



(Please read Membership Criteria and on pages four and five before completing this application)

1. **Sponsor:**
2. **Co-sponsor:**
3. **Nominee Information** Include the following: Name, Firm, Address, City, State/Province
Zip/Postal, Country; Phone/Fax, and email
4. **Description of Nominee's Practice** (include information regarding the market in which the Nominee practices, eg., whether courts mandate mediation and how frequently mediation is utilized in that market)
5. Please attach the Nominee's current curriculum vitae, including mediation certifications, training, speaking, writing, teaching and training.
6. **IAM Conference Attendance**
Please list the place and date of all IAM Conferences attended by the Nominee:
7. **IAM Members Known.** Please identify any IAM members the Nominee knows

8. Mediation Experience

a. How many years has the Nominee served as mediator for compensation in commercial disputes? _____

b. How many days has the Nominee served as a mediator for compensation in commercial disputes?

i. In the past 12 months _____

ii. In the past 3 years _____

iii. in the Nominee's career _____

(Commercial disputes do not include residential landlord/tenant or dissolution of marriage matters. A day is at least 4-6 hours or more, including preparation time.)

c. Please attach a description of any other mediation-related experience that the Nominee considers to be relevant to this nomination for membership (eg., mediation training, teaching, presiding over settlement conferences as a judge or magistrate, etc.).

9. References

Please list three references whom the Sponsors have contacted and submit summaries of each reference's comments along with this form. References should be counsel, parties, or party representatives with whom the Nominee has worked in a mediation session in the past year.

Name/Address/Phone/Email

Name/Address/Phone/Email

Name/Address/Phone/Email

10. Background

Has the Nominee ever been convicted of or are charges pending regarding a violation of any criminal law (other than minor traffic offenses), ethical, code of conduct, or disciplinary rules of any state government or provincial agency, bar association or private or public professional entity? _____

If yes, please explain status and/or resolution in an attachment.

Nominee Affirmation

The undersigned Nominee affirms and verifies that he or she has read and understands the information provided herein, and that the information is true and complete to the best of his or her knowledge, information and belief. Nominee also confirms that he or she understands this submission does not create any obligation on the part of the International Academy of Mediators to admit me as a member. If granted, membership is subject to the conditions of the IAM By-laws and Constitution, including but not limited to dues and conference attendance requirements.



Nominee's Signature/Date

Sponsors' Affirmations

We the undersigned sponsor and co-sponsor of this Nomination, affirm that based on our personal knowledge and review of at least three professional references, the Nominee meets all the qualifications for membership in the IAM and accordingly, we are pleased to nominate _____ to become a Fellow/Distinguished Fellow (circle one) of the IAM immediately upon approval of this Nomination by the Board of Governors. (Please attach any additional comments regarding this Nomination that you believe will be helpful to the Board in reviewing the Nomination)

Sponsor's Signature/Date

Co-sponsor's Signature/Date

MARK KELLY**IAM NOMINATION FORM NOTES****Question 4 – Description of nominee’s practice, market.**

I am a barrister (attorney) and commercial mediator. I mediate in New Zealand, but have worked with international parties. Through my chambers, I also have a Singapore office.

My full-time focus is commercial mediation. I also undertake medico-legal and dispute advisory work. From 2020, I am no longer undertaking trial briefs.

I have successfully mediated disputes involving: company, construction, contract, earthquake, education, employment, finance, insurance, intellectual property, negligence, partnership, property, relationship property, rural, sexual harassment, trust and weathertightness issues.

The New Zealand courts do not generally mandate mediation for commercial disputes. But mediation schemes (with which I have been involved) have been set up for discrete commercial issues (leaky homes, earthquake insurance, and, soon, farm debt).

NZ is a relatively small market (population five million). Research suggests that there are around 800-1000 commercial mediations a year here.

Question 5 – CV

See www.markkelly.co.nz

Question 9 – ReferencesJulian Long

Barrister
Shortland Chambers
70 Shortland Street
Auckland
New Zealand

Ph: +(64) 27 233 8277

julian.long@shortlandchambers.co.nz

James Skinner

Solicitor
Skinners Law
B:HIVE | Smales Farm | Level 1 | 74 Taharoto Road, Takapuna | Auckland | 0622

Ph + (64) 21 912 010

james@skinnerslaw.com



Mark Kelly

Barrister & Commercial Mediator

PROFILE

RECENT ADVOCACY WORK

COMMERCIAL MEDIATION

CHAMBERS

Mark Kelly

Barrister & Commercial Mediator

PROFILE

Mark practises as a barrister, and as a commercial mediator.

He won the Mediator of the Year Award at the 2019 New Zealand Law Awards.

He is an experienced and trusted resolver of high value disputes.

Background

Mark graduated LLB (Hons) BA from Auckland University in 1993, and was admitted to the New Zealand bar that year.

From 1994-1998, Mark was a litigator at Russell McVeagh. In 1999 he worked in Dublin, at A & L Goodbody, Ireland's pre-eminent firm. From 2000-2004, he was a litigator at Simpson Grierson. Since 2005, he has been a barrister, practising now from Bankside Chambers, Auckland.

Advocacy

Mark has broad experience in litigating company, construction, contract, debt, employment, estates, finance, insurance, intellectual property, medico-legal, negligence, partnership, property, trusts and weathertightness disputes.

Mark has appeared in the High and District Courts many times and also in the Court of Appeal. He also has experience in the Employment Court, the Employment Authority, the Weathertight Homes Tribunal, the Health Practitioners Disciplinary Tribunal, and the Coroner's Court. He has acted in numerous arbitrations.

Commercial Mediation

Mark completed the Mediating Disputes course at Harvard Law School. He is a Fellow of the Arbitrators' and Mediators' Institute of New Zealand, and an AMINZ Council member. Mark is also Resolution Institute-trained.

He is on mediation panels for AMINZ, Complete Online Dispute Resolution (CODR), the Health and Disability Commission, the New Zealand Dispute Resolution Centre, the New Zealand Law Society Lawyers Complaints Service, and the Weathertight Homes Tribunal.

He is a facilitator with the Greater Christchurch Claims Resolution Service.

He is on the AMINZ Rural List. As an experienced rural mediator, he has been heavily involved in submissions to Parliament on, and training others about, the Farm Debt Mediation Act 2019.

He is an appointee on the World Intellectual Property Organisation Center's List of Mediators. He is also on the AMINZ Intellectual Property List.

He has successfully mediated disputes involving: company, construction, contract, debt, earthquake, education, employment, finance, insurance, intellectual property, negligence, partnership, property, relationship property, rural, sexual harassment, trust and weathertightness issues. He has worked with local and international parties.

Mark was the winner of the Resolution Institute's 2015 award for contribution to dispute resolution by an emerging practitioner. In 2016 he was awarded the AMINZ Ann Edge Memorial Award for Excellence in Fellowship Mediation and the Fellowship Mediation Prize.

Mark Kelly

Barrister & Commercial Mediator

Publications, teaching and memberships

Mark has written and presented extensively, locally and internationally, on mediation, and other legal topics.
See - Articles and Seminars.

He has provided mediation skills coaching at the Auckland University Law School. He is a regular on the faculty of the AMINZ Mediation Skills Intensive course.

He is a current member of the New Zealand Society of Construction Law, the New Zealand Bar Association, the New Zealand Insurance Law Association, the Auckland Medico-Legal Society and the Intellectual Property Society of Australia and New Zealand.

Pro bono and personal

Mark has maintained a pro bono commitment to the Otara Citizens' Advice Bureau since the mid-90s. He has been involved in various other charitable and pro bono work.

From August 2019, he has committed to funding the planting of one native tree for each participant in his mediations, via Trees That Count.

Mark is married, with two children, and lives just north of Auckland.

MarkKelly

Barrister & Commercial Mediator

RECENT ADVOCACY WORK

Many of Mark's cases are confidentially negotiated, mediated or arbitrated.

Recent court/tribunal cases in which Mark has acted as counsel have included the following:

- Eight Mile Style LLC & Anor. v The New Zealand National Party & Ors. - 2014-ongoing, High Court, CIV 2014-485-11220 - Acting for a party in the "Eminem" copyright infringement claim
- Hansells Food Group Ltd. v William Aitken & Co Ltd. & Ors. - 2014-2015, High Court, CIV 2014-404-2433 - Copyright infringement claim
- Turner & Ors. v Wrightson & Ors. - 2013-2014, Weathertight Homes Tribunal, TRI 2012-100-109 - Leaky home claim
- Rock Solid Holdings Ltd. v Johelen Corporate Trustees Ltd. & Anor. - 2013-2014, High Court, CIV 2013-404-3443 - Sale and purchase dispute
- Dalgety Finance Ltd. v Trends Publishing International Ltd. - 2013, High Court, CIV 2013-404-2740 - Dispute over fees for financial services
- Foodstuffs (Wellington) Co-Operative Society Ltd. v Apollo Projects Ltd. & Ors - 2013, High Court, CIV 2012-485-001933 - Construction dispute
- Johelen Corporate Trustee Ltd. v Rock Solid Ltd. - 2013-2014, High Court, CIV 2013-404-2389 - Sustaining a caveat
- Body Corporate 198570 v Auckland Council & Ors. - 2012-2013, Weathertight Homes Tribunal, TRI 2011-100-028 - Leaky home claim
- Re Seniorcare Group Ltd., ex parte Harvey - 2012, High Court, CIV 2011-404-8358 - Bankruptcy dispute
- Re Drury - 2012, Health Practitioners Disciplinary Tribunal, PDT 500/Psy12/216P - Disciplinary issues for a psychologist
- Waite v Global Integrated Solutions Ltd. - 2010-11, High Court, CIV 2010-404-8333 - Inter-shareholder issues, significant security for costs application
- Managh v Morrison - 2009-11, High Court, CIV 2009-441-522 - Insolvency and property issues
- Alderman Property Ltd. v Body Corporate 379933 - 2010-11, High Court, CIV 2010-404-3658 - Administration of a body corporate
- Saunders v Perrins - 2008-10, High Court, CIV 2008-404-3674 - Dispute over shareholders' returns
- The Baby Hammock Co Ltd. v AJ Park Law - 2010, High Court, CIV 2008-404-3581 - Protecting a third party in a dispute relating to intellectual property

Mark Kelly

Barrister & Commercial Mediator

COMMERCIAL MEDIATION

Mediation is a highly effective method for achieving timely, cost-efficient and practical solutions to commercial and civil disputes.

Mark completed the Mediating Disputes course at Harvard Law School. He is a Fellow of the Arbitrators' and Mediators' Institute of New Zealand, and an AMINZ Council member. Mark is also Resolution Institute-trained.

He is on mediation panels for AMINZ, Complete Online Dispute Resolution (CODR), the Health and Disability Commission, the New Zealand Dispute Resolution Centre, the New Zealand Law Society Lawyers Complaints Service, and the Weathertight Homes Tribunal.

He is a facilitator with the Greater Christchurch Claims Resolution Service.

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He is an appointee on the World Intellectual Property Organisation Center's List of Mediators. He is also on the AMINZ Intellectual Property List.

He has successfully mediated disputes involving: company, construction, contract, debt, earthquake, education, employment, finance, insurance, intellectual property, negligence, partnership, property, relationship property, rural, sexual harassment, trust and weathertightness issues. He has worked with local and international parties.

Mark was the winner of the Resolution Institute's 2015 award for contribution to dispute resolution by an emerging practitioner. In 2016 he was recognised as one of the top 10 mediators in New Zealand by LawFuel. He was also awarded the AMINZ Ann Edge Memorial Award for Excellence in Fellowship Mediation and the Fellowship Mediation Prize.

Fees

Mark's fees as a mediator are:

- A standard rate of \$7,250 plus G.S.T. for a full-day mediation, including preliminary steps; or
- \$6,000 plus G.S.T. for a full-day mediation relating to:
 - private earthquake insurance; or
 - farm debt
- issues, including preliminary steps; or
- Such fee as may be agreed in advance in relation to mediations of shorter or longer duration and/or panel-generated mediations.

Mark is based in Auckland, but does not charge travel time or costs for mediations in other New Zealand centres.

Mark is also happy to discuss pro bono matters.

Venues & teleconferences

Parties can arrange their own venue for a mediation, or assistance can be provided. The Arbitration and Mediation Centre is a recommended option in Auckland.

Mark can facilitate teleconferences as required.

Contact Mark to discuss available dates and to check any conflicts.

MarkKelly

Barrister & Commercial Mediator

CHAMBERS

Bankside Chambers

Ph: +64 9 200 1504

Mob: +64 274 549 661

Email: mark@markkelly.co.nz

Postal address:

PO Box 5844, Wellesley Street, Auckland 1141, NZ

Street address:

Level 21, The Lumley Centre, 88 Shortland Street, Auckland 1010, NZ



nz.linkedin.com/pub/mark-kelly/1a/766/364

www.markkelly.co.nz

Mike Ring QC

Barrister
Level 26 151 Queen St
Auckland
New Zealand

Ph: + 64 9 379 9040

mring@bar.co.nz

Nominee Affirmation

I note that the nominee affirmation section suggests fellow or distinguished fellow as the options for which I might be recommended, whereas I had thought it was simply membership that I was to be nominated for (and very gratefully so!).

Over the last five years I have delivered over 40 seminars/lectures/coaching sessions/training sessions, ranging in duration from 30 minutes to four hours, on commercial mediation.

With my paid-to-mediate days, that work might nudge me into the fellowship criteria if NZ is an “emerging market”. But, whilst the majority of commercial disputes do not get referred to mediation here, and we do not have court-mandated commercial mediation, I do not think NZ is an “emerging market”. I am happy to be told I am wrong in that, but otherwise would be more than honoured to be recommended simply for membership (with the form noted accordingly).

From: Julian Long julian.long@shortlandchambers.co.nz
Subject: RE: Mark Kelly and International Academy of Mediators
Date: March 2, 2020 at 12:54 PM
To: Rob Daisley rob@daisleymediation.com

Good morning Rob, and greetings from Auckland.

Mark is a skilled and respected young mediator in NZ. He has made a real impact here, in my view, and continues to hone his skills. I unhesitatingly recommend him to others (lawyers and clients), and have used him myself, probably on at least five or six different occasions now.

I have also engaged him for a client to enable them to understand an upcoming mediation from "the mediators perspective". He was able to engage and critique an approach we were adopting for the actual mediation we were about to do. Both the client and I appreciated the reflections he was able to bring to the table, which validated a lot of what we were looking to do, and the two day mediation ended up resolving in only one.

Nothing but good things to say. He would be a credit to your academy.

Hope this helps.

Cheers

Julian

Julian Long | Barrister | **Shortland Chambers** | ddi + 64 9 306 2783 m +64 27 233 8277

From: Rob Daisley <rob@daisleymediation.com>
Sent: Tuesday, 3 March 2020 6:41 AM
To: Julian Long <julian.long@shortlandchambers.co.nz>
Subject: Mark Kelly and International Academy of Mediators

Hello Julian:

Greetings from Tampa, Florida. I am writing you as Membership Chair of the [International Academy of Mediators](#). Your colleague Mark Kelly has been nominated for membership in the IAM. Would you be kind enough to email me regarding your experience with Mark as a mediator? We want to be respectful of your time, and just a few words, including whether you have recommended Mark as a mediator to solicitors or other barristers or solicitors, clients or colleagues, would be most helpful. Thank you in advance for your consideration.

Regards,

Rob

Robert M. Daisley, Esq.
Certified Federal & Florida Circuit Civil Mediator

From: James Skinner james@skinnerlaw.com
Subject: Re: Mark Kelly and International Academy of Mediators
Date: March 3, 2020 at 10:13 PM
To: Rob Daisley rob@daisleymediation.com

JS

Hi Rob,

Thanks for your email.

I have known Mark for several years. Mark is a very competent mediator. I have mediated with him several times in various commercial disputes. Mark is a calming influence on all of the participants and is able to understand the technical legal issues at hand. He works well with the parties to try and find a common ground without isolating the parties from one another. I have recommended that Mark be engaged as a mediator to other colleagues and am happy to discuss further if you wish. All the best.

Regards

James Skinner | Skinners Law
Director

t 09 212 9333 | m 021 912010 | e james@skinnerlaw.com
B:HIVE | Smales Farm | Level 1 | 74 Taharoto Road, Takapuna | Auckland | 0622
PO Box 65623 | Mairangi Bay | Auckland 0754
www.skinnerlaw.com

This email contains information which may be subject to legal professional privilege. If you have received this email in error, please notify us and delete the email.

On Tue, 3 Mar 2020 at 06:42, Rob Daisley <rob@daisleymediation.com> wrote:

Hello James:

Greetings from Tampa, Florida. I am writing you as Membership Chair of the [International Academy of Mediators](#). Your colleague Mark Kelly has been nominated for membership in the IAM. Would you be kind enough to email me regarding your experience with Mark as a mediator? We want to be respectful of your time, and just a few words, including whether you have recommended Mark as a mediator to other solicitors or barristers, clients or colleagues, would be most helpful. Thank you in advance for your consideration.

Regards,

Rob

Robert M. Daisley, Esq.

Certified Federal & Florida Circuit Civil Mediator

Membership Chair

Distinguished Fellow [International Academy of Mediators](#)

From: Michael Ring QC mring@bar.co.nz 
Subject: RE: Mark Kelly and International Academy of Mediators
Date: March 2, 2020 at 2:45 PM
To: Rob Daisley rob@daisleymediation.com



Rob:

1. I have attended a mediation conducted by Mark.
2. I was very impressed. He was confident, in control of the process, and knew what to do next. As a result, he was successful in getting the parties to converge to a figure that both could live with.
3. Since then, I have recommended him to my colleagues; and I have just agreed to a proposal to engage him as the mediator for a multi-million claim that is otherwise scheduled for a 12-day trial next month.

Regards
Tel: (09) 379-9040

From: Rob Daisley <rob@daisleymediation.com>
Sent: Tuesday, 3 March 2020 6:46 a.m.
To: Michael Ring QC <mring@bar.co.nz>
Subject: Mark Kelly and International Academy of Mediators

Hello Mike:

Greetings from Tampa, Florida. I am writing you as Membership Chair of the [International Academy of Mediators](#). Your colleague Mark Kelly has been nominated for membership in the IAM. Would you be kind enough to email me regarding your experience with Mark as a mediator? We want to be respectful of your time, and just a few words, including whether you have recommended Mark as a mediator to solicitors or other barristers, clients or colleagues, would be most helpful. Thank you in advance for your consideration.

Regards,

Rob

Robert M. Daisley, Esq.

Certified Federal & Florida Circuit Civil Mediator
Membership Chair

Distinguished Fellow [International Academy of Mediators](#)



DAISLEY MEDIATION GROUP

4006 S. MacDill Avenue | Tampa, FL 33611
Phone: 813-835-7722 | Fax: 813-867-4936

INTERNATIONAL ACADEMY OF MEDIATORS MEMBERSHIP CRITERIA

Overview

New IAM members will be admitted to membership in the Academy under the following guidelines:

- Membership is by **invitation only**
- Membership is limited to **professional commercial mediators** who are **well established and recognized** in their local or regional community as **leading mediators** in the field
- The IAM is dedicated to **inclusiveness** and **diversity** across a full spectrum
- The Membership and Recruiting Committees assist Academy members in identifying mediators who meet the criteria for invitation by the Board of Governors to join as **Fellows** or **Distinguished Fellows**

Criteria for Admission to Membership as Distinguished Fellow

Nominees for membership in the Academy in the **Distinguished Fellow** category must generally meet the following **minimum qualifications** with respect to **mediation experience**:

- in commercial mediation practice at least **5 years**, with corresponding certification for those mediators who practice in jurisdictions that have certifications for commercial mediation
- at least **a majority of their professional efforts** are dedicated to commercial mediation
- in developed markets, must have worked at least **600 commercial mediation days**
- in emerging markets¹, must have worked at least **300 commercial mediation days**
- in undeveloped markets², must have worked at least **100 commercial mediation days**
- **mediation days** consist of **at least 4 hours** of work focused on **mediation of commercial disputes** (including teaching, training or facilitating as well as mediating disputes and excluding days spent mediating pro bono, small claims and domestic relations matters)
- **alternative mediator experience** may be considered provided it is **substantially equivalent** (participation in mediations as party or counsel is not considered mediator experience)

Criteria for Membership as Fellow

Nominees for membership in the Academy in the **Fellow** category must generally meet the following **minimum qualifications** with respect to **mediation experience**:

- in commercial mediation practice at least **3 years**, with corresponding certification for those mediators who practice in jurisdictions that have certifications for commercial mediation
- at least **a substantial proportion of their professional efforts** are dedicated to commercial mediation
- in developed markets, must have worked at least **300 commercial mediation days**
- in emerging markets, must have worked at least **150 commercial mediation days**
- in undeveloped markets, must have worked at least **50 commercial mediation days**

¹ “Emerging” markets are those areas or regions where relatively fewer commercial disputes are mediated, in contrast with developed markets where the majority of commercial disputes get referred to mediation, whether by courts, counsel or parties. Factors include: the extent to which mediation is mandatory, the length of time mediation has been in use, the types of disputes that go to mediation and the numbers of mediators who practice on a full or substantial-time basis.

² “Undeveloped” markets are those areas or regions where mediation is just beginning to be utilized and thus very few commercial disputes are mediated and very few mediators practice on a full or substantial-time basis.

- **mediation days** consist of **at least 4 hours** of work focused on **mediation of commercial disputes** (including teaching, training or facilitating as well as mediating disputes and excluding days spent mediating pro bono, small claims and domestic relations matters)
- **alternative mediator experience** may be considered provided it is **substantially equivalent** (participation in mediations as party or counsel is not considered mediator experience)

Membership Nomination Process

Invitations to join the Academy are issued only upon **approval** by the **Board of Governors** of a **Nomination** from a qualified **Sponsor** and **Co-sponsor**

- **Sponsors** must be **Distinguished Fellows** who have been **members** of the IAM **for at least two (2) years** or **who have attended at least four (4) conferences**
- **Nominations** are **submitted** to the Board of Governors **only from** qualified **Co-Sponsors** on a form that includes **attestations vouching** that the prospective new member is a ***pre-eminent distinguished or rising star mediator*** in their local community
- **Nominees for membership** must **previously have attended at least one IAM conference** at the **invitation of a member** (any Fellow or Distinguished Fellow may invite with approval of the Recruiting Chair)
- **Mentees** in the Mentorship Program who have gained the **requisite experience** are encouraged to seek Sponsors for nomination as **Fellows**

Fellows who have gained the **requisite experience** are encouraged to seek Sponsors for nomination as **Distinguished Fellows**