

Article

Business Schools Should Adopt More Conflict Resolution into Their Risk Assessment and Management Curriculum

The “Economic Efficiency through Mediation” (“EEM”) Approach

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1 Introduction

When one thinks of conflict resolution, one immediately thinks that law, not business, is a natural fit for the discussion, but it should not be confined to law school curriculum. While law plays a vital role in processes linked to the resolution of conflict, the focus placing mediation solely into the legal framework is too narrow. Although conflict can be destructive, it can be seen as constructive in the sense of bringing about change while avoiding business disruption.¹

Addressing conflict management is the way to keep the dispute constructive while avoiding the destructive ele-

ments that can undermine the business process.² The use of non-adversarial forms of conflict resolution, such as mediation and negotiation as opposed to litigation or arbitration, should be considered by business leaders.³ Moreover, mediation should be taught at business schools as part of risk assessment, risk management and conflict resolution process, acting in harmony with the important element of transacting business.⁴ By way of example, a business person should recognise the distinction between termination of a business rela-

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1. Stillman J. (2013, February). 3 Secrets of Constructive Conflict Resolution. *Inc.com*. Retrieved from <<https://www.inc.com/jessica-stillman/3-secrets-of-constructive-conflict-resolution-from-mediators.html>> (consulted on April 13, 2017).
2. *Id.*
3. For explanation of terms, see Litovtseva Y., Pepeliaev Group (2013, April). Negotiations, Mediations, Litigation or Arbitration: What to Take into Account When Selecting the Most Efficient Procedure for Dispute Resolution? *Lexology*. Retrieved from <www.lexology.com/library/detail.aspx?g=b634a9a5-a10f-404b-9f53-efba742d55a4> (consulted on April 13, 2017).
4. “Risk is the combination of a specific hazard and the likelihood that the hazard occurs (probability) × (hazard) = risk. That likelihood may be expressed as a rate or a probability; Risk assessment is the process of analyzing a potential loss from a given hazard using a combination of known information about the situation, knowledge about the underlying process, and judgment about the information that is not known or well understood; Risk Management is the process of combining a risk assessment with decisions on how to address that risk, and doing so in ways that consider the technical and social aspects of the risk assessment. Risk management is part of a larger decision process that considers the technical and social aspects of the risk situation.” *Risk Assessment Basics* (2014, January). Retrieved from <www.airsafe.com/risk/basics.htm> (consulted on April 13, 2017).

tionship and resolution as one strategy to contain conflict and to keep it from becoming disruptive in a negative sense.⁵ In assessing conflict, there is more than just winning for the stakeholders as risk inevitably plays a more significant role than principle.⁶ For example, reputation risk and cost containment are two elements of conflict resolution that should be considered by the CEO and CFO, not just a hands off to legal counsel. With respect to compliance with a contract, which is not the same as quality in the fulfillment of a contract between two parties, one must assess the risk of retaliation or sabotage instead of intrinsic motivation to do what one thinks is right or fair or necessary to achieve one's ultimate goals. Risk avoidance means you do not want uncertainty to the decision making process.⁷ However, how certain is compliance when it is forced upon parties by adversarial processes and winning means losing face for the other side? When information is unequal between two lines of business management, what is the best process to equalise the information to avoid or manage conflict?⁸ When assessing risk allocation of an underlying dispute, is the client better served by legal counsel or their own business acumen and training?

The risk to the business reputation is not a legal analysis; rather it is a risk assessment of the facts and applies to the theory that solution rather than problem-focused examination is more efficient to consider the indirect negative effects of winning.⁹ Assessing independent factors of risk may be perceived to be a by-product of the dispute which may or may not have an impact on the continuation of the company's interest in the underlying claim or defense of its claim.¹⁰ Rather, through a solution-based model, parties will be better able to calculate direct and indirect risk in their decision making.¹¹ Such risk analysis takes more than just a legal examination, but a cost analysis to conclude if protracted litigation is preferred to a non-adversarial dispute resolution process.¹²

Who can better assess the projected financial exposure and risk to the company balance sheet than the CFO?

5. Wilson B.H. & Chay D. (2003-2005). A Simple Process for Resolving Business Conflicts. *Business Listening.com*. Retrieved from <www.businesslistening.com/conflict_resolution-2.php> (consulted on April 13, 2017).
6. Spangler B. (2003, September) updated by Burgess H. (2013, January). Win-Win/Win-Lose/Lose-Lose Situations. *Beyond Intractability*. Retrieved from <www.beyondintractability.org/essay/win-lose/> (consulted on April 13, 2017).
7. Friberg R. (2015, November). *Managing Risk and Uncertainty: A Strategic Approach*. Massachusetts Institute of Technology, MIT Press, p. 10.
8. Rauchhaus R.W. (2006, January). Asymmetric Information, Mediation, and Conflict Management. *World Politics*, 58(2), 207-241.
9. Bannink F.P. (2007). Solution-Focused Mediation: The Future with a Difference. Retrieved from <www.solutions-centre.org/pdf/Solution-Focused-Mediation-The-Future.pdf>. (consulted on April 13, 2017).
10. *Id.*
11. Michael W.N. (2012, March). The Five-Tool Mediator: Game Theory, Baseball Practices, and Southpaw Scouting. *Pepperdine Dispute Resolution Law Journal*, 12, 99.
12. Solovay N. (2009, October). Responding to the call for ADR: Teaching an Old Law Firm New Tricks. American Bar Association. Retrieved from <www.americanbar.org/publications/blt/2009/09/08_solovay.html> (consulted on April 13, 2017).

While this question seems simple, in the complex world of law and business, law appears to take the upper hand over management of risk in dispute resolution undertakings.¹³ Certainly, lawyers and advocates each play an integral role in the process just like a musical production needs the conductor and the musicians for the music to play. Without a director, how will the actors know when to cue for their lines? Without the actors, you do not have the production. Likewise, this is similar in commitment and compliance theory of risk as well as in the alternative dispute resolution process of mediation.¹⁴ Mediation and business demand actors who are committed to the process of peaceful resolution because it is a best practice in risk compliance and it is best for business.¹⁵ Knowledgeable business executives should be trained and business schools should be equipped to understand how to utilise mediation and benefit from the process to build trust, preserve enterprise risk, contain cost, and to preserve future relationships.¹⁶ This can help the parties to reconcile and ultimately allow both sides to find a harmonious beneficial resolution.

Self-determination frameworks like mediation permit disputants to save face in order to continue their mutually beneficial business relationship or settle their dispute in a confidential process. Mediation is likened to a musical without the actors. The professionally trained mediator is present and the lawyers are directing the scene, but the room may be filled without an understanding of why mediate and not just winning the case. The business users [actors] must bring the risk assessment process to the production.

So, how do we promote mediation to maximise the benefits of the process over alternative adversarial methods of dispute resolution such as arbitration and litigation? More business schools need to adopt risk mitigation and dispute resolution curriculum into their risk assessment and risk management programs to meet clients' needs.¹⁷ Risk curriculum should include training in the field of dispute resolution modalities because it can serve as a

13. Global Pound Conference Series 2016-17, *Shaping The Future of Dispute Resolution & Improving Access to Justice: The Singapore Report* by Danielle Hutchinson & Emma-May Litchfield (2016, December), International Mediation Institute. Retrieved from <www.globalpoundconference.org/gpc-series-data/the-singapore-report#.WPAJBqPD-Uk> (consulted on April 13, 2017) p. 9. Challenges facing the industry and the vision for the future (Sessions 3&4) addressing "The Influential role that external lawyers play in commercial dispute resolution and particularly the extent to which they may affect any change process."
14. Raban C. Risk Management: The Theory. Retrieved from <www.a3es.pt/sites/default/files/Colin%20Raban_0.pdf> (consulted on April 14, 2017).
15. Najjar J.C., Esq. (2014). Corporate Counsel in the Era of Dispute Management 2.0. *Business Law International*, 15(3)L237. Retrieved from reprint International Bar Association <www.curtis.com/siteFiles/Publications/2014-09%20Business%20Law%20International%20(Najar%20-%20Corporate%20Counsel%20in%20the%20Era%20of%20Dispute%20Management%202.0).PDF> (consulted on April 13, 2017).
16. *Id.*
17. Bennis W. & O'Toole J. (2005, May). How Business Schools Lost Their Way, Harvard Business Review. Retrieved from <https://hbr.org/2005/05/how-business-schools-lost-their-way> (consulted on April 13, 2017).

foundation to support client interest.¹⁸ Such training includes negotiation and mediation classes to build the necessary skills, knowledge and experience the next generation of business decision makers will inevitably require.¹⁹ Utilising moot court competition modules in mediation and negotiation curriculum provides future risk assessment and management stakeholders more familiarity with dispute resolution and why such pathways are an integral part of the risk analysis more closely aligned with business and finance.²⁰

Understanding the causal relationship between preventing the fire and putting out the flames provides the base line for why risk mitigation and dispute resolution offer vital skills for future business leaders. Innovative methodologies such as dispute resolution models for business school risk curriculum are a requisite for the next generation of corporate suite executives to consider beyond reliance on adversarial schemes.

2 Solution-Focused Risk Assessment Approach

Exploring further how to apply mediation processes to address risk, and include mediation as part of risk assessment and management protocol into business school curriculum suggests adopting an innovative definitional concept first proffered by Dr. Adam Finkel.²¹ Dr. Finkel proposed to include, as part of risk mitigation, a solution-based theory to address environmental problems.²² He proffered a pioneering definitional concept in his paper ‘*Solution-Focused Risk Assessment Approach (SFRA)*’ to tackle environmental challenges.²³ SFRA, as prescribed by Dr. Finkel, in his article entitled “Solution-Focused Risk Assessment – A Proposal for the Fusion of Environmental Analysis and Action” to help mitigate environmental problems, created a new interpretive approach to managing risk through a solution-directed process.²⁴ Finkel uses SFRA not to let the problem “constrain” a decision, rather he promotes out-of-the-box solutions.²⁵ In essence, Dr. Finkel avers that following a solution approach allows for more flexibility

and possibilities for resolutions through solution-focused paradigms rather than simply understanding the problems.²⁶

Dr. Finkel’s main argument is that, ‘more attention and resources have been expended on dissecting problems than on implementing actual solutions that reduce risks.’²⁷ Providing a framework for a solution-focused risk mitigation forum will perhaps achieve Finkel’s theory for business challenges. For example, adopting a Design-approach mediation model combining transformative and facilitative mediation to address risk mitigation can be highly effective as a form of conflict management.²⁸ Design approach focuses on “the development of a solution [that] is not necessarily related to the problem (or conflict).”²⁹ For example, transformative mediation is defined as an approach or intervention that focuses on addressing the underlying source of tension between the parties and improving the relationship,³⁰ while facilitative mediation seeks to address the needs, and the interests of the parties.³¹ By implementing a Design-approach mediation process combining transformative and facilitative models, we can realise Finkel’s basic notion that we should move from risk assessments which identify not problems, but, rather, solutions and risk management decisions, benefiting from such applications.³² As Dr. Finkel concludes:

Risk assessment for its own sake is an inherently valuable activity, but at best, a risk assessment can illuminate what we should fear – whereas a good solution-focused analysis can illuminate what we should do.³³

In order to achieve Finkel’s objective of a solution-based paradigm, implementation of mediation structures that apply a hybrid of both facilitative and transformative styles shifts the mediation model from a settlement approach to one that is more aligned with “party-centered” processes.³⁴ Stakeholders will maximise options to meet their objectives during the mediation with a

18. *Id.*

19. *Id.*

20. See annual International Chamber of Commerce (ICC) Mediation Week for example of negotiation and mediation for business disputes. Retrieved from <<https://iccwbo.org/dispute-resolution-services/professional-development/international-commercial-mediation-competition/>> (consulted on April 13, 2017).

21. Dr. Adam Finkel is the Senior Fellow and Executive Director, Penn Program on Regulation at University of Pennsylvania Law School. Retrieved from <<https://www.law.upenn.edu/cf/faculty/afinkel/>> (consulted on April 13, 2017).

22. Dr. Adam Finkel. (2010, February). ‘*Solution-Focused Risk Assessment – A Proposal for the Fusion of Environmental Analysis and Action*. University of Pennsylvania Law School. Retrieved from <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1550830> (consulted on April 13, 2017).

23. *Id.*

24. *Id.*

25. *Id.*

26. *Id.*

27. *Id.*

28. Manning C.M. (2007, November). Transformative and Facilitative Mediation Case Studies: Improving Relationships and Providing Solutions to Interpersonal Workplace Conflict. *ADR Bulletin*, 10(2). Frontiers of ADR – a selection from current research Article 8. Retrieved from <<http://epublications.bond.edu.au/cgi/viewcontent.cgi?article=1424&context=adr&sei-redir=1&referer=http%3A%2F%2Fwww.bing.com%2Fsearch%3Fq%3Dcarolyn%2Bmanning%2Btransformative%2Band%2Bfacilitative%2Bmediation%26src%3DIE-SearchBox%26FORM%3DIENTTR%26conversationid%3D%26search=%22carolyn%20manning%20transformative%20facilitative%20mediation%22>> (consulted April 13, 2017).

29. Bannink F.P. (2007, Winter). Solution-Focused Mediation: The Future with a Difference. *Conflict Resolution Quarterly*, 25(2), 164. Retrieved from <www.solutions-centre.org/pdf/Solution-Focused-Mediation-The-Future.pdf> (consulted April 13, 2017).

30. Zumeta Z. (1988). Styles of Mediation: Facilitative, Evaluative and Transformative Mediation. *Mediate.com*. Retrieved from <www.mediate.com/articles/zumeta.cfm> (consulted April 13, 2017).

31. *Id.*

32. Finkel, *supra* note 22, at 9.

33. Finkel, *supra* note 22, at 44.

34. Solovay, *supra* note 12.

more holistic approach,³⁵ enabling the process to target asymmetric information as a more highly effective form of risk assessment.³⁶

3 Economic Efficiency Mediation

Essential solution-based protocols correlated to mediation provide early conflict mitigation and confronts asymmetric information imbalances.³⁷ Adopting SFRA principles for asymmetric information will foster economic efficiency for business structures and develop new pathways to meet these challenges applying mediation models.³⁸ This article proposes *Economic Efficiency Mediation* (“EEM”) as a hedge instrument and new approach advocating for mediation as an effective SFRA solution tool for business to improve their economic efficiency, mitigate asymmetric information, and provide solution-focused early conflict resolution.³⁹

Different or imperfect information leads to market failure, inefficient results and conflict.⁴⁰ For example, when parties have contrasting information, bad decisions can prevail leading to adverse selection and market dysfunction.⁴¹ Moral hazard is another form of asymmetric information enabling one party to make decisions without risk exposure to the detriment of another stakeholder. Both adverse selection and moral hazard present challenges for decision makers, and have the potential for creating market deficiencies due to self-interest pursuits.⁴² In order to mitigate such behavior patterns, *Economic Efficiency Mediation Approach* (“EEM”) can act as a hedge to reduce exposure risks to asymmetric information for businesses and aid in early conflict resolution.⁴³ In effect, mediation through solution-based problem solving can realign information so that it becomes equalised.⁴⁴ Mediation as a risk-mitigation tool for businesses and solution-focused risk curriculum for business schools can foster equalisation of the imbalances in asymmetric information. Mediation can contribute towards equalisation and realignment of information challenges imbedded in adverse selection and moral hazard, and therefore presuppose to improve overall market

functionality for commerce. Dr. Finkel’s application of *Solution-Focused Risk Assessment (SFRA)* tackling environmental problems can now be used to implement a new risk-mitigation strategy for business and aid risk management decisions. Through SFRA procedures, risk assessment can then implement an EEM approach as a hedge instrument for market dysfunctions and conflict caused by asymmetric information.

4 Family Business: Applying Economic Efficiency Mediation as a Hedge Instrument

Application of EEM approach through an SFRA methodology can apply to family business as an illustration to further explain risk mitigation protocol. Exploring risk assessment and risk management of asymmetric information and conflict for family business, we need to consider family interests carefully and the complex interdynamic relationships between families, their businesses, and their organisations. Improving the *systems theory*⁴⁵ for family dynamics through non-adversarial forms of conflict resolution can help mitigate both adverse selection and moral hazard, aiding in realignment of information imbalances commonly found in family businesses.⁴⁶ Managing conflict created by these overlapping systems through an EEM process will lead to optimisation of solution and option variables for family dynamics, family managers and their operations. As pointed out by Amin Nasser in a PwC article:

Conflicts and misunderstandings always exist in families and are the family businesses’ greatest enemy. Managing conflicts is key not just to the survival of the business but to the survival of the family itself.⁴⁷

Family, ownership and management make-up complex interdependent sub-systems, but the overlap of each sub-system can create conflict and lead to the success or failure of family business structures.⁴⁸ Mediation can

35. *Id.*

36. Rauchhaus R.W. (2011, June 13). Asymmetric Information, Mediation, and Conflict Management. Retrieved from <<https://www.cambridge.org/core/journals/world-politics/article/asymmetric-information-mediation-and-conflict-management/EE032A1DA6F629881C813072F9C09339>>.

37. *Id.*

38. *Id.*

39. *Id.*

40. *Id.*

41. *Id.*

42. *Id.*

43. Arvanitis A., Gregory J. & Martin R. (2000). Hedging Financial Risks Subject to Asymmetric Information. *Journal of Risk Finance*, 1(2), 9-18.

44. Stiglitz J.E. (2001, December). Information and the Change in Paradigm in Economics. *Columbia Business School, Columbia University*. Retrieved from <www.nobelprize.org/nobel_prizes/economic-sciences/laureates/2001/stiglitz-lecture.pdf> (consulted on April 13, 2017).

45. The System’s Theory Model of Family Business is referred to as the Three Circle Model by Taguiri R. & Davis J.A. (1982). Bivalent Attributes of the Family Firm. See diagram illustrating the overlapping systems of ownership, family, and Business/Management at Family Business Alliance. Retrieved from <www.wilkes.edu/about-wilkes/centers-and-institutes/family-business-alliance/_images/Family%20Business%20Systems.pdf> (consulted on April 13, 2017).

46. *Id.*

47. Nasser A. (2014). Understanding Family Dynamics and Family Conflicts. PwC. Retrieved from <<https://www.pwc.com/m1/en/assets/document/family-business-docs/understanding-family-dynamics-and-family-conflicts.pdf>> (consulted on April 13, 2017).

48. Nasser, *supra* note 47; see also Kristina Magnuson interview Steven Miller. (2012, February 21). Next Generation Leadership Family Business Leadership from a Complexity Theory Perspective. *UNC Kenan-Flagler Business School*. Retrieved from <<http://blogs.kenan-flagler.unc.edu/family-enterprise/2012/02/21/family-business-leadership-from-a-complexity-theory-perspective/>> (consulted on April 13, 2017).

serve as a portal for an effective risk assessment and management tool to redress adverse selection, regulate moral hazard and temper conflict within the family business echo-system.⁴⁹ Recognising that family businesses account for two-thirds of all enterprises worldwide, generating 70% of global GDP annually, necessitates further empirical study outside the scope of this article to guide family business systems through a risk assessment and management process.⁵⁰

Diversity, geographic cultural agility, family managers, ownership and control through generational change signify complexity in these organisations reflecting the need for more qualitative and quantitative research in this field.⁵¹ It is no surprise that the complexities embedded in family platforms both in corporate structures and in family dynamics challenge owners and their advisors to address risk across the entirety of the family business spectrum.⁵² What is more astonishing is that data would suggest that less than half of family enterprises implement a comprehensive risk assessment and management process.⁵³ Perhaps adopting Dr. Finkel's SFRA approach to family businesses and providing pathways for EEM mechanisms can lead to a risk-mitigation process acting as a bridge to improve overall functionality and efficiency within those systems.⁵⁴ To preserve, manage and expand family business concerns, risk assessment tools can navigate the multiplex and sometimes unpredictable environment of conducting business.⁵⁵ Mediation is one element of risk mitigation and risk management undertakings available to the family business sector.⁵⁶

5 Stroh Family Case Study: Failure to Employ Economic Efficiency Mediation Leads to Failure of a Family Business?

In order to highlight the implementation of EEM as a nexus for economic efficiency, an analysis of the Stroh family beer empire demise is illustrative.⁵⁷ For the sole purpose of this article, this examination is merely a hypothetical example to support "a what if" scenario had EEM been adopted into the Stroh Family corporate structure.

The Stroh Family and their beer business is an example of how EEM through a solution-based process may have mitigated risk, acting as a hedge instrument for an American Family success story ending in failure.⁵⁸ In the mid-1800s, Bernard Stroh took his family beer recipe and a \$150 investment launching a beer business in Detroit, Michigan, turning it into a money-making machine producing more than 2.7 million barrels of beer by 1956.⁵⁹ By the late 1980s, the family was worth \$9 billion in today's value and one of the wealthiest families in the United States.⁶⁰ However, through poor strategic decisions made by the fourth generation of family managers, market competition, and family offspring spending lavishly, the Stroh decedents were left essentially penniless.⁶¹

System theory dynamics are clearly evident in the Stroh case study where overlapping interests from family members, family managers, and market forces helped to collapse a beer-making empire.⁶² For example, Peter Stroh set a course for acquisition of other beer companies to grow his family's business by leveraging the company assets in the 1980s. Unfortunately, his strategic decisions due to both market competitors, lack of sufficient capital reserves, existence of asymmetric information for strategic planning, inter-family managerial disputes of how to best operate the company, and disinterested/lavishly spending dividend classes of family members led to a downward spiral from which the Stroh clan could never recover.⁶³

EEM may have mitigated these risks and conflicts within the Stroh family sub-systems prior to the downturn of the family business by providing solution-based

49. Rauchhaus R.W. (2006, January). Asymmetric Information, Mediation, and Conflict. *World Politics*, 58(2), 207-241.
50. FFI Family Firm Institute. (2016). Interview with John Davis, Harvard Business School. Retrieved from <www.ffi.org/?page=GlobalDataPoints> (consulted on April 13, 2017).
51. Marion R. & Uhl-Bien M. (2001). Leadership in Complex Organizations. *The Leadership Quarterly*, 12, 389-418.
52. Miller D., Le-Breton Miller I., Lester R.H. & Canella A.A. (2007). Are Family Firms Really Superior Performers. *Journal of Corporate Finance*, 13(5), 829-858.
53. Bourn L. & McKibbin P. (2015, January). Family Enterprise Risk Index. *Crystal & Company Family Office Metrics*. Retrieved from <www.crystalco.com/wp-content/uploads/2017/02/2015-Family-Enterprise-Risk-Index.pdf> (consulted on April 13, 2017).
54. *Id.* As pointed out in the *Family Enterprise Risk Index*, 'Nearly 95% of the [family business] participants in the study indicated they are well aware of the potential risks to a family, but only two-thirds of the respondents have taken steps toward implementing a plan to address specific areas.'
55. Dipietro B. (2015, January 21). Family-Owned Businesses Struggle to Manage Risks. *Wall Street Journal*. Retrieved from <http://blogs.wsj.com/riskandcompliance/2015/01/21/family-owned-businesses-fall-short-in-managing-risks/> (consulted on April 13, 2017).
56. Weingarth J. (1999, March 3). ADR as a Risk Management Tool for Business. *ADR Bulletin*, 1(9), Article 4. Retrieved from <http://epublications.bond.edu.au/cgi/viewcontent.cgi?article=1046&context=adr> (consulted on April 13, 2017).

57. Dolan K.A. (2014, July). How to Blow \$9 Billion: the Fallen Stroh Family. *Forbes*. Retrieved from <https://www.forbes.com/sites/kerryadolan/2014/07/08/how-the-stroh-family-lost-the-largest-private-beer-fortune-in-the-u-s/#bfd4dc23d13a> (consulted on April 13, 2017).

58. *Id.*
59. *Id.*
60. *Id.*
61. *Id.*
62. *Id.*
63. *Id.*

mechanisms into their corporate structure documents.⁶⁴ Family councils are one example of a corporate structure document where EEM could exist to address asymmetric information and mitigate conflict.⁶⁵ By design, family councils provide a forum to influence business decisions, ensure family cooperation, and “perpetuate family ownership across generations.”⁶⁶ Perhaps by examining the whole and not the sub-parts of each of the Stroh family sub-systems through a corporate governance structure similar to a family council, a Design-theory mediation model may have navigated and shaped shareholder interest affording the Stroh family an opportunity to survive.

6 Conclusion

This article provides a brief overview intended to spark a conversation as to why and how mediation models are adaptable for business and business school risk mitigation programs. Addressing risk assessment, providing more risk management support, and early conflict mitigation between commercial actors, and business schools would allow incorporation of mediation solution-based principles into their risk-based curriculum. This essay is a modest attempt to reflect upon how mediation is not just a legal process, but rather more importantly it can be viewed as both a hedge instrument and risk management tool for business stakeholders. Risk mitigation requires unique concepts that both businesses and business schools should embrace to improve efficiency and functionality in the market place.

Converting legal principles of non-adversarial dispute resolution mechanisms such as mediation is one methodological framework to address gaps in businesses when challenged with asymmetric information and conflict. Addressing these gaps, this article proposes adoption of Solution-Focused Risk Assessment (SFRA) through a new application called Economic Efficiency Mediation (EEM) to act as a hedge instrument when commercial enterprises are faced with risk.

Though further research and analysis is warranted, this brief summarization of the EEM approach to business systems illustrates how family sub-system structures can resolve adverse selection, moral hazard and conflicts through mediation mitigation. Family enterprises can benefit from EEM by implementing the approach into their corporate structures to realign information imbalances and assist with conflict resolution. The EEM model will foster a more efficient and functional market system for family businesses because mediation models will combat platform failures.

In conclusion, commercial interests should continue to explore why mediation is justified not only as a legal process, but how mediation mechanisms can become a frequent template for risk assessment, risk management decisions and early conflict mitigation, acting as a hedge instrument to improve market efficiency.

64. Siebels J-F. (2012, 15 July). *The Management of Shareholder Relationships in Family Businesses: A Principal-Agent and Stewardship Perspective*. Von der Fakultät VII-Wirtschaft und Management der Technischen Universität Berlin zur Erlangung des akademischen Grades Doktor der Wirtschaftswissenschaften-Dr.rer.oec.- genehmigte Dissertation.

65. *Id.* at 37.

66. *Id.* at 37.