages and disadvantages of negotiation and mediation and to think through the design of the mediation process. RPS Coach assists their thinking by organizing relevant considerations, helping them compare alternatives, and identifying issues that might otherwise be overlooked.

Looking Ahead

Students should watch how the process-design decisions made in this chapter shape the parties' preparation for the mediation session and the mediation process that follows. The choice of mediator, the agreed scope and timing of the mediation, and the participants' expectations about the process all influence how the parties prepare, communicate, and evaluate possible resolutions. As the story continues, students should consider how these early planning decisions affect the parties' efforts to reach agreement.

Teaching this Chapter

Challenging Issues

- Students may assume that choosing a dispute resolution process is a routine procedural step rather than an important professional judgment. Encourage discussion of how lawyers and clients compare available processes by considering their objectives, relationships, risks, timing, and available resources.
- Students may conclude that recommending mediation signals weakness or a lack of confidence in a client's legal position. Encourage discussion of how experienced lawyers can pursue mediation while fully preserving their litigation positions and continuing to disagree about the merits of the dispute.
- Students may assume that mediation should occur only after direct negotiations have failed or, conversely, that it should always be the first process considered. Encourage discussion of how the appropriate timing of mediation depends on the circumstances of the dispute, the parties' objectives, and whether mediation is likely to be more productive before positions become fully entrenched.
- Students may assume that the "best" mediator is simply the one with the strongest reputation or credentials. Encourage discussion of how a mediator's effectiveness often depends on the confidence that all participants have in the mediator and the mediator's suitability for the particular dispute.
- Students may overlook that the lawyers are negotiating the mediation process before the mediation session begins. Encourage discussion of how lawyers routinely negotiate such matters as the timing, scope, logistics, and structure of mediation, as well as the selection of the mediator.
- Students may oversimplify the lawyers' interactions by viewing one side as cooperative and the other as adversarial. Encourage discussion of how lawyers often cooperate in designing an effective dispute resolution process while continuing to represent their clients' differing interests regarding the substance of the dispute.

Discussion Questions

- Why do Pat and Jordan conclude that mediation may be preferable to continued direct negotiation or immediate litigation? What factors influence their decision?
- Agreeing to mediate does not require agreement on the merits of the dispute. How do Jordan and Jared cooperate in designing the mediation process while continuing to represent their clients' differing interests?

- What criteria should lawyers use in selecting a mediator for this dispute? Which considerations seem most important, and why?
- At this stage of the dispute, would you recommend mediation? Why or why not? If so, would you recommend conducting it now or waiting until later?
- How does RPS Coach contribute to Pat's and Jordan's analysis of dispute resolution options? What does the continuing conversation add to their planning?

Classroom Exercises

- Prepare a recommendation to your client about whether to pursue direct negotiation, mediation, or litigation at this stage of the dispute. Identify the factors supporting your recommendation and explain why you rejected the other available processes.
- Develop criteria for selecting a mediator for this dispute from Jordan's and Jared's perspectives. Working individually or in small groups, rank the importance of the various criteria and apply them to evaluate the mediators described in the story.
- Role-play the conversation between Jordan and Jared about whether and how to conduct the mediation. The participants should negotiate such matters as the timing, scope, logistics, and selection of the mediator while continuing to represent their clients' differing interests regarding the dispute.
- Use RPS Coach or another AI system to analyze whether mediation is appropriate for this dispute. Compare the AI's analysis with your own, identify any useful insights or omissions, and explain whether the AI changed your recommendation.

Chapter 5: Preparing for the Mediation Session

Scene 7: Jordan and Rami Prepare for the Mediation Session

Scene 8: Pat and Jordan Prepare for the Mediation Session

Scene 9: Rami Consults RPS Coach to Prepare for the Mediation Session

Jordan's and Jared's Mediation Memos

Understanding this Chapter

Overview

This chapter focuses on preparation for the mediation session. In a pre-session Zoom call, Jordan Imani, Allied's inside counsel, and Rami Sinclair, the mediator, discuss the upcoming mediation, including the participants, the issues in dispute, and Rami's preliminary plans for conducting the mediation.

Afterward, Jordan and Pat Dorsey, Allied's director of operations, meet to prepare Allied's strategy. They review Allied's objectives, discuss legal and business considerations, evaluate possible settlement approaches, and consider how Pat should participate during the mediation session.

Rami also speaks with Jared Bennett, CAS's outside counsel, about CAS's perspective, objectives, participants, and decision-making authority. Jared later speaks with Elena Morales, CAS's chief technology officer, to prepare for the mediation session.

The chapter also includes the mediation memoranda submitted by Jordan and Jared Bennett, illustrating how each lawyer presents the dispute, identifies important issues, and frames the case for the mediator.

The chapter concludes with Rami's consultation with RPS Coach as she reflects on the information she has received, considers how to structure the mediation session, anticipates potential challenges, and plans how to help the participants make good decisions throughout the mediation process.

Key Takeaways

- Careful preparation before the mediation session can significantly affect what occurs during the mediation session.
- Lawyers, parties, and mediators may all prepare for mediation, each doing so from a different perspective and with different objectives.

- Effective preparation extends beyond legal analysis to include business, operational, relationship, and implementation considerations that may affect both the mediation process and its outcome.
- Mediation memoranda serve multiple purposes, including organizing the lawyer's analysis, educating the mediator, and framing each side's perspective at the outset of the mediation session.
- AI can improve preparation by helping participants organize information, identify issues, and evaluate alternatives before the mediation session.

Illustrations of RPS Theory

This chapter illustrates one of the central propositions of RPS Theory: what happens before mediation sessions often shapes what happens during the mediation sessions. The lawyers, parties, and mediator each prepare from their own professional perspectives, responsibilities, and objectives. Their preparation extends beyond legal analysis to include organizational considerations, relationships, communication, decision-making authority, and planning for the mediation process. The chapter demonstrates why thoughtful preparation should be an integral component of mediation, not merely a preliminary step before the mediation session begins. Good preparation helps participants better understand not only their own practice systems but also the practice systems of the other participants.

Illustrations of the LIRA Framework

This chapter shows how the LIRA framework can promote effective preparation for mediation sessions. The lawyers, parties, and mediator consider expected court outcomes, litigation costs, business and relationship interests, implementation concerns, and other factors that may affect the parties' decisions during the mediation session. Their preparation helps them clarify their objectives, anticipate areas of agreement and disagreement, and evaluate possible approaches before the mediation session begins.

AI Issues

This chapter illustrates AI as a preparation tool for both lawyers and mediators. Jordan uses RPS Coach to help prepare Allied for the mediation session, while Rami consults RPS Coach after reviewing the parties' mediation memoranda to organize information about the dispute, better understand the parties' positions, anticipate issues that may arise during the mediation session, and plan how to conduct the process effectively. In each chat, AI assisted preparation by organizing relevant considerations, identifying issues for further analysis, and helping users think more systematically about the mediation process. Throughout these consultations, the participants protect

the confidentiality of their information by avoiding identifying details and using pseudonyms when interacting with RPS Coach.

Looking Ahead

Students should watch how the participants draw on their preparation during the mediation session. The objectives they identify, the information they exchange, the expectations they develop, and the strategies they consider before the mediation session all influence their interactions during the mediation. Students should also consider how the mediator's preparation affects the structure of the mediation session and the ability to help the participants make good decisions throughout the mediation session.

Teaching this Chapter

Challenging Issues

- Students may assume that preparation for mediation consists primarily of developing persuasive legal arguments. Encourage discussion of how the lawyers, parties, and mediator also prepare by clarifying objectives, identifying business and relationship interests, evaluating implementation concerns, and planning for productive communication during the mediation session.
- Students may assume that only the lawyers need to prepare for mediation. Encourage discussion of the distinct preparation responsibilities of the parties, lawyers, and mediator, and how each contributes to the quality of the mediation session.
- Students may underestimate the importance of the mediator's preparation before the mediation session. Encourage discussion of how mediators gather information, anticipate process challenges, and plan how to conduct the mediation session before meeting with the participants.
- Students may view mediation memoranda simply as advocacy documents. Encourage discussion of how mediation memoranda also educate the mediator, organize the lawyer's analysis, and help establish a productive framework for the mediation session.
- Students may assume that effective preparation focuses mainly on promoting agreement. Encourage discussion of how careful preparation improves the quality of decision-making regardless of whether the parties ultimately settle the dispute.

- Students may focus primarily on AI's substantive suggestions rather than its contribution to the preparation process. Encourage discussion of how RPS Coach helps users organize information, identify issues, and think systematically about preparation while protecting confidential information through the use of pseudonyms and the omission of identifying details.

Discussion Questions

- How do Jordan, Pat, Jared, Elena, and Rami prepare differently for the mediation session? What do their different approaches reveal about their professional roles and objectives?
- What information should lawyers, parties, and mediators obtain before the mediation session? How do they decide what information is most important?
- What purposes do the mediation memos serve? How might they influence the mediator's understanding of the dispute and the mediation process?
- How does Rami's preparation affect how she plans to conduct the mediation session?
- How does RPS Coach contribute to the participants' preparation in this chapter? Which aspects of the preparation process seem particularly well suited to AI assistance?

Classroom Exercises

- Prepare a mediation memo for either Allied or CAS. Using only the information available at this point in the story, identify the key facts, legal and business issues, objectives, and matters the mediator should understand before the mediation session.
- Prepare a mediation preparation plan for one of the principal participants (Pat, Jordan, Jared, Elena, or Rami). Identify the information that person should gather, the issues to analyze, the objectives to clarify, and the decisions that should be made before the mediation session.
- Compare Jordan's and Jared's mediation memos. Identify the similarities and differences in how they describe the dispute, frame the important issues, and present information for the mediator. Discuss how those differences might influence the mediation session.
- Use RPS Coach or another AI assistant to help prepare for the mediation session from the perspective of one participant. Compare the AI-assisted preparation with your own analysis, identify useful insights or omissions, and

evaluate how well the AI protected confidential information through the use of pseudonyms and the omission of identifying details.

Chapter 6: The Mediation Session

Scene 10: Jordan and Pat Meet Privately with Rami

Scene 11: Jared and Elena Meet Privately with Rami

Scene 12: Everyone Works Toward Agreement in Joint Session

Memorandum of Understanding

Understanding this Chapter

Overview

This chapter presents the mediation session on Zoom that the participants have been preparing for throughout the preceding chapters. Before beginning the joint session, Rami Sinclair speaks privately by cell phone with Jordan Imani and Jared Bennett, the lawyers for Allied and CAS. She asks whether they would agree to have Pat Dorsey and Elena Morales make brief opening statements focused on their goals and what would be needed to get the project back on track. After both lawyers agree, Rami begins the joint session by reviewing the process and inviting Pat and Elena to speak.

Their statements reveal both the continuing disagreement about responsibility and a shared interest in completing the project. Rami acknowledges the tension between their perspectives while drawing attention to their common desire to find a workable path forward. She then shuttles back and forth between Allied's and CAS's breakout rooms to explore their objectives, concerns, legal positions, business interests, and possible approaches to resolution. During these private sessions, the discussions begin to converge on a general framework for resolving the dispute. The participants recognize that a workable agreement would need to combine performance commitments by CAS with corresponding payments by Allied.

After lunch, Rami suggests that everyone reconvene in joint session. She uses RPS Coach to organize the issues in dispute and generate three alternative settlement structures reflecting different allocations of risk, responsibility, and business objectives. Comparing these alternative frameworks helps the participants move beyond debating responsibility for the implementation problems and toward developing a practical resolution. They gradually construct an agreement incorporating payment provisions, objective performance standards, technical support commitments, verification procedures, future dispute resolution procedures, and preservation of the business relationship.

The chapter concludes with RPS Coach drafting a non-binding memorandum of understanding based on the parties' tentative agreement. This provides the foundation for a definitive written agreement that the lawyers will draft after the mediation session. This chapter illustrates how careful process design, private and joint discussions,

option generation, and attention to legal, operational, financial, and relationship interests can help participants make good decisions during a mediation session.

Key Takeaways

- Effective mediation may focus less on determining who was right in the past than on developing practical solutions for the future.
- Private and joint sessions can each serve important functions at different stages of the mediation session.
- Comparing multiple settlement structures can produce more creative and effective agreements than negotiating within a single proposal.
- Successful settlement agreements may integrate legal, business, operational, financial, and relationship considerations into a single framework for resolving the dispute and managing future interactions.
- Drafting agreements is an important stage of the process because translating negotiated understandings into clear contractual language often requires the participants to resolve additional issues and anticipate future implementation challenges.
- AI can assist in mediation by organizing information, generating alternative settlement structures, and drafting documents that reflect the participants' agreements.

Illustrations of RPS Theory

This chapter illustrates how the principles of RPS Theory are reflected throughout the mediation process, from preparation through agreement. Rather than focusing primarily on legal positions or monetary bargaining, the participants identify their principal objectives, explore both tangible and intangible interests, generate and compare alternative settlement structures, and select the settlement structure that best advances their objectives. Throughout the mediation session, the participants continue making decisions about both process and substance, demonstrating that mediation is an ongoing decision-making process rather than a series of discrete negotiation events.

Illustrations of the LIRA Framework

This chapter illustrates how the LIRA framework helps participants evaluate alternative settlement proposals during the mediation session. The parties compare expected court outcomes, litigation costs, business and relationship interests,

implementation concerns, and other relevant considerations as they evaluate three alternative settlement structures. Rather than viewing settlement as merely a compromise between competing legal positions, they compare each proposed agreement against their bottom lines and broader objectives before deciding whether it provides a better resolution than continued litigation.

AI Issues

This chapter illustrates AI as a collaborative tool that can assist mediators during the mediation session itself. Rami uses RPS Coach to organize information developed during the mediation, generate alternative settlement structures for the participants to evaluate, and draft a memorandum of understanding reflecting the parties' tentative agreement. Throughout the mediation session, RPS Coach promotes the participants' decision-making by helping them compare alternatives, organize complex information, and translate negotiated understandings into a written document.

As in the preceding chapters, the participants protect confidentiality by avoiding identifying information and using pseudonyms when interacting with RPS Coach. The chapter illustrates that thoughtful use of AI can support both the substantive and administrative aspects of mediation while preserving the participants' control over the process.

Looking Ahead

Although the mediation session concludes with a tentative agreement, the dispute resolution process does not end there. Students should consider the additional work required to translate the memorandum of understanding into a binding written agreement, implement the parties' commitments, and manage their continuing business relationship. The epilogue then invites students to reflect on how the mediation affected the participants and influenced their subsequent lives and careers.

Teaching this Chapter

Challenging Issues

- Students may assume that mediation consists primarily of bargaining over money or reaching a compromise between competing positions. Encourage discussion of how the participants instead develop and compare alternative settlement structures that address legal, business, operational, financial, and relationship concerns.
- Students may assume that mediation sessions should be conducted primarily or exclusively in private sessions. Encourage discussion of the purposes served

by private and joint sessions and the circumstances in which each may be appropriate.

- Students may conclude that the mediator's role is simply to carry offers and counteroffers between the parties. Encourage discussion of how Rami actively designs the process, encourages exploration of alternatives, facilitates informed decision-making, and helps the participants work toward agreement without deciding the dispute for them.
- Students may assume that settlement discussions should focus primarily on resolving disagreements about past conduct. Encourage discussion of how the participants shift their attention toward future performance, risk allocation, implementation, and preserving their continuing business relationship.
- Students may view the memorandum of understanding as a routine summary of the agreement rather than an important stage of the dispute resolution process. Encourage discussion of how drafting is itself a continuation of the dispute resolution process and may expose disagreements that require further discussion.
- Students may focus primarily on AI-generated proposals rather than on how AI assists the mediation process. Encourage discussion of how RPS Coach helps organize information, generate alternative settlement structures, and draft the memorandum of understanding while the participants evaluate the proposed language and determine whether it accurately reflects their agreement.

Discussion Questions

- Why does Rami begin the mediation by consulting privately with the lawyers before inviting Pat and Elena to make opening statements? What objectives is she trying to accomplish through that process design?
- How do the private and joint sessions contribute differently to the mediation? Would you have structured the mediation session differently? Why or why not?
- How do the participants move from debating responsibility for past events to developing a framework for resolving the dispute? What role do the alternative options play in that transition?
- How does RPS Coach contribute to the mediation session? Which of its contributions seem most valuable, and are there any that you would question or handle differently? What potential sources of bias should people consider when evaluating AI-generated settlement options?

- Why is drafting the memorandum of understanding an important part of the mediation process? What issues should the participants address before preparing a binding written agreement?

Classroom Exercises

- Role-play the mediation session beginning after the parties' opening statements. Assign students to represent Rami, Jordan, Pat, Jared, and Elena. Encourage the mediator to decide when to use private and joint sessions and to explain the reasons for those process decisions.
- Evaluate the three settlement structures generated during the mediation. Working individually or in small groups, identify the advantages and disadvantages of each structure from Allied's and CAS's perspectives. Recommend which approach you would adopt and explain your reasoning.
- Revise the memorandum of understanding. Identify provisions that should be clarified, expanded, or modified before preparing a binding written agreement. Explain why each revision is important and discuss how ambiguities might lead to future disputes.
- Use RPS Coach or another AI tool to generate alternative settlement structures for this dispute. Compare the AI-generated proposals with those developed in the chapter, evaluate their strengths and weaknesses, and discuss any potential sources of bias or questionable assumptions reflected in the AI's suggestions.

Chapter 7: Epilogue

Scene 13: Rami Debriefs with RPS Coach

Understanding this Chapter

Overview

The epilogue concludes the story by describing what the five principal characters did after the mediation and how the experience influenced their subsequent professional development. It invites students to evaluate the mediation from the perspectives of the lawyers, clients, and mediator, considering what each learned from the experience and how that experience influenced future professional judgment and practice.

The chapter includes Rami Sinclair's post-session debrief with RPS Coach. It illustrates that thoughtful reflection is itself an important component of effective mediation practice. During the debrief, she evaluates her process decisions, considers possible alternative approaches, identifies recurring patterns in her practice, and reflects on opportunities for continued professional development.

Key Takeaways

- Practitioners can continue improving throughout their careers through reflection and deliberate efforts to improve their practice.
- Lawyers, parties, and mediators may draw different lessons from the same dispute because they experience the process from different professional perspectives and with different responsibilities.
- The quality of a mediation should be evaluated by considering the quality of the participants' decision-making, effect on the parties' important interests, treatment of relationships and emotions, management of internal dynamics, and durability of the agreement – not only whether the parties reached agreement.
- Reflective practice involves identifying professional strengths, recognizing recurring patterns, considering alternative approaches, and identifying opportunities for improvement.
- AI can help professionals reflect on mediations by helping them organize their thinking, identify patterns, and evaluate alternative approaches.

Illustrations of RPS Theory

This chapter illustrates that, under RPS Theory, the dispute resolution process extends beyond the mediation session and implementation of the parties' agreement. Continued learning – even for experienced professionals – is an integral part of effective dispute resolution practice. Reflective practice enables professionals to examine their practice systems intentionally rather than simply repeating them habitually. Effective practitioners continue evaluating their decisions, identifying recurring patterns in their practice, and considering how they might improve future performance.

The materials also illustrate that professionals operate within individual practice systems. Rami's choices reflect her experience, values, habits, strengths, and caution about emotional discussions. Her reflection helps her understand her practice system more clearly and consider how she might refine it in future cases.

AI Issues

This chapter illustrates the use of AI as a tool for post-session reflection and professional development. The debrief illustrates how AI can provide a private and structured opportunity for professionals to reflect soon after a mediation session while their observations and impressions remain fresh in their minds. During Rami's debrief with RPS Coach, it supports her reflective process by organizing observations, prompting systematic analysis, and encouraging thoughtful consideration of alternative perspectives. Debriefing with an AI tool can also make it easier for professionals to acknowledge uncertainty, discomfort, or possible mistakes without concern about being judged by colleagues.

The chapter also illustrates an important limitation of AI-assisted reflection. RPS Coach can help organize information and ask useful questions, but it cannot observe the participants' tone, emotions, relationships, or other aspects of the mediation that depended on Rami's own observations and professional judgment.

As in the preceding chapters, Rami protects confidentiality by avoiding identifying information and using pseudonyms when consulting RPS Coach.

Teaching this Chapter

Challenging Issues

- Students may assume that reaching agreement in mediation is the only measure of success. Encourage discussion of the many factors professionals should consider in evaluating a mediation, including the quality of the participants' decision-making, attention to important interests, treatment of relationships and

emotions, management of internal dynamics, and the durability of the agreement.

- Students may assume that post-session reflection consists primarily of identifying mistakes. Encourage discussion of how reflective practice also involves recognizing professional strengths, identifying recurring patterns, and considering how techniques might be refined in future cases.
- Students may assume that experienced practitioners have little need for systematic reflection. Encourage discussion of how professionals can continue improving throughout their careers by examining their decisions, questioning their unconscious assumptions and habits, and intentionally refining their practice.
- Students may evaluate Rami's decisions as though there were obvious right or wrong answers. Encourage discussion of how many mediation decisions involve reasonable judgments under uncertainty, requiring professionals to weigh competing considerations without knowing how alternative approaches would have affected the process or outcome.
- Students may assume that professionals who participate in the same mediation should draw similar lessons from the experience. Encourage discussion of how lawyers, parties, and mediators may learn different lessons because they approach the mediation from different professional roles, responsibilities, and perspectives.
- Students may assume that AI can evaluate a mediation as completely as someone who participated in it. Encourage discussion of how AI can promote systematic reflection while recognizing that important observations about tone, relationships, emotions, trust, and group dynamics remain available only to the participants themselves.

Discussion Questions

- Looking back over the story as a whole, including the epilogue, how has each of the five principal characters changed? What experiences appear to have contributed to that development?
- What appears to have been the most important lesson each of the five principal characters learned from the dispute resolution process?
- How should professionals evaluate the success of a mediation? What criteria should be considered in addition to whether the parties reached agreement?

- What additional information would you want to know to understand this story more fully?
- What habits or routines could you adopt to encourage systematic reflection after a negotiation or mediation? How might those practices contribute to your own professional development?

Classroom Exercises

- Prepare a post-session debrief from the perspective of one of the five principal characters. Identify what that person learned from the dispute, what decisions appear to have been most effective, what could have been handled differently, and what changes the participant might make in future disputes.
- Develop a framework for evaluating the success of a mediation. Working individually or in small groups, identify the criteria you would use to evaluate a mediation and explain why each criterion is important. Compare your framework with those developed by other students.
- Identify three important decisions made during the story and evaluate plausible alternative approaches. For each decision, discuss the advantages, disadvantages, and uncertainties associated with the alternatives rather than simply deciding whether the original choice was “right” or “wrong.”
- Use RPS Coach or another AI tool to conduct a post-session debrief of the mediation from the perspective of one of the principal participants. Compare the AI-assisted reflection with your own analysis, identify useful insights or omissions, and evaluate how the AI contributed to – or limited – the reflection process.