



# Reality Testing Around the Grid: A Skills Based Drill

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Southern California Mediation Association

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# Agenda

- The Grids
  - The Old Grid
    - <https://scholarship.law.ufl.edu/cgi/viewcontent.cgi?article=1684&context=facultypublications>
  - The New Old Grid
  - The New New Grids
    - <https://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=1416&context=ndlr>
- Evaluation vs. Facilitation
- Narrow vs. Broad
- Where Am I Exercise?
- Reality Testing Around the Grid Drills

# MEDIATOR TECHNIQUES

Role of Mediator  
**EVALUATIVE**

	<p><b>Urges/pushes parties to accept narrow (position-based) settlement</b></p> <p><b>Proposes narrow (position-based) agreement</b></p> <p><b>Predicts court or other outcomes</b></p> <p><b>Assesses strengths and weaknesses of each side's case</b></p>	<p><b>Urges/pushes parties to accept broad (interest-based) settlement</b></p> <p><b>Develops and proposes broad (interest-based) agreement</b></p> <p><b>Predicts impact (on interests) of not settling</b></p> <p><b>Educates self about parties' interests</b></p>	
<p>Problem Definition <b>NARROW</b></p>			<p>Problem Definition <b>BROAD</b></p>
	<p><b>Helps parties evaluate proposals</b></p> <p><b>Helps parties develop &amp; exchange narrow (position-based) proposals</b></p> <p><b>Asks about consequences of not settling</b></p> <p><b>Asks about likely court or other outcomes</b></p> <p><b>Asks about strengths and weaknesses of each side's case</b></p>	<p><b>Helps parties evaluate proposals</b></p> <p><b>Helps parties develop &amp; exchange broad (interest-based) proposals</b></p> <p><b>Helps parties develop options that respond to interests</b></p> <p><b>Helps parties understand interests</b></p>	

**FACILITATIVE**

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# NOTRE DAME LAW REVIEW



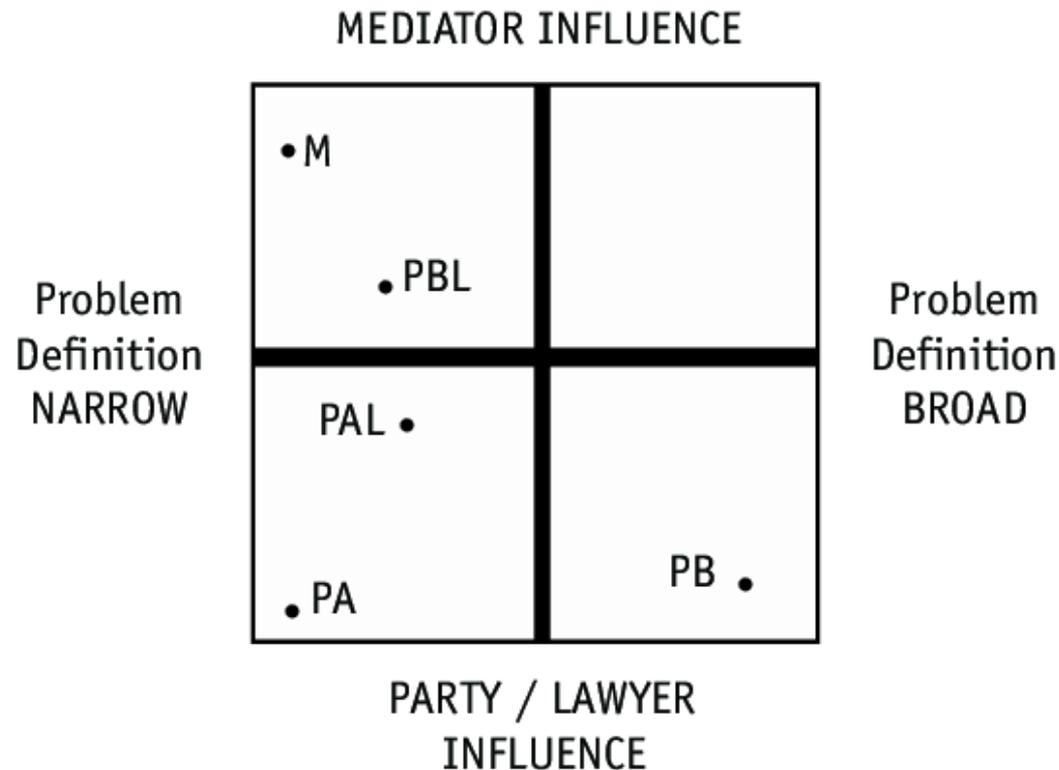
DECISIONMAKING IN MEDIATION:  
THE NEW OLD GRID AND THE  
NEW NEW GRID SYSTEM

*Leonard L. Riskin*

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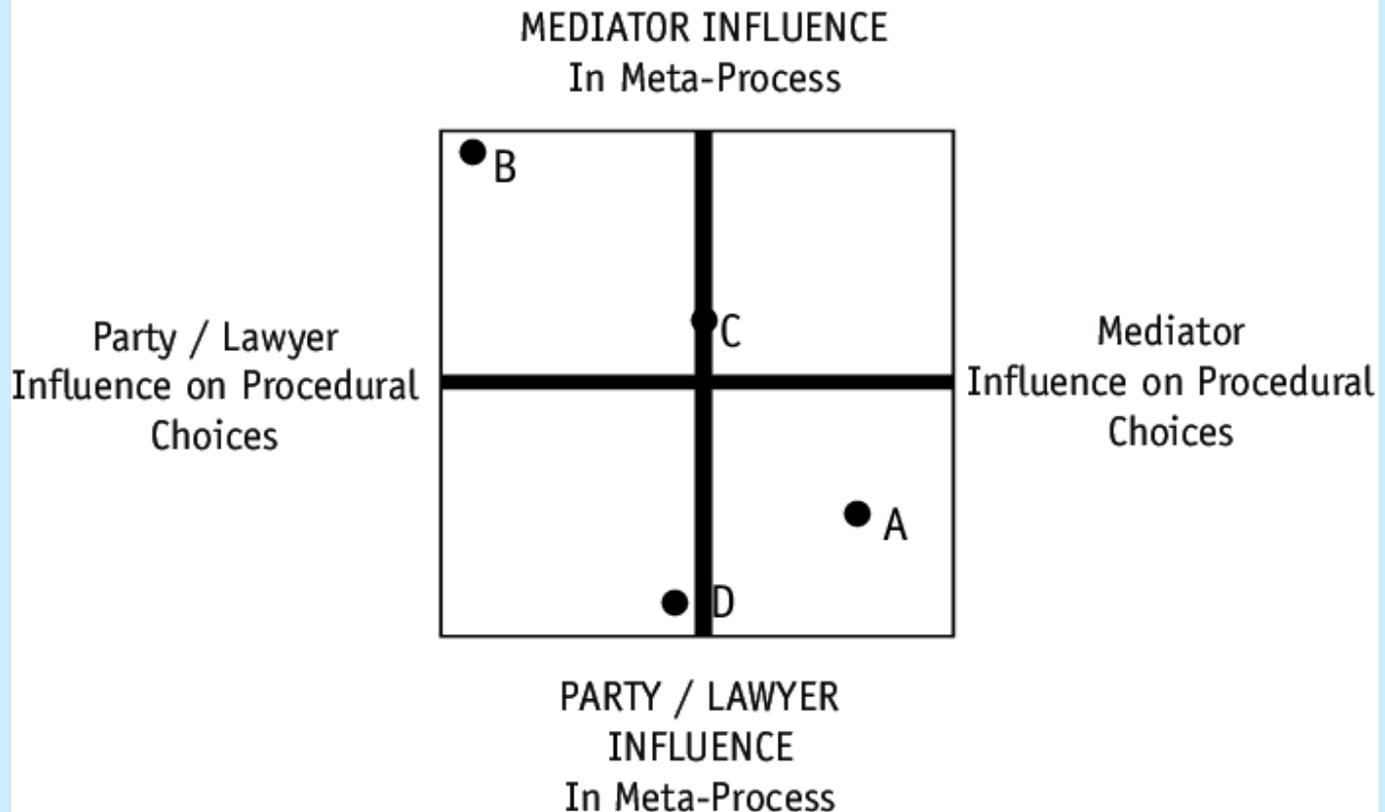
# New New Grids

Substantive Decision-Making  
Predisposition re:  
Problem-Definition



# New New Grids

## Meta-Procedural Decision-Making: Deciding Who Influence Procedural Issues



# Reality Testing



# Reality Testing: Evaluative

## NARROW

- Urges
- Recommends
- Evaluates
- Advises
- Have you ever seen a jury ignore the video tape?
- How would you defend firing without documentation?

## BROAD

- Urges
- Recommends
- Counsels
- Mentors
- I have seen people in your situation and they are so relieved when its all over.
- This is a way to save your professional reputation, which I hear is important.

# Reality Testing: Facilitative

## NARROW

- Focuses
- Structures discussion around elements
- Asks open ended legal ?s
- Reframes
- Are you aware of the last few jury verdicts? I am not so am curious?
- What is a judge likely to say about\_\_\_\_\_?

## BROAD

- Focuses
- Structures problem around interests
- Asks questions eliciting interests
- Reframes
- What is most important to you?
- What will it be like for you if you don't settle?