

**45<sup>th</sup> SKILEX**

INTERNATIONAL SKIING CONGRESS FOR LAWYERS

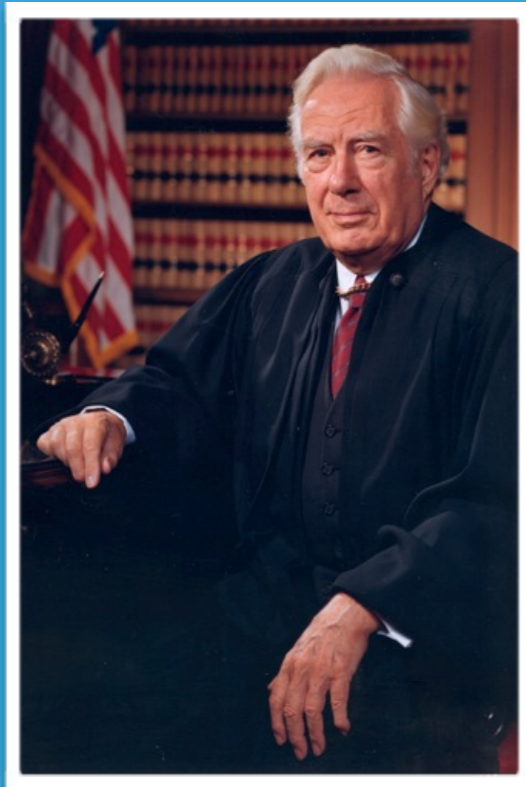
March 4-11, 2018, Pec pod Sněžkou, Czech Republic



**JUDR. MARTIN SVATOS, PH.D.**

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**RESOLVING DISPUTES  
EMERGING FROM SPORT BY  
MEDIATION AND OTHER ADR**



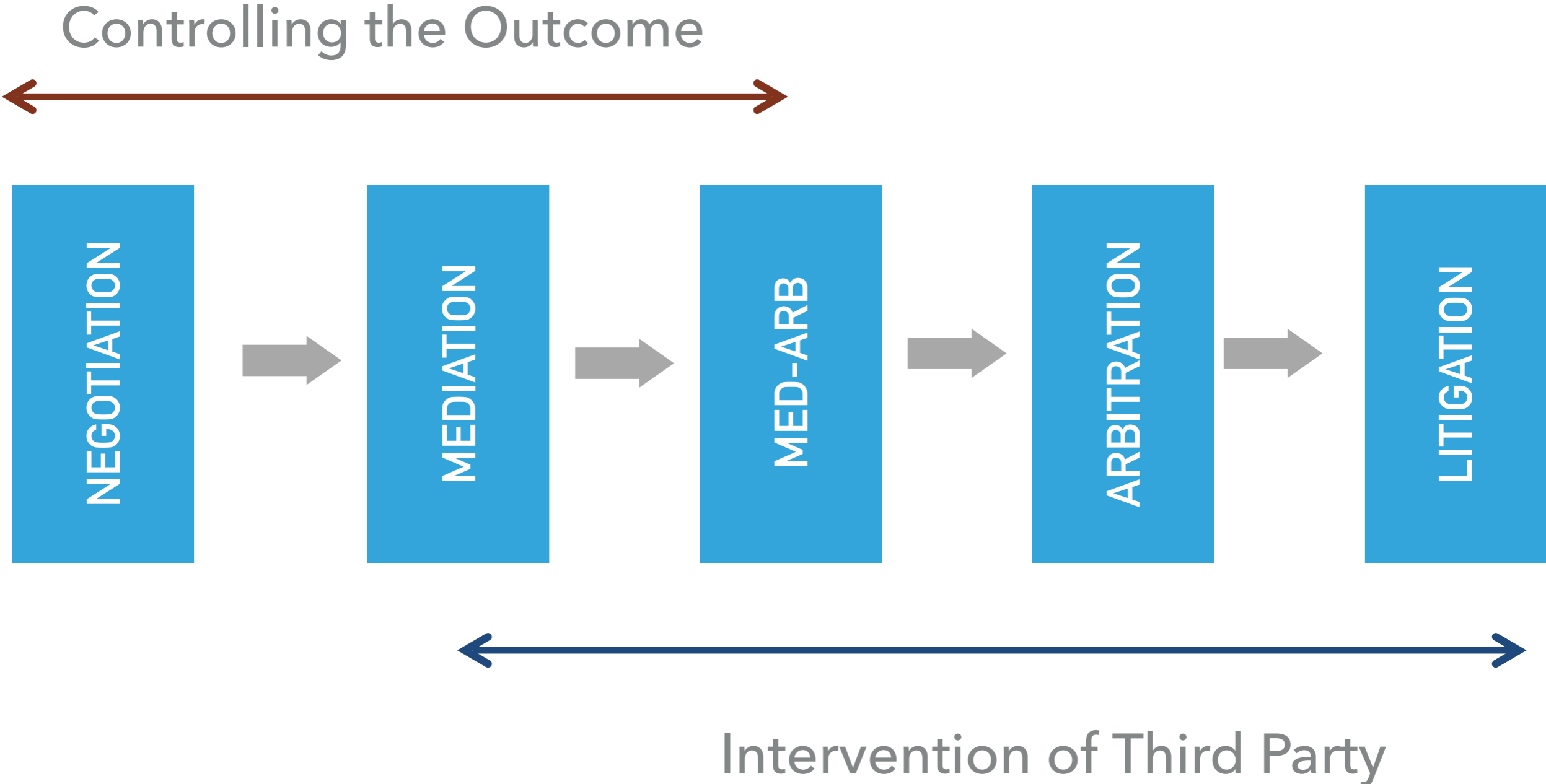
**“THE BEST SERVICE A  
LAWYER CAN  
PERFORM IS TO KEEP  
CLIENTS OUT OF  
COURTS.”**

**Warren Burger  
(1907 – 1995)**

## ADR

- ▶ Alternative Dispute Resolution (ADR) generally refers to any type of procedure that constitutes an alternative to litigation

# CONTINUUM OF CONFLICT MANAGEMENT AND RESOLUTION APPROACHES



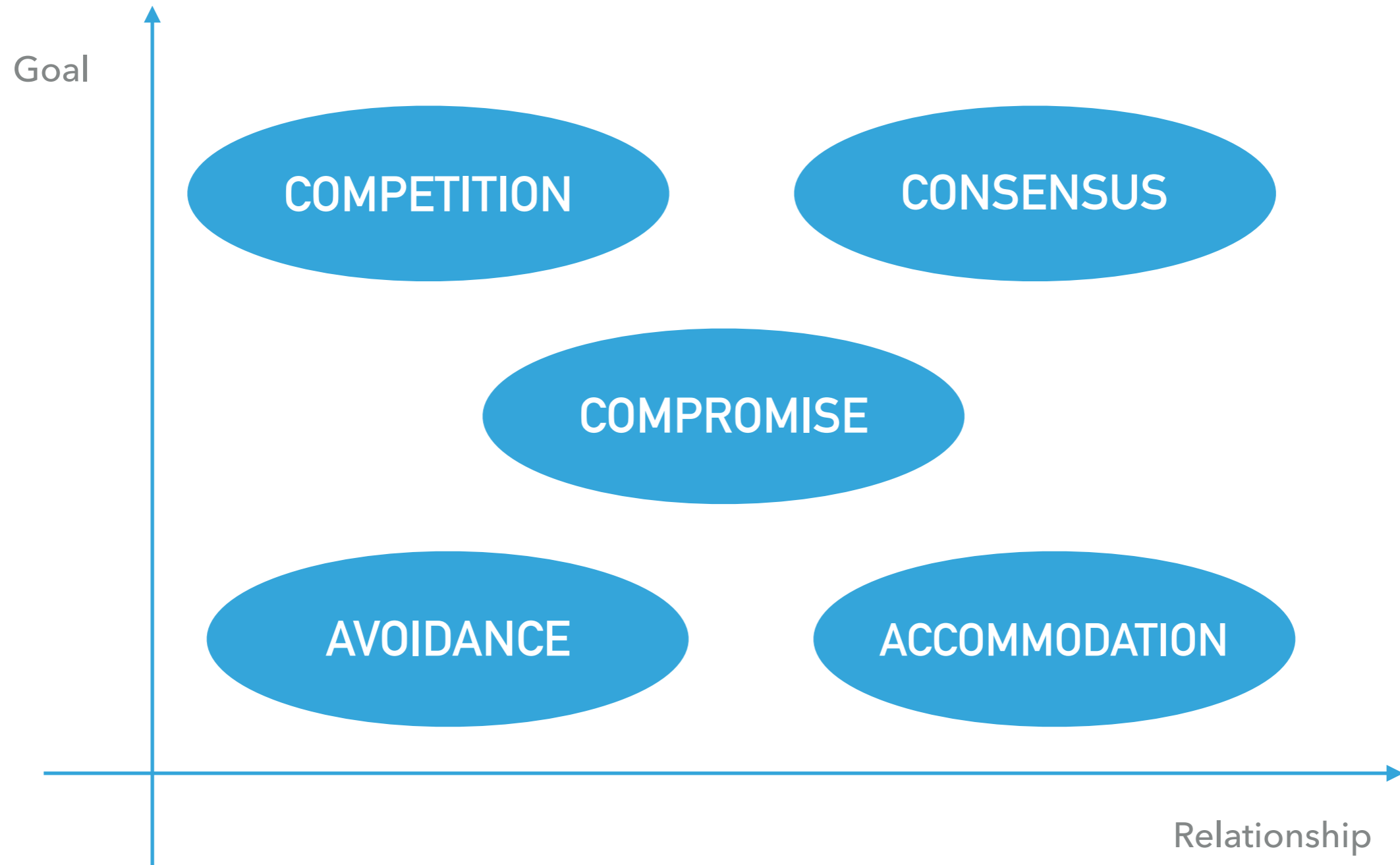
# DISPUTE RESOLUTION ANALYSIS

	Mediation	Arbitration	Litigation
<b>Costs (Time and Money)</b>			
<b>Fairness (Result and Proceedings)</b>			
<b>Influence on Relationship</b>			
<b>Durability of Solution</b>			

## MEDIATION - DEFINITION

- ▶ is an informal process in which a third-party assists others to reach a negotiated settlement
- ▶ Assisted extension of the negotiation process

# DISPUTE RESOLUTION APPROACHES



## PRO'S AND CON'S OF MEDIATION

FUTURE ORIENTED

COMPLEX

EFFICIENCY (T/C)

INFORMAL

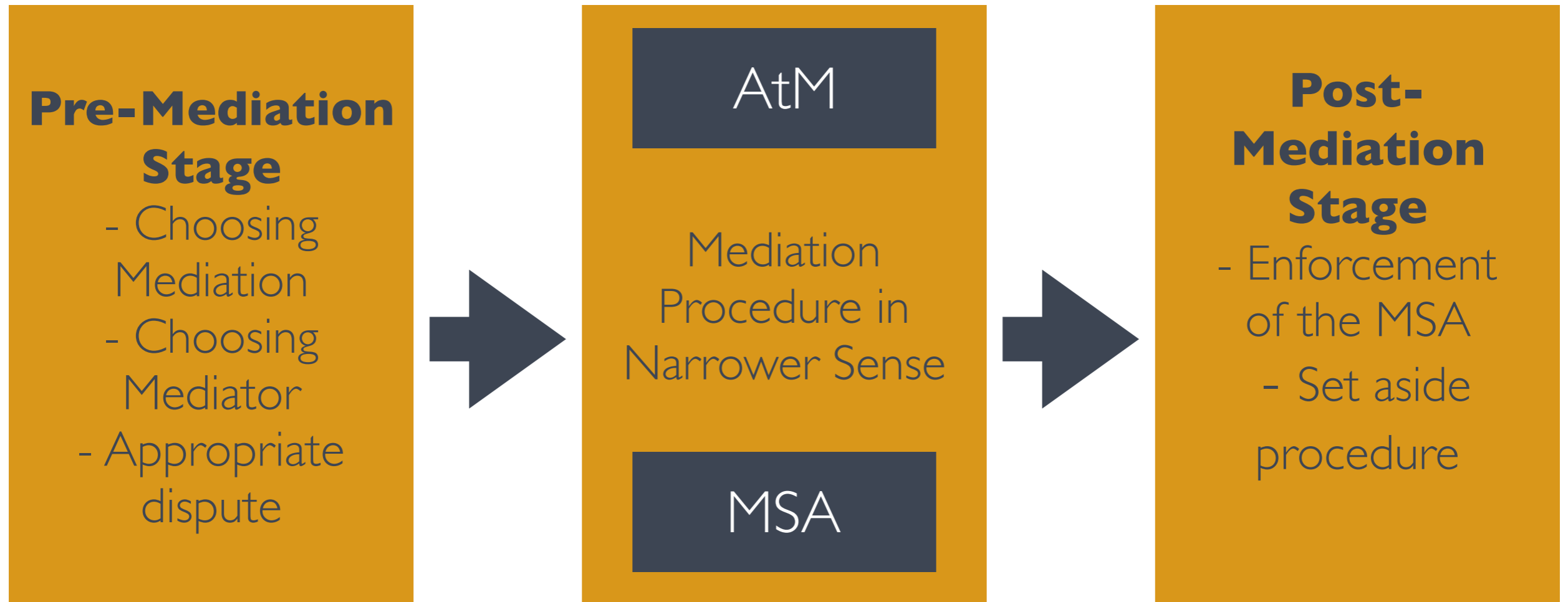
RELATIONSHIP

NAME PROTECTION

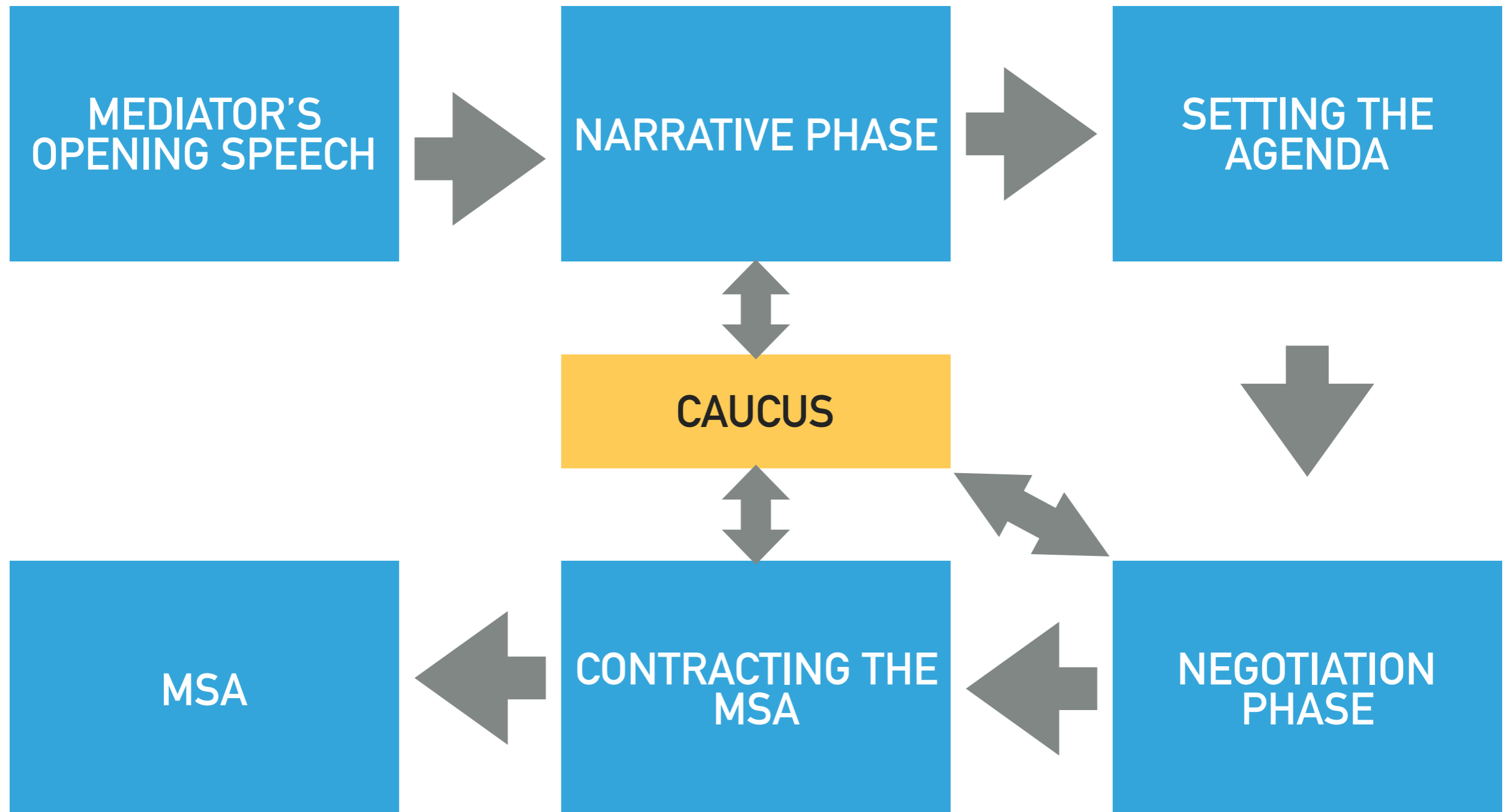
CONFIDENTIALITY

ADDITIONAL COSTS

# LEGAL ASPECTS OF MEDIATION



## MEDIATION PROCEDURE IN NARROWER SENSE

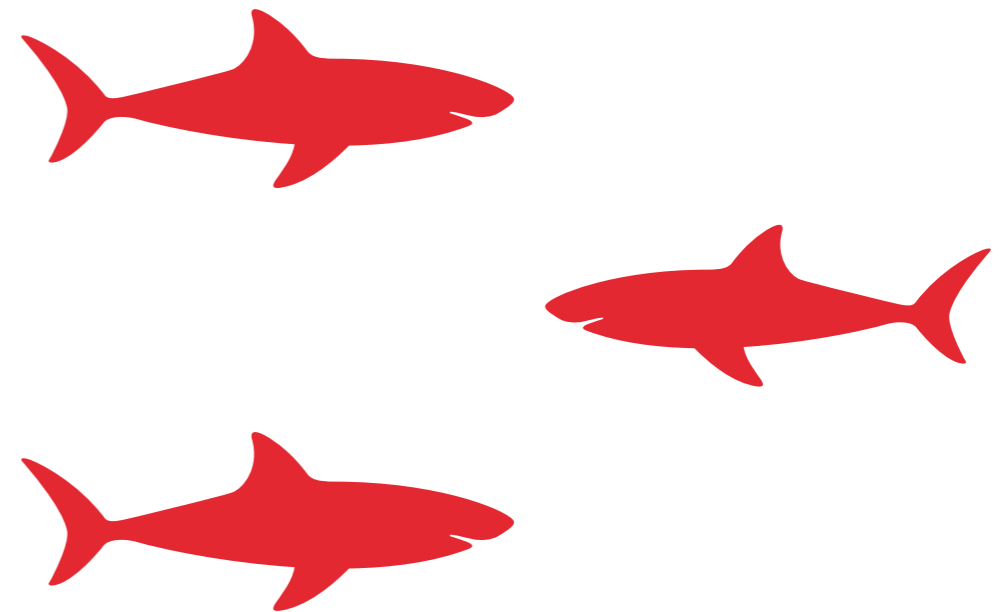


## TYPES OF SPORT DISPUTES

- ▶ contract disputes;
- ▶ funding disputes;
- ▶ teamselection disputes;
- ▶ anti-doping and other non-doping disciplinary cases; and
- ▶ administrative, governance, and rules disputes (within NSOs, NSO - athletes/coaches,...)

## SPORT DISPUTES CHARACTERISTICS - AGAINST MEDIATION

- ▶ multiple parties
- ▶ intensely competitive personalities
- ▶ spread across the globe
- ▶ high-stakes and win/lose
- ▶ numerous process challenges
  - ▶ urgency,
  - ▶ jurisdictional issues, and
  - ▶ the rigid rules and standards



## SPORT DISPUTES CHARACTERISTICS - IN FAVOUR OF MEDIATION

- ▶ The Desire to Avoid Harm
- ▶ Shared Goals
- ▶ Sport Family
- ▶ The Small World of Sports
- ▶ The Suspicion of Politics
- ▶ Potentially Public Issues



## ROLE OF MEDIATOR

- ▶ to attempt resolution,
- ▶ to help parties understand their procedural options,
- ▶ to give an opinion on the likely outcome at arbitration,
- ▶ to narrow the issues in dispute, and even
- ▶ to interpret a final arbitral decision for the parties.

## MEDIATION RULES 2016 - COURT OF ARBITRATION FOR SPORT



**TAS / CAS**

TRIBUNAL ARBITRAL DU SPORT  
COURT OF ARBITRATION FOR SPORT

*A non binding and informal procedure, based on an agreement to mediate in which each party undertakes to attempt in good faith to negotiate with the other party with a view to settling a sports-related dispute while being assisted by a CAS mediator*

- ▶ Included: Contractual disputes
- ▶ Excluded: Disputes related to disciplinary matters (doping issues, match-fixing and corruption)

## 2006-2013 SDRCC



	Number of Cases	Cases Mediated	Cases Settled	Settlement Rate
Mediation (Voluntary)	24	18	17	94 %
Med-Arb (Voluntary)	33	29	16	55 %
Arbitration (Mandatory resolution facilitation)	98	-	24	28*

# THANK YOU FOR YOUR ATTENTION

**JUDr. Martin Svatoš, Ph.D.**  
mediator and arbitrator

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