



## Sotomayor Law

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Mediation, Arbitration and Business Dispute Services

### Report from the 2016 ICC International Commercial Mediation Competition in Paris – How Can There Be A “Competition” in Mediation?

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Mediation is supposed to be a “win-win” proposition, right? You never think of there being a winner or a loser in the process. In fact, avoiding a “win-lose” outcome is fundamental to the procedure. So how in the world can there be a construct such as an international commercial mediation “competition,” such as the extraordinary event I am currently attending in Paris?

For 11 years, the International Chamber of Commerce, based in Paris and providing an array of dispute resolution processes available to companies around the world, has hosted the International Commercial Mediation Competition among 66 teams of law and business students from 40 different countries. In the past few days, I have had the opportunity to judge, mediate, and observe extraordinarily talented students engaged in mediation “competition.” And, the privilege even exceeded that – I’ve been working with some of the most successful mediators and mediation thought-leaders from around the world!

How do the students compete? In over 150 mock mediations, each of which takes a full 2½ hours to complete, including scoring and feedback, each team, consisting of counsel and client, tackles an international business dispute with the assistance of a professional mediator. They are observed by at least two judges, as well as coaches, other team members, volunteers, and other visitors. The competitors arrive with a written mediation plan and participate in joint sessions and caucuses by making opening statements, strategizing to advance their party’s interests, effectively working as a team, gathering information and determining the other party’s interests, working with the other party to collaborate and develop options, and making good use of the mediator.

In this competition, the students do not compete as mediators, but rather as advocates who most effectively utilize the mediation process to solve important legal disputes. They can “win” or “lose,” and advance in what is essentially a tournament, by demonstrating exceptional skills in all of those components of effective advocacy in mediation. You just wouldn’t believe how glorious it is to see the results of hard work, training, and intensive preparation to participate nimbly with an equally skilled opponent in a negotiation that can shift with the wind based on strategies executed by the other side.

To top it all off, the entire Competition is conducted in English. Imagine the facility with language that teams ranging from Sao Paulo to Kosovo must have in order to reach this Competition. Many of the students are comfortable with as many as five or even more languages. This astounds me.

Last night, the top-scoring 16 teams moving forward in the competition were announced. I had the privilege of observing, judging or mediating with three of them in the preliminary rounds. Exciting times here in Paris – and so many things to celebrate in a beautiful city touched so recently by tragedy and discord and yet still a center for discovering creative solutions and developing the skills necessary to do so.

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