

WHAT CASES ARE SUITABLE FOR COMMERCIAL MEDIATION

THE FOUR QUESTIONS

- (1) **Do I want to settle this dispute?** If no, stop here.

If yes, go to (2)

- (2) **Have I got enough information to enable me to make an informed and confident assessment about the strengths and weaknesses of my position and of my opponent's and a proper understanding of what I/my client needs to get?**

If no, then get the information (this does not necessarily mean complete discovery - the cost of getting the information has to be balanced against its likely value).

- (3) **Am I negotiating?** (The prime means of resolving any dispute should be by negotiation). If no, pick the telephone up and have a go.

If yes, then go to (4)

- (4) **Am I making any progress?**

If yes, carry on - keep up the good work. If no, try mediation.

It is as simple as that. Mediation is applicable to any dispute of any size concerning any subject matter no matter how many parties nor how many issues nor how "important" it may be.

Mediation is not however usually suitable when a client wants his "day in court", or some publicity, or where the dispute hinges entirely on a point of law, and the parties are not prepared to bypass the uncertainties of litigation by a commercial deal through mediation.