

# Constructive Accord

## Andrew Moffat

BCom, LLB, NMAS Accredited Mediator, GAICD

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Andrew Moffat studied law, then spent two decades gaining extensive commercial, financial and governance experience across a broad range of industries, and in 2012 brought this background to the resolution of commercial disputes. He has since mediated more than 1400 matters.

His experience of getting deals done in the banking and investment banking spheres gives him invaluable insight in to the expressed, unacknowledged and unconscious barriers to agreement. It arms him with the credibility, skills and flexibility to guide parties towards constructively achieving agreement, and the resilience to keep them on track whilst the possibility of resolution remains. He recognises that sometimes mediation opens a path towards resolution in the following days, and he stays committed while such opportunities remain. Andrew is very comfortable mediating using electronic platforms such as Zoom as well as in-person, or a hybrid of both, and working across cultures, including with interpreters as needed.

Andrew is a Senior Fellow in the Melbourne Law School, delivering Melbourne University's Mediation subjects in both the Juris Doctor and the Melbourne Law Masters. In 2013, he received a LEADR Practitioner Award for Significant Contribution to ADR, and he has been continuously included in Doyle's Guide to Leading Mediators since 2018. Since 2020, he has been appointed to determine banking and finance disputes as a member of AFCA's expert Panel. He received an Excellence Award for Mediation in the 2022 Australasian Law Awards.

Complementing his mediation practice, Andrew has devoted time to leadership roles in the not-for-profit sector, culminating in 12 years as Director and then Chair of Vision Australia, one of Australia's largest charities. These roles have armed him with inside understanding into how organisations make decisions.

Andrew's appointments as Mediator have arisen in many different circumstances

- Proceedings in the Victorian and NSW Supreme Courts, County Court and District Court and the Federal Court
- Pre-litigation, by parties seeking to maximise commercial outcomes or avert proceedings
- Contractual dispute resolution clauses
- Federal and State government sponsorship to resolve organisational disputes
- Legislated mediation schemes under the Farm Debt Mediation Act and the Retail Leases Act

These disputes have all been in areas where Andrew's commercial, financial and governance experience have equipped him with credibility and insight, for example

- Contractual disputes arising from termination of supply arrangements
- Shareholder and partnership conflicts where founding principals no longer work effectively together and need to negotiate changes in ownership, or as part of generational succession
- Enforcement actions between banks, and borrowers and guarantors
- Insolvency-driven preference claims and recoveries proceedings
- Construction litigation involving contractors and sub-contractors
- Employment contractual dispute concerning confidential information and restraints
- Franchise disputes between master franchisors, and exiting and ongoing franchisees
- Conflicts within NFP or commercial Boards or between Boards and Management
- Insurance disputes such as professional negligence claims in commercial and financial contexts
- Farm debt mediations in Victoria and NSW
- Commercial landlord/tenant claims and counter-claims under the Retail Leases Act and CTRS
- Negotiation of a framework to settle several hundred past and future insurance claims
- Organisational disputes within National Sporting Organisations (via the ASC and SRV)

## Career

### Mediation

- Senior Fellow, and Lecturer in Mediation, Melbourne Law School (2016 to date)
- Principal, Constructive Accord (2012 to date)

### Governance

- Advisory Board Member, Good Talent Media (2024 to date)
- Chair, Vision Australia (2015 to 2023)
- President, VRI Fencing Club (2014 to 2023)
- Chair, Audit Finance & Business Risk Committee of Vision Australia (2013 to 2015)
- Chair, Vision Australia Trust (2013 to 2015)
- Director, Vision Australia (2011 to 2023)
- Chair, Development & Coaching Commission of Cycling Victoria (2010 to 2015)
- Director, Action for Blind People, UK (2001 to 2004)
- Trustee, Action for Blind People Staff Pension Fund, UK (2001 to 2004)

### Commercial & Financial

- Executive Director, ANZ Markets (2010 to 2011)
- General Manager, NAB Corporate (2007 to 2009)
- Executive Director, ANZ Institutional (2005 to 2007)
- Global Head of Equity Capital Markets, WestLB, UK (1999 to 2003)
- Head of International Equity Syndication, Lehman Brothers, UK (1997 to 1999)
- Head of Equity Syndication, NatWest, UK (1995 to 1997)
- Equity Syndicate Manager, Flemings, UK (1992 to 1995)
- Corporate Finance Executive, Flemings, UK (1989 to 1992)

## Qualifications & Awards

- Excellence Award for Mediation, Australasian Law Awards (2022)
- Doyle's Guide to Leading Mediators (2018, 2019, 2020, 2021, 2022, 2023 and 2024)

- Graduate, Company Directors Course (AICD 2020)
- Melbourne Teaching Certificate (Melbourne Centre for the Study of Higher Education 2016)
- LEADR Practitioner Award for Significant Contribution to ADR (2013)
- NMAS Mediator Accreditation (LEADR 2012)
- Certificate IV in Financial Services (Swinburne 2009)
- WSET Level 3 Advanced Certificate in Wines and Spirits (UK 2004)
- Securities Association Registered Representative (UK 1990)
- Bachelor of Laws (Melbourne 1989)
- Bachelor of Commerce (Melbourne 1987)

### Panel membership

- Panel of Neutrals of the Australian Disputes Centre (ADC)
- Australian Financial Complaints Authority (AFCA) Panel for banking & finance determinations
- Mediator list for the Farm Debt Mediation Act 2011 (Victoria), Retail Leases Act 2003 and other matters under the jurisdiction of the Victorian Small Business Commissioner
- Panel of Mediators for the NSW Farm Debt Mediation Act 1994

### Media & Conferences

Numerous print appearances in general and financial newspapers and magazines including

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|---------------------------------------|--------------------------|-----------------------|
| • Wall Street Journal (US)            | • Financial Times (UK)   | • Les Echos (France)  |
| • Australian Financial Review         | • Milano Finanza (Italy) | • Euroweek (UK)       |
| • Dei Welt (Germany)                  | • Handelsblatt (Germany) | • Financial News (UK) |
| • International Financing Review (UK) | • Evening Standard (UK)  | • The Treasurer (UK)  |
|                                       | • Il Sole 24 Ore (Italy) | • Lawyers Weekly      |

TV and radio interviews including BBC, ITN and Sky (UK), NBC and Bloomberg TV (US), Star TV (Hong Kong), Channel Nine (Australia) and Deutsche Welle (Germany)

Speaker at numerous conferences and seminars such as

- How I Quit My Day Job, Developed a Mediation Practice... (Resolution Institute webinar, 2020)
- Global Pound Conference (Sydney, 2017)
- Corporate Governance Forum (Governance Institute, Melbourne 2016)
- Mediation – The Use of Evidence (Chartered Accountants ANZ, Brisbane 2016)
- Resolution Institute ‘Kon Gres – paper on Commercial Mediation (Melbourne 2015)
- The Business of Mediation (Australian International Disputes Centre, Sydney 2014)
- National Mediation Conference – paper on Farm Debt Mediation (Melbourne 2014)
- Building a Mediation Practice (LEADR seminar, 2014)
- The Business of Mediation – Decisions you Need to Make (Monash Law School, 2013)
- After Market (Milan, 2002)
- The Late Stage & IPO Forum (Munich, 2001)
- Equity Capital – Profiting from the Business of New Issues (London, 2001)