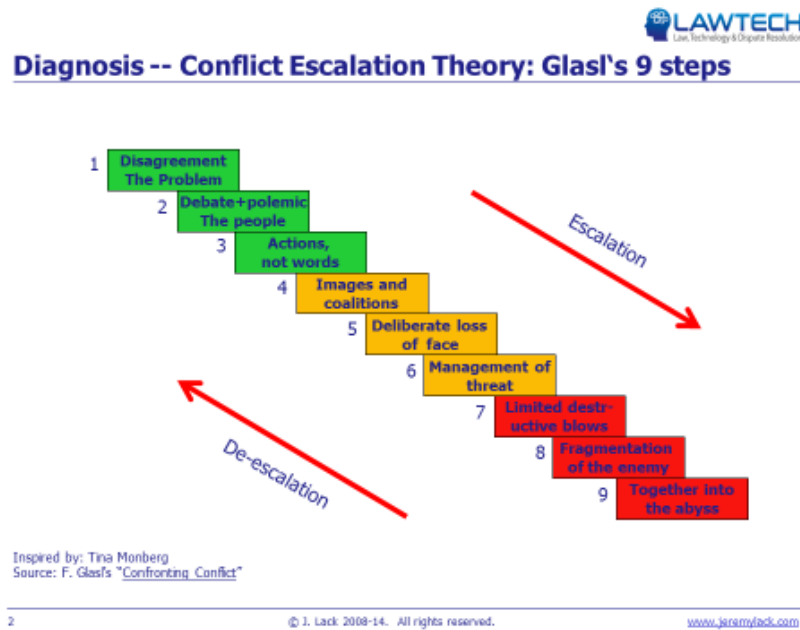


SIX PREPARATION EXERCISES PRIOR TO A 2-PARTY ADR PROCESS

Please fill out all the charts in this document, including those for your partner in this Appropriate Dispute Resolution (“ADR”) process. These exercises are intended to assist the participants in preparing and doing perspective-taking before meeting.

I. EXERCISE No. 1: CURRENT SITUATION – ANALYSIS USING THE GLASL CONFLICT ESCALATION SCALE

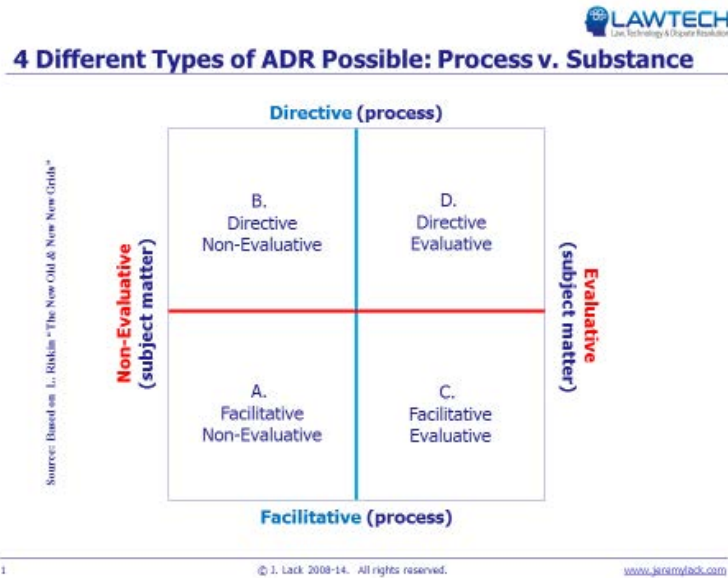
Using the image and the chart below, please try to assess where you and your partner in this ADR process currently stand on this Glasl scale and then answer the questions at the bottom of this page.



Levels 1-9	Brief Description
1: Disagreement	Partners realise they disagree
2: Debate	Partners trying to convince-one-another
3: Action, not words	No point in speaking. Action is required
4: Coalitions	Seeking support/validation from others
5: Loss of face	Potential damage to image/reputation
6: Threat	Partner viewed as a threat to be stopped
7: Limited blows	Attempt to stop by controlled measures
8: Fragmentation	Loss of control due to partner/others
9: Into the abyss	Out of control: winning/destruction of others has become a goal in itself.

Question	Client's Answer -- please insert a # (1-9)	Lawyer/Advisor's Answer -- please insert a # (1-9)
1. Where do I currently stand?		
2. Where do I want to be?		
3. Where does my partner currently stand?		
4. Where does my partner want to be?		

II. EXERCISE No. 2: APPROPRIATE DISPUTE RESOLUTION (“ADR”) – TYPE OF PROCESS WANTED



Type of Process	Brief Description
A: Facilitative on Process & Non-Evaluative on Substance	The partners decide everything together: issues of process as well as substance. The neutral proposes ideas and alternatives on procedural issues (e.g., timing, prior submissions, agenda, use of caucuses, meals, etc.) but leaves it to the parties to choose, working together. He cannot impose anything. The neutral does not give an opinion or make any proposals on substantive issues. He helps the partners to exchange information and to brainstorm (by focusing on their interests rather than on their positions.) He can suggest techniques for addressing relational and/or social issues as well as assist the partners in generating their own criteria and obtaining external information that can help them overcome impasses (e.g., experts).
B: Directive on Process & Non-Evaluative on Substance	The neutral is responsible for procedural matters (e.g., timing, prior submissions, agenda, use of caucuses, meals etc.) but does not give opinions or make proposals on substantive issues. He helps the partners to exchange information and to brainstorm but does not make any proposals regarding a settlement. He can take initiative regarding procedural decisions or regarding ways of addressing social and relational issues as well as ways of seeking external information to assist the parties in overcoming impasses (e.g., appointing experts and determining the scope of their mandate.) He can help the parties to generate their own norms but does not advise on final solutions or provide a proposal on how the matter could be settled.
C: Facilitative on Process & Evaluative on Substance	The neutral does not control the process but can propose ideas and alternatives to the partners on procedural issues for them to decide (e.g., timing, prior submissions, use of caucuses, agenda, etc.) The neutral is expected, however, to form his/her own views of the matter, and to generate, educate and help the partners in applying possible norms (e.g., findings of fact and applicable laws). He helps the parties to identify dispositive issues and to exchange information relevant to these norms (e.g., on positions and assists in “reality-checking”). He helps the partners to find missing information and can suggest ways of resolving keys issues. He can evaluate the strengths and weaknesses of each partner’s positions and, when appropriate, provide his own opinion on the merits and/or give non-binding proposals regarding possible ways of settling the dispute.
D: Directive on Process & Evaluative on Substance.	The neutral directs all issues of process (e.g., timing, prior submissions, agenda, use of caucuses, meals etc.) as well as the topics to be discussed. He can set, educate and advocate norms by which the dispute can be resolved. The neutral forms his/her own views of the matter, and can apply norms (e.g., findings of fact and applicable laws) to help the partners to understand the strengths and weaknesses of their files, and exchange relevant information. He can do “reality-checking” and help the partners to understand what their alternatives to a negotiated agreement may look like (e.g., best case or worst case scenarios). He will identify dispositive issues and propose ways of resolving them. The neutral is expected to provide his opinion (in caucus or in joint session) and to ultimately give a settlement proposal if the parties do not reach an agreement. The neutral’s proposal is usually non-binding, but can become binding if the parties agree to accept it as a way to resolve any final issues that are preventing them from reaching a settlement.

Question	Client’s Answer (please indicate A-D)	Lawyer/Advisor’s Answer (please indicate A-D)
1. Where do I want to start this ADR process?		
2. Where does my partner want to start this ADR process?		
3. Where should the neutral start this process?		

V. EXERCISE No. 5: SUMMARY OF BOTH PARTNERS' ALTERNATIVES

Do a separate BATNA, WATNA and PATNA analysis for each partner. Consider in rows (iv) how well rows (i)-(iii) meet both partners' ICNMs looking to the future.

		Your Alternatives	Your Partner's Alternatives
1. BATNAs	(i) Time		
	(ii) Cost		
	(iii) Outcome/Award		
	(iv) Consequences & Impact on Interests		
2. WATNAs	(i) Time		
	(ii) Cost		
	(iii) Outcome/Award		
	(v) Consequences & Impact on Interests		
3. PATNAs	(i) Time		
	(ii) Cost		
	(iii) Outcome/Award		
	(vi) Consequences & Impact on Interests		

DEFINITIONS

1. **"BATNA"** = Best Alternative to a Negotiated Agreement (e.g., "this partner wins on all points")
2. **"WATNA"** = Worst Alternative to a Negotiated Agreement (e.g., "this partner loses on all points")
3. **"PATNA"** = Probable Alternative to a Negotiated Agreement (e.g., "what a 3rd party - a judge or tribunal -- would likely award or decide for each partner (taking a conservative approach.)"

VI. EXERCISE No. 6: "SWOT" ANALYSES

A. Your SWOT Analysis

		Positive	Negative
		STRENGTHS	WEAKNESSES
Internal			
External		OPPORTUNITIES	THREATS

B. SWOT Analysis for your ADR Partner

		Positive	Negative
		STRENGTHS	WEAKNESSES
Internal			
External		OPPORTUNITIES	THREATS