

NLS NEGOTIATION MEDIATION & CLIENT COUNSELLING COMPETITION

14TH-17TH APRIL, 2016



MEDIATION PRELIMS I

Over the past decade and a half, Mr. and Mrs. Giles Barrington have risen to prominence in Briton society. A sitting Member of Parliament, Mr. Giles Barrington has represented his constituency – Bristol Docklands for the past fourteen years. His success has been matched bit by bit by Mrs. Karen Barrington – the Founder Director of the Walter Barrington Foundation. The Foundation has received many accolades for its effort towards making medical procedures more accessible for the poor, by way of grants and research funding.

The couple remained childless after sixteen years of matrimony. After some deliberation, they decided to have a surrogate baby. In order to avoid any unnecessary attention in their home country, they decided to go through the process through an agency based in Natalia – a neighbouring country that has grown into a surrogacy hub in recent years.

The Agency got them in touch with Emma Rhodes, a Natalian single-mother of two, willing to act as their surrogate. Emma had passed all medical tests as stipulated by the Agency. After a scheduled meeting, the Barringtons agreed to go ahead with the process with Emma being the surrogate agent. While Emma would be the genetic mother, Giles would be the genetic father.

It was agreed that the commissioning parents would pay a sum of USD 20000 to the agency, 70% of which would be paid to Emma for carrying the pregnancy to term, inclusive of living and medical expenses. It was also agreed that she would undergo regular medical check-ups to ascertain the health of the foetus.



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If any foetal abnormalities were discovered, she would undergo an abortion if so directed by the commissioning parents. In such a case, payment would be made proportional to the weeks Emma had been pregnant. If Emma refused to undergo such an abortion, she would relinquish all rights to reimbursement of living and medical expenses under the contract.

The procedure went ahead successfully. However, in the fourteenth week of pregnancy, doctors detected an abnormal fetal heart rate. Further tests revealed that the foetus' heart had failed to develop normally – which could result in a critical congenital heart defect. Doctors also stated that the foetus could develop additional abnormalities that may not be apparent before the third trimester. Hearing this news, the Barringtons informed the Agency that they wanted Emma to undergo an abortion. Emma, however, refused. She insisted on carrying the pregnancy to term and getting paid for it, stating that forcing an abortion upon her would violate her human rights.

The two parties failed to settle their difference over three weeks of correspondence through the Agency. In the 17th week of the pregnancy, the Barringtons found out from a friend in the Natalian Press Guild that Emma has been trying to contact news-houses to share her story. Alarmed by this development and its ramifications in British media, the Barringtons immediately invited Emma to a formal negotiation in Natalia, where they could try and settle their differences.

Note: Natalia prohibits medical termination of pregnancy after 20 weeks.





MEDIATION PRELIMS II

Harry Clifton is a Spanish footballer plying his trade for Tulips FC in the Bavarian Football League. He burst onto the international stage in the 2014-15 season with a record tally of 23 goals, leading Tulips FC to their maiden league title. Naturally, this attracted the attention of multiple football clubs willing to shell out a premium for the teenage sensation. Despite significant interest from several clubs, Tulips FC managed to keep their prodigal star for another season.

Harry began the 2015-16 season in equally magnificent fashion, scoring 11 goals in the first 15 outings. His consistent performance landed him a spot in the Spanish National Team slated to take part in the European Championships in June 2016. In early 2016, Tulip FC received an enormous offer of USD 25,000,000 for Harry from Gunners United, a leading English side. It was also rumoured that subject to the transfer going through, Harry would become the highest-paid teenager in modern day football, drawing a salary of USD 60,000 a week – three times his current wage. However, before serious deliberations could begin over the offer, Harry suffered an injury to his right leg due to an ill-timed tackle by the opposing defender. Scans revealed a partial ACL tear and a fractured fibula. Subsequently, he was admitted to the Metro General Hospital for treatment.

Established only in 2004, the Metro General has gradually built a reputation for quality treatment. In particular, its orthopaedic facility, staffed by highly skilled and veteran orthopaedic surgeons, is at the forefront of global research and development. Due to such glowing credentials, Harry was confident that he will recover well in time for the European Championships which were still around four months away.



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Harry was operated upon on February 16, 2016 by Dr HS Hogan, MD. Although the surgery was successful, the surgeon recommended that Harry not play professional football for another six months. Harry was furious at this suggestion, particularly so because it meant that he would have to sit out of his first major international tournament.

While he was still in the hospital, Hogan visited him outside of his consultation hours. He subtly suggested that he may have a solution for Harry's predicament – Toboprofane. Toboprofane is an experimental drug that accelerates tissue healing and helps patients become more pain-tolerant. He signed up Harry for a clinical trial being conducted in the hospital, under the fake alias of Gary White. He insisted repeatedly that he was doing it out of sympathy for the young footballer's condition.

Four weeks into the trial, Harry could train normally. He rejoined the Tulip FC squad, surprising everyone by his quick recovery. He was pleased to know that the transfer offer from Gunners United was still on the table and being considered by Tulip's board. He even accompanied the squad for an away match in neighbouring Laker City. It was in Laker City that tragedy struck a second time.

During training on March 18th, Harry complained of shortness of breath and a mild concussion. He was rushed to the nearest hospital where he was diagnosed with Polycythemia – a temporary state of high red blood cell count often induced by performance enhancing drugs. Unsurprisingly, the news leaked and was splashed all across newspapers the following day. During a press conference the following day, Harry issued a statement denying all doping allegations. Instead, he calmly suggested that the high RBC count could be due to treatment he received at Metro General.



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In a private letter to the Metro General CEO, he laid down all facts about Hogan's alternative medication and threatened to sue the hospital if they do not take responsibility for the situation. He claimed that Hogan had misled him into believing that Toboprofane was the best course of action. Alarmed by this development, the hospital has invited Harry to the negotiating table to settle this dispute amicably.



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MEDIATION QUARTER FINALS

Historical Background

The Kingdom of Iran, ruled for centuries by the 'Shahs', saw great political upheaval in the 20th century. In 1951, The National People's Front was elected by majority to the government, and Mohammad Mossadegh, a popular democratic leader, assumed the leadership of the nation as its Prime Minister. He brought sweeping changes in Iran, with a view to reverse the almost colonial rule of Britain and the United States of America through their ownership over the oilfields in Iran.

Most significantly, Mossadegh nationalized the oil companies in Iran (such as the Anglo-Iranian Oil Company), which were owned by companies based in the United Kingdom and the USA greatly angering the two nations. In 1953, the United Kingdom and the USA orchestrated a coup-de-tat, wherein Mossadegh and his government were overthrown and Reza Shah Pahlavi was reinstated as the ruler of Iran.

He was well known to be a dummy ruler, largely directed by the UK and the USA. His rule was characterized by corruption, mismanagement, horrific crimes against humanity, great economic poverty and enforced 'westernization' of the Iranian population, much against their wishes and religious beliefs. In 1979, after years of ill treatment, the Iranian people rebelled.

The Iranian revolution in 1979, led by Ayatollah Khomeini and his followers, swept through the nation. They deposed of the Shah, who escaped and was given refuge by the USA. Currently, Ayatollah Khomeini is the ruler of Iran, and propagates highly conservative Islamic ideals.



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4th December, 1979: The Present

The Iranian government had officially asked the government of the United States to extradite the Shah of Iran, who had been given refuge in the United States. The United States refused, greatly angering the Iranian population, many of whom wanted the Shah to be made to stand trial for the multiple crimes committed under his command, and by his secret service called SAVAK.

On 4th November, 1979, a group of students belonging to a group named the 'Muslim Student Followers of the Imam's Line', which was unofficially under the patronage of the Khomeini led government, stormed the American Embassy in Tehran. They took 64 American citizens who were working there hostage. This was in protest to America's refusal to extradite the Shah. The Iranian government demanded the return of the Shah, along with other demands including renegotiation of the royalties division between the Iranian government and the US owned company (currently 90% royalties go to the American company and 10% to Iran) and Iran's frozen assets in the USA.

Further, the Iranian government alleges that most of these hostages, who are personnel working in the US Embassy, have also been working as spies, and securing and dispatching sensitive information to the US government. In the USA, there is a lot of panic and anger regarding the hostage situation, and the calls for securing the lives of these citizens at any cost is also increasing.

The United States deems this hostage taking a violation of international law. Nations around the world have also denounced the Government of Iran for these actions, but Iran refuses to give up the hostages unless their demands are met.



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Over the past month, there has been increasing tension in both the countries, with heightened international scrutiny on this issue. Today, the delegations of both the governments are meeting in private, in order to resolve this issue urgently.





MEDIATION SEMI FINALS

Mr. Terrence Waterhouse was a successful financier based in Kent, England. Owing to his excellent business acumen and strategic investments, he was able to acquire shares of multiple thriving multinational businesses and amass four estates in the United Kingdom. In 1999, he married Lady Honoria Bentley-Haystone at the age of 36. With Terrence's love and support, Honoria founded a school for orphaned girls, the running of which gave her immense satisfaction. They lived in matrimonial felicity and found great joy in the birth of their daughter Margaret in 2003, who was the apple of her father's eye. However, a couple of years later, Terrence was devastated when he received the news of his only brother Frederick's unexpected death in a boating accident in Seville, and went into a decline. In the subsequent months he quit working, sold his shares, and at one point even announced his intentions to renounce the material world. Honoria also suffered a tragic miscarriage. Due to these crises, their marital relations soured and finally one day when Honoria was away, he took Margaret and disappeared into the night. Honoria, wild with rage and panic, enlisted the help of several private investigators but to no avail. Terrence had last been sighted a week later at Dover Port on November 28, 2005 with an infant who was presumably Margaret.

Three years later, she received news that Terrence had been living in Cassis, a small fishing village in the South of France. Unfortunately, by the time her investigator reached there, it appeared that Margaret and he had drowned in an accident. Struck by grief, Honoria became increasingly private. To maintain the upkeep of four estates, she permitted the estate managers to auction off select artwork and furnishings from three of the estates, as she could not bear to part with anything in her matrimonial home.



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Therefore, seven years later she was staggered to hear from her family solicitor that Terrence had died only recently, in 2015. He had also apparently married a Frenchwoman, Meirelle Delacroix, called Mila, sometime in the winter of 2006. Mila had raised Margaret as Margeaux alongside her own two children with Terrence, allowing her to believe that Mila was her birth mother. The family solicitor further revealed that Mila had limited knowledge of her husband's past and had been told that his first wife had died in childbirth. He had paid off Honoria's investigators and shuttled his family to St. Tropez. Their family had lived well for nearly a decade, and in 2008, Terrence had established a luxury hotel along the Mediterranean coast. Unfortunately, a series of bad investments in 2013 had resulted in a pile of debt which had to be met by Mila after his untimely death. She sought to sell off some of Terrence's properties in England which she claimed were rightfully hers. According to the will left to her by Terrence, his earthly possessions were to be equally divided among his three children of whom Mila would be the guardian, and the hotel was left to Mila by her name. However, Terrence and Honoria's marital home had been bequeathed to Honoria's charity foundation.

Overjoyed at the thought of being reunited with her long lost daughter who she thought would be returned to her biological mother, Honoria is willing to meet with Mila. Honoria herself has a will left by Terrence, which bequeaths all his property to Honoria and Margaret. Honoria is desperate to regain custody of her daughter. However, Mila has raised Margeaux as her own child and is very apprehensive of meeting Honoria. The lawyers on both sides have advised them to avoid a long drawn-out battle in court due to the sensitivity of the issue, the inevitable involvement of the children, delays, and expenses incurred in litigation. Consequently, both parties have agreed to participate in mediation.



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MEDIATION FINALS

Bosskey Industries is a Bangalore based company that owns the popular Tantra bars franchise in Bangalore. It also owns a brand of whiskey exclusively sold in Bangalore through its bars called “Smooth Seductress” (SS). Nobody else in the country except Tantra franchise is allowed to sell SS. There are a total of 7 Tantra bars in Bangalore.

SS is the most popular whiskey amongst the Bangalore residents, but is also famous throughout India (through word of mouth). In various consumer surveys, SS has consistently been ranked the best domestic whiskey in India and enjoys popular demand.

Cain Pvt. Ltd. is one of the largest food and beverage (“F&B”) groups in India. They have successful operations in many cities in India, including Delhi, Bombay and Calcutta. Cain Pvt. Ltd. is one of three large F&B groups to enter the Bangalore market. The heavy influx of young professionals and students from all over India in the last few years has made Bangalore a prime market for expansion.

Cain Pvt. Ltd.’s whiskey “Tancred” has been competing with SS and other competitors for quite some time in Bangalore. Due to SS’s popularity and established presence in Bangalore, Cain Pvt. Ltd. has been planning to acquire a stake in the Tantra franchise as well as in SS whiskey. Bosskey Industries has been looking to expand to the national market, and is, hence, keen on entering into a partnership with Cain Pvt. Ltd.

Cain Pvt. Ltd. and Bosskey Industries are meeting to negotiate this partnership.

