ADR Institute of Ontario

ADR UPDATE

ISSUE 104 | Winter – Spring 2020

Featuring

- *An opinion piece by ADRIO President*
- *Executive Director's message*
- *A book review*
- *A summary of a Mediator Mastermind session*
- *Part 2 of Colm Brannigan and Marc Bhalla's article on med-arb*

Contributions from ADR Students, Instructors and New ADR Practitioners

- ✓ *Comments from an ADR Instructor*
- ✓ *Fostering collaboration in ADR*
- ✓ *International arbitration*
- ✓ *ADR in the workplace*
- ✓ *A guide for students to get involved with the ADR Profession*
- ✓ *E-mediation*

And much more!

ONLINE CONTINUING EDUCATION!

Read more about ADRIO's 3-year strategic plan and our exciting new webinar series, pages 7-9

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ENGAGE WITH ADRIO
CONTRIBUTE TO *ADR UPDATE*

ADR Update is a source for important, current and forward-thinking information for ADR Practitioners. We welcome article submissions relating to mediation, arbitration, conflict coaching or conflict management more generally. This is a fantastic opportunity for you to share your knowledge and ideas with the ADRIO community and contribute to the ADR discourse at large.

We are also looking for **volunteer writers** who would be interested in attending some of our events (for free!) and writing about what they learned; this opportunity is **ideal for students interested in conflict management**!

If you are interested in any of the opportunities noted above, please email **events@adr-ontario**

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Each edition of *ADR Update* is crafted with *you* in mind.

The Newsletter Committee strives to produce high-quality publications that will provide readers with a sense of connection to the community of Conflict Management Professionals in Ontario, a richly diverse group that is constantly expanding and evolving.

Through communications regarding current events, best practices, as well as innovative and stimulating thought pieces, each edition of *ADR Update* aims to illuminate, amplify and celebrate the diverse voices in the ADR field, from seasoned practitioners to students and newcomers.

HOW TO … GAIN THE GREATEST ADVANTAGE FROM MED-ARB

CONTRIBUTION FROM ADRIO PRESIDENT

MARVIN HUBERMAN, LLM (ADR), C.Arb, FCIArb

Mediation and arbitration can be effectively combined using an increasingly popular variable hybrid alternative/appropriate dispute resolution (ADR) process known as "med-arb" to help resolve disputes.

Med-arb has long been accepted and is increasingly used internationally in labour, family and commercial disputes to capture the potential advantages of ADR - and its use as a flexible, innovative and multi-purpose tool in resolving disputes efficiently, fairly and expeditiously - over traditional adversarial litigation.[1]

The Process

In its "pure form" med-arb typically involves one neutral person who initially serves as a mediator, assisting the parties to reach a mutually acceptable resolution and, if mediation fails, the same neutral then functions as an arbitrator, rendering a final and binding decision/award on all unresolved issues.[2]

The Advantages

The main advantages of med-arb over a mediation followed by an arbitration in which different neutrals function as mediator and arbitrator are said to include[3]:

- ✓ Flexibility
- ✓ Efficiency
- ✓ Improved chances of settlement
- ✓ Greater party satisfaction
- ✓ Finality[4]

The Concerns

Concerns most frequently raised when the same neutral serves as both mediator and arbitrator include the following:[5]

- ✓ Difficulties with the transition
- ✓ Candour will be curbed
- ✓ Confidentiality in jeopardy
- ✓ Impartiality is at risk
- ✓ Reasonable apprehension of bias
- ✓ Due process and natural justice is violated

This article continues on the next page.

[1]Brannigan, Colm. (2019, June 6). Med-Arb as a Well-Designed Stand-Alone Process Workshop.

[2]Dizgun, Leslie. (2017). Med-Arb: Crossing the Line; Huberman, Marvin J. (Ed.). (2017). A Practitioner's Guide in Commercial Arbitration. Toronto, ON: Irwin Law Inc. 379-388; Goldberg, Stephen B., Sander, Frank E. A., Rogers, Nancy H. (1992). Dispute Resolution: Negotiation, Mediation, and Other Processes, (2ed). Boston, MA: Little, Brown & Company. 226-230; (2009). Alternative Dispute Resolution. Halsbury's Laws of Canada First Edition. Markham, ON: LexisNexis. 414-415.

[3]Blankenship, John T. (2006). Med-Arb: A Template for Adaptive ADR. Tennessee Bar Journal, 42(11), 28-41; Boyle, Kari D. (2013, March 4). Med-Arb: From the Mediator Perspective. Slaw: Canada's Online Legal Magazine. Retrieved from www.slaw.ca/2013/03/04/med-arb-from-the-mediator-perspective; Elliott, David C. (1995). Med-Arb: Fraught with Danger or Ripe with Opportunity? Alberta Law Review, 34(1), 163-179; Hoffman, David A. (2018, January). Making the Case for Med-Arb. ACResolution Magazine. Retrieved from http://www.acresolution-digital.org/acresolutionmag/January_2018/pg=20#pg20

[4]Sandar, Frank E.A., & Goldberg, Stephen B. (1994). Fitting the Forum to the Fuss: A User-Friendly Guide to Selecting an ADR Procedure. Negotiation Journal, 10(1), 49-68.

[5]Akazaki, Riichiro. (2015, August 30). Overcoming Bias: Mediation-Arbitration in Canadian Civil Litigation. Retrieved from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2653461; Fullerton, Richard. (2009). The Ethics of Mediation-Arbitration. The Colorado Lawyer, 38(5), 31-39. Retrieved from http://holmeskirby.com/index_bestanden/FULLERTON_Richard_The%20ethics%20of%20mediation-arbitration.pdf, cited by Blankenship, supra note 3, 15 -21; Boyle, supra note 3, 1-2; Elliott, supra note 3, 166-168; Pappas, Brian A. (2013). Med-Arb: The Best of Both Worlds May Be Too Good to Be True, A Response to Weisman. Dispute Resolution Magazine, 19(3), 42; Pappas, Brian A. (2015). Med-Arb and the Legalization of Alternative Dispute Resolution. Harvard Negotiation Law Review, 20(157), 157-203. Retrieved from https://digitalcommons.law.msu.edu/cgi/viewcontent.cgi?article=1569&context=facpubs.

- ✓ Host of ethical dilemmas - critics of same-neutral med-arb claim that this process creates a "myriad of ethical dilemmas,"[6] including restrictions on central principles of mediation: self-determination, impartiality and confidentiality; changing the mediation dynamic; impinging on creative problem-solving; and using pressure and strong-arm tactics from which parties cannot walk away to achieve agreements in the mediation phase. Same-neutral med-arb does not have a universally accepted code of ethical conduct or procedures.
- ✓ *Med-Arb is not yet fully and unconditionally supported* - there is no professional/institutional dispute resolution organization that unconditionally endorses the practice of same-neutral med-arb.[7]

Making Med-Arb Work

To capture the advantages of same-neutral med-arb while addressing its concerns, ADR professionals, institutions, parties and their representatives should consider the following points.[8]

Full Disclosure/Informed Consent/ Procedural Fairness

- ✓ Full/explicit disclosure, informed consent and procedural fairness should be set out in signed agreements by parties and their representatives with clear and robust provisions addressing the parties' desire to engage in a carefully tailor-made med-arb process that suits them best, detailing:
    - o the level of confidentiality to be given to mediation statements;
    - o which mediation communications, if any, can be considered for the arbitration award;
    - o whether confidentiality is waived regarding statements made in caucus and/or the joint mediation sessions;
    - o whether the parties are required to make complete presentations of evidence based on strict observance of evidentiary rules or "sufficient" cases in the arbitration phase;
    - o the role of the neutral serving as the mediator-arbitrator;
    - o time limits for the mediation and arbitration phases;
    - o whether private caucusing is allowed and, if so, what rules apply to the use of information obtained during private caucusing;
    - o whether due process and natural justice issues have been sufficiently canvassed and determinations made as to how to effectively deal with them;
    - o whether the neutral has the requisite training, experience and understanding of the med-arb process/mindset and the trust of the parties and their representatives in the neutral to conduct an effective same-neutral med-arb proceeding;
    - o whether the neutral subscribes to or is bound by a specific code of ethics/standard of conduct and is capable of properly shifting with competence and integrity from the role of mediator to that of arbitrator;
    - o whether and to what extent statutory/regulatory provisions apply to the med-arb proceeding; and
    - o whether procedural variations to the standard same-neutral med-arb model should be adopted, so as to permit greater efficiency and flexibility with more, albeit imperfect, ethical protection.

The articles continues on the next page.

[6]Anderson, Van A. (2003). Alternative Dispute Resolution and Professional Responsibility in South Carolina: A Changing Landscape. South Carolina Law Review 55, 191, 195-196, cited by Blankenship, supra note 3, 19, endnote xciii.

[7]Fullerton, supra note 5; Fullerton, supra note 5, endnote 35; (2010, July 1). An ADR Primer. International Institute for Conflict Prevention and Resolution. Retrieved from https://www.cpradr.org/news-publications/articles/2010-07-01-an-adr-primer, cited by Fullerton, supra note 5, endnote 37.

[8]Sussman, Edna. (2009). Developing an Effective Med-Arb/Arb-Med Process. New York Dispute Resolution Lawyer, 2(1), 71-74; Telford, Megan Elizabeth. (2000). Med-Arb: A Viable Dispute Resolution Alternative. Queen's University IRC Press Current Issues Series. Retrieved from http://irc.queensu.ca/sites/default/files/articles/med-arb-a-viable-dispute-resolution-alternative.pdf; Van Soye, Scott C. (2012) Another Arrow in the Quiver: Med-Arb May Be Right for Your Business Dispute. ADR Times, II(1), 18-21. Retrieved from https://www.mediate.com/mediator/attachments/14154/med_arb_article.doc.

Changes in Attitudes and Working Assumptions

- ✓ To maximize the chances of success in med-arb, and minimize its risks, stakeholders should:
  - o increase their knowledge of and commitment to ADR and its goals, values, principles and challenges;
  - o change their attitudes and working assumptions regarding resolving disputes promptly and fairly;
  - o focus more intensely on risk analysis and creative outcomes rather than on the legal strengths and weaknesses of each party's positions and settlement amounts, with a better understanding of the cost, availability and the requisite qualifications of appropriate ADR, particularly med-arb, providers.

Conclusion

Same-neutral med-arb's full potential has yet to be realized. With inventiveness and imagination, further med-arb innovations and hybrid techniques and concepts will emerge.

It is noteworthy and encouraging that the ADR Institute of Canada (ADRIC) has now drafted a cutting-edge protocol/framework for med-arb processes which will be implemented in 2020, and is presently creating a designation for med-arb practitioners, believed to be a first in the world.[9]

As a valuable ADR tool, med-arb offers efficiency, flexibility, variety, practicality and finality - which, if carefully designed and appropriately used by fully informed and consenting parties and a duly qualified and trusted med-arbiter, promises to continue to be an effective and multi-purpose method for the resolution of disputes.

[9]Raymer, Elizabeth. (2019, July 5). New framework for Med-Arb to be launched in November. Retrieved from https://www.canadianlawyermag.com/legalfeeds/author/elizabeth-raymer/new-framework-for-med-arb-to-be-launched-in-november-17511/.

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Marvin J. Huberman *is a Toronto-based barrister, mediator and arbitrator. He is the President of the ADR Institute of Ontario. He has been certified by the Ontario Dispute Adjudication for Construction Contracts (ODACC) as an Adjudicator.*

DID YOU KNOW…?

You can now use the *ADRIO Resolutions Professionals Directory* to search for ADR Practitioners in Ontario who offer Online Dispute Resolution?

www.adr-ontario.ca/directory

"ADRIO Membership has provided me with an immediate network of people and businesses who have the same professional interests and a wealth of experience to help me advance my career. There is a very collegiate feel to the institute and I really enjoy the section meetings and courses I have attended so far, the atmosphere is very welcoming and fosters an environment of learning and the sharing of ideas. I get more direction and structure to my ADR career with Membership. ADRIO has provided me with a clear pathway to qualification and is helping to realize my professional goals and objectives.

I Get More Direction and Structure with Membership

www.adr-ontario.ca/join

Paul Winfield
LLB, MCIArb, BVC
ADRIO Member since 2019

NEW FOR 2020: CROSS-DISCIPLINARY KNOWLEDGE-SHARING WEBINAR SERIES

EXECUTIVE DIRECTOR'S MESSAGE

JUDY SHUM, BA, MPA

2020 is an exciting year for ADRIO!

We have planned a fulsome lineup of important learning and networking opportunities for ADR Practitioners, including the introduction of a new *Cross-Disciplinary Knowledge-Sharing Webinar Series*.

As ADR professionals, our Members strive to stay updated on leading practices in the various fields of the dispute resolution sector, including mediation, arbitration, adjudication, facilitation, coaching and, of course, med-arb. Therefore, topics for ADRIO's professional development events are always planned to meet our Members' needs. On the other hand, feedback given by Members through event evaluations also points to their desire for professional development outside of the ADR "box," particularly in more of a "how-to" format. The feedback has led to the development of the new *Cross-Disciplinary Knowledge-Sharing Webinar Series*.

The ADRIO team is excited to open the series with three great webinar speakers:

- ✓ **Leah Horzempa** – *Starting in a Good Way: Introductions and Land Acknowledgements for Reconciliation* (March 19)
- ✓ **Shieh-Chi Chen** – *Understanding the New Mainstream: Unconscious Bias, Personal Brand and Diversity* (May 11)
- ✓ **Jemel May** – *Marketing Your Practice Through Digital Storytelling on Social Media* (June 24)

Whether you have your own private practice or you are working in a firm or organization, these cross-disciplinary topics will be of great interest and help. **Register early!**

Further, we are now in the first year of our new three-year strategic plan, which has been developed and implemented to guide ADRIO's work to meet four key priorities:

- ✓ **Increase** awareness and support of ADR and ADRIO
- ✓ **Increase** total membership
- ✓ **Increase** overall revenue
- ✓ **Enhance** support for new ADR practitioners and ADR students

Through a new online *Conversations with the ED* format, I will share details and answer Members' questions on the strategic plan, discuss potential program ideas and seek insights on what's new in the ADR sector. Watch out for ADRIO's emails with the 2020 schedule and topics for the online *Conversations with the ED*.

By the time this newsletter is published in March, we will be well into 2020 and spring will be just around the corner, so **happy early-spring** reading to all our members and *ADR Update* readers!

REMEMBER TO RENEW!

Please remember to **renew your membership** and **ADRIO designations**!

Our members are professional, proactive and inspired leaders in the conflict management field. ADRIO membership is the best way to effectively stay engaged in the Ontario Dispute Resolution Industry and be updated with important matters that are at the forefront of the ADR conversation.

Please call **416-487-4447** and speak with a staff member should you have any questions regarding your membership.

ADR Institute of Ontario
3-Year Strategic Plan for January 2020 to December 2022

OUTCOMES

In 3 years, ADRIO will have:

1. at least 25 Organization Members
2. consistent increases in total membership
3. opportunities in place to diversify the membership and ADR practice
4. new ADR practitioners and students see it as their 'go to' organization
5. established a strong and engaging social media presence
6. consistent outreach and recruitment activities across the province and in Nunavut
7. at least one active network outside of the Greater Toronto Area
8. sustained and increased existing revenue streams
9. established at least one new/revived revenue stream

Implementation - Years Two & Three (2021-22)

- Evaluate, modify and enhance activities
- Identify indicators of success towards achieving the desired outcomes

Implementation - Year One (2020)

- Establish criteria, fees and benefits for the Organization Membership category and begin recruitment
- Focus on increasing net gains in membership numbers
- Develop new marketing material, speakers' list and social media calendar
- Conduct outreach to outside of the GTA and beyond the "usual ADR suspects," focus on making space for networking, learning and mentoring
- Build relationships, continue learning and renew commitments towards Reconciliation
- Develop a student advisory group and run ADR Student Awareness Week
- Meet with members about setting up local networks
- Secure extensions of Ontario Health Shared Services and MTO/ORBA contracts
- Run PD events and section meetings with focus on "how-to's" and webinars
- Conduct research on ADR training landscape
- Develop one new revenue generating program
- Position ADRIO to benefit from potential expansion of OMMP and other legislative/government initiatives

Approved by the ADRIO Board of Directors at the Board meeting held on November 25, 2019

ADR Institute of Ontario

CROSS-DISCIPLINARY KNOWLEDGE-SHARING WEBINARS

March 19, May 11, June 24

Fortify your ADR Skills by learning from experts in other fields!

#Reconciliation #BusinessDevelopment #SocialMedia

Register: www.adr-ontario.ca/learn

Starting in a Good Way: Introductions and Land Acknowledgements for Reconciliation

March 19, 5:30PM – 6:45PM

Learn How-To:

1. Honour indigenous protocols for self-introduction
2. Engage in meaningful land acknowledgement practices
3. Appreciate the importance of truth-telling and humility in introductions and acknowledgements
4. Broaden your acknowledgment beyond the land

Speaker: Leah Horzempa

Read more at: www.adr-ontario.ca/learn

Fee: $30 Member, $50 Non-Member
Member-Only Discounted Package Fee for All 3 Webinars: $75

Understanding the New Mainstream: Unconscious Bias, Personal Brand and Diversity

May 11, 5:30PM – 6:45PM

Learn How-To:

1. Create a successful practice within culturally diverse settings
2. Examine the role of unconscious bias in our daily activities
3. Learn to communicate effectively with individuals who perceive things differently and/or play by different rules
4. Leverage our personal brand to produce effective results

Speaker: Shieh-Chi Chen

Read more at: www.adr-ontario.ca/learn

Fee: $30 Member, $50 Non-Member
Member-Only Discounted Package Fee for All 3 Webinars: $75

Marketing Your Practice Through Digital Storytelling on Social Media

June 24, 5:30PM – 6:45PM

Learn How-To:

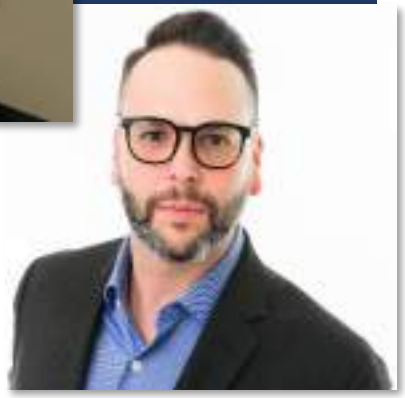
1. Use analytics to your advantage
2. Develop a social content calendar
3. Decipher what types of contents will work for your business
4. Utilize each social media platform to its fullest potential

Speaker: Jemel May

Read more at: www.adr-ontario.ca/learn

Fee: $30 Member, $50 Non-Member
Member-Only Discounted Package Fee for All 3 Webinars: $75

MED-ARBITRATION – PART 2: THE PERFECT COUPLE, STRANGE BEDFELLOWS OR SOMETHING IN-BETWEEN?



COLM BRANNIGAN, C.Med, C.Arb
MARC BHALLA, LLM (DR), C.Med, Q.Arb, MCIArb

The first part of this two-part article series looked at some of the issues surrounding mediation in the med-arbitration process, this part will focus on the arbitration phase.

Having raised and addressed challenges for the med-arbitration practitioner in the course of facilitating mediation as part of a stand-alone, hybrid process, we now turn our attention to the unique challenges and opportunities offered in the arbitration stage of the process. When the same facilitator is involved in both the mediation and the arbitration aspect of med-arbitration, it is essential that their shifting of roles is clear to the parties. This understanding starts well before participating in the med-arbitration and with the parties' agreement governing the process.

The Med-Arbitration Agreement

There is no comprehensive legal framework that can be referenced regarding med-arbitration. It is all based on a contract, and the applicable Arbitration Act. Most of our guidance comes from court decisions, mainly in family law cases and some of those cases set out clear guidelines of what should not be done in med-arbitration.[1]

The agreement must be written so that everyone involved understands the process. It is important for the entire process to be set out in the agreement. It is critical that the parties are giving informed consent and they cannot do that if they do not understand what they are getting into.

A well-defined process set out in the written agreement will also help to significantly increase the odds that any settlement coming out of the mediation phase is complied with and enforceable. This will also ensure that an arbitration award made in the arbitration phase resolving the dispute is less likely to be successfully appealed and more likely be enforced in court (if needed). Without a clear written agreement, there is no point in even attempting to use med-arbitration.

It goes without saying that great care must be used in designing a med-arbitration process to make sure that all parties are provided with an equal right to present their case and respond to the case(s) of others involved in the arbitration phase. Without meeting the basic requirements of natural justice, med-arbitration will not work.

Fortunately, this is relatively easy to do with the active participation of counsel and the mediator-arbitrator in the design process. While Colm Brannigan believes that med-arbitration is a process that would likely not be undertaken unless the parties are represented, or a very minimum have independent legal advice on the Med-Arbitration Agreement, Marc Bhalla believes that it can work for self-represented parties, so long as they are clear on the process and their options.[2]

This article continues on the next page.

[1] See Hercus v. Hercus 2001 OJ No. 534 (OCJ) as one of earliest and still the most relevant case on procedural fairness in med-arbitration, and Kainz v. Potter 2006 CanLII 20532 (ONSC) as a good example of how not to conduct an arbitration in a med-arbitration.

[2] Marc worries that too many ADR practitioners prevent those who cannot afford legal representation from having the opportunity to gain access-to-justice and that med-arbitration is a perfect example of the type of process that can offer great efficiencies to self-represented parties to overcome the hurdles that stand in their way to conflict closure.

Nevertheless, Colm's concerns must be sufficiently considered to ensure that med-arbitration can be properly utilized for the purposes intended when parties participate without legal representation.

There is no "standard" Med-Arbitration Agreement, although the ADR Institute of Canada now offers a written comprehensive precedent agreement to provide guidance along with process rules that encourage best practices in the field.

Given the custom nature of each agreement, great care must be taken to work with clients and their representatives. Clarity and competence in drafting are essential. This is even more essential when you are considering a med-arbitration process where the same person is both the mediator and, if needed, the arbitrator.

The Transition from Mediation to Arbitration

If the Med-Arbitration Agreement can be considered the "Constitution" of the process, the most important part of any med-arbitration is the transition from the mediation phase to the arbitration phase.

A clear understanding of this aspect of the med-arbitration process, especially around the transitioning role of the process facilitator is extremely important to the success of the process. Many are concerned that the mediator may use information received during the mediation phase in the arbitration process. A well thought out and clearly written Med-Arbitration Agreement will take care of most concerns, but it is extremely important that the parties know when the process has moved from mediation to arbitration and what this really means. Without a clear line, there is a danger that the process can move into a "twilight" phase that can easily taint both the outcome of the dispute and the reputation of the process. This is especially the case if parties are left with the impression that the decision maker is relying on information beyond what is properly introduced as evidence when arriving at a decision.

Well-known Toronto arbitrator, Michael Erdle stated: "information is not evidence" and both the parties and the mediator-arbitrator must appreciate this. It is trite to say, but the arbitrator has a duty to base their award on evidence and there is often confusion by the parties over what the difference really means. With the addition of less stringent focus on the laws of evidence especially around admissibility in arbitration, you have a recipe for disaster.

One way to safeguard against confusion, distrust or the potential of introducing reasons for parties to be encouraged to appeal the arbitration award is to consider offering through thoughtful design, a "way out" for a party, and also the mediator, if either is uncomfortable with what took place in mediation.

A well drafted and appropriately considered Med-Arbitration Agreement can ensure that parties are clear on the process they are agreeing to. Further, the Med-Arbitration Agreement can serve to offer protections for the parties and process facilitator while providing just and clear closure to the conflict.

The Future: Listening to our Client's Needs?

A properly designed and implemented med-arbitration process can lead to a fair, cost efficient and speedy resolution of disputes, whereas the time and expense of using separate mediation and arbitration processes may not be justifiable.

We must start being more innovative in matching specific dispute resolution processes to disputes instead of defaulting to what we have become familiar with. This is particularly the case when our clients express that they do not want to pick a service "off a shelf" but instead customize the dispute resolution process to deliver upon the promise of The Honourable Thomas Cromwell and Professor Frank Sander[5] surrounding the flexibility such processes offer.

With the ADR Institute of Canada's National Rules and its Med-Arbitration Agreement now available, there may never be a better time to start, or start again, thinking outside the "single-process-fits-all box." No single dispute resolution process fits all disputes. In many disputes, mediation will be the most suitable and appropriate option. While in other disputes it will be arbitration or litigation. While med-arbitration may not be suitable for every type of dispute, it is always worth considering as a powerful and effective option.

[3]See part 1

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Colm Brannigan *and* ***Marc Bhalla*** *serve as the co-chairs of the ADR Institute of Ontario's new med-arb section. To read more about Colm, visit www.mediate.ca. To read more about Marc, visit www.marconmediation.ca.*

BOOK REVIEW OF *ONLINE COURTS AND THE FUTURE OF JUSTICE* BY RICHARD SUSSKIND

MARC BHALLA, LLM (DR), C.Med, Q.Arb, MCIArb

Richard Susskind, *Online Courts and the Future of Justice* (United Kingdom: Oxford University Press, 2019)

ISBN-10: 0198838360, ISBN-13: 978-0198838364

"I invite readers, in arriving at your verdict on the desirability of online courts, not to focus on their current shortcomings but instead to consider whether their introduction would represent an improvement over our traditional court systems."

Whether the notion of online courts excites or concerns you, Richard Susskind's latest is a great read! With an underlying message of don't knock it 'til you try it, *Online Courts and the Future of Justice* is presented in 4 parts – *Courts and Justice*, *Is Court a Service or a Place?*, *The Case Against* and *The Future*. It begins with a big picture review of the principles of justice, rule of law and the very purpose of the courts. Susskind reminds us of the access-to-justice crisis and the opportunities that technology presents to assist with overcoming it by offering new ways to address old problems.

In part 2, Susskind offers practical demonstrations of what online courts look like, including a shout out to British Columbia's Civil Resolution Tribunal (CRT), which he declares is "the world's best known and most advanced online public dispute resolution system." Complemented with a big, bold quote of endorsement by Beverley McLachlin on the back cover and a heartfelt note of praise for Shannon Salter (CRT Chair) and Darin Thompson (CRT knowledge engineer) on page 169, Canadians from coast-to-coast should feel proud of the text clearly citing our nation as a world leader in innovation through the incorporation of technology into the justice system. The practical perspective offered by Susskind allows readers new to these concepts to envision what online courts look like, and how they can offer plain language, just-in-time assistance and simplified participation in justice seeking, all with keeping the end user in mind.

My favourite part is *The Case Against* because Susskind explains many objections raised about the concept of addressing conflict online. He has clearly and carefully deliberated upon opposing viewpoints, taking the time to understand them deeply. Susskind offers counter arguments where warranted and he admits that he does not have all the answers - particularly surrounding what is described as the second generation of online courts that move beyond the notion of human judges governing an asynchronous process and into the potential of artificial intelligence/robot judges. Such notions will surely raise the eyebrows of even the staunchest supporters of technology due to the existing limitations and significant challenges surrounding transparency and bias.

Susskind ties online court concepts to century old philosophies, such as those of Plato, Aristotle and Voltaire. He includes famous quotes from Henry Ford and Steve Jobs surrounding innovation - the market not necessarily knowing what it wants when it is unaware of what could be available - and offers a grounded way to calm critics by explaining that online justice processes need time to develop and starting with low-level, relatively simple types of disputes that can move back to traditional court processes if complex. What Susskind describes as the grassroots work of lower courts makes the concept of online courts more digestible and paves the way for greater accessibility to the public.

Pointing out that more people have access to the Internet than they have access-to-justice, Susskind embraces an outcome driven perspective worth considering as it relates to how traditional court system deficiencies can be addressed. I particularly enjoyed how Susskind offers the view that widened accessibility to the justice system could potentially reduce the total number of disputes that come before it, along with the concept of judges themselves embracing artificial intelligence as a check and balance of their own work. In this spirit, Susskind does much to open our minds to the varied perspectives applicable to considerations related to online dispute resolution (ODR) when one delves beyond the superficiality of knee jerk reactions, such as the dated suggestion that not everyone has access to computers when the reality today is that even fewer people have access to traditional courts.

In his introduction, Susskind speaks of his granddaughter and considers what the court system will look like in 2039, when she is 21. In fact, most of Susskind's view is into the future, at times with binoculars (when he considers the expansion of first generation online courts that are appearing across the globe today) and at times with a telescope (when he looks far into the future and considers what future technologies may come to offer us). Throughout, he embraces the mindset that today's technologies are only improving as we move forward.

If I were to offer any criticism, I would suggest that there are too many plugs for Susskind's 1996 book. I also did not appreciate the cross-referencing to discussion of similar topics in other places offered throughout the book. While the latter will be helpful when I return to the text to delve into a particular focus in the future, this was mildly disruptive in the course of reading the just over 300 pages sequentially.

If you wonder why I reviewed this book and encourage fellow practitioners to read it, there are reasons beyond the intrigue of the subject matter to do so. Susskind speaks to the notion of extended courts – the system doing more than simply offering conflict closure but containment and proactive measures to inform and prevent the escalation of disputes … all as part of the public justice system! This offers the prospect of greater perceived legitimacy and familiarity with processes like online mediation, such that they may rise to become the expectation and be better appreciated by the public at large - offering greater future opportunities for those working in the field. To this end, Susskind refers to ODR being advanced through private practice, suggesting that future, public online court offerings will be influenced by what is developed in the private sector. That should serve as a call to all ADR practitioners to consider and embrace the inevitable place technology will have within our work.

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***Marc Bhalla** is a Chartered Mediator and Qualified Arbitrator who offers ADR services both in-person and online. He believes that flexibility of process is a significant advantage of ADR over traditional processes.*

"For me, membership in ADRIO means being part of a group of like-minded people who share many common interests, including the desire to support people in their efforts to find their way through disputes that occur in their lives. There is a sort of anchoring, I find, belonging to ADRIO because it is an organization that supports the various practices our members embrace and finds different ways to honour our differences. Last but not least, I value the many connections made through ADRIO, over time and ongoing, and the idea that we are a community that cares about making conflict a better experience. I gain more opportunities to learn about the many applications of ADR - and to share ideas among interesting and committed practitioners who want our field to flourish.

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Cinnie Noble
LLB, LLM (ADR), C.Med
ADRIO Member since 2001
Co-Chair of Conflict Management Coaching Section

EVENT SUMMARY: "MEDIATOR MASTERMIND – TO BE OR NOT TO BE FACILITATIVE OR EVALUATIVE"

MARY KORICA, BA, MA

On November 28, 2019, the Mediator Mastermind peer-to-peer mentoring and coaching group of the ADR Institute of Ontario ("ADRIO") held a live and webinar interactive discussion, "To Be or Not To Be Facilitative or Evaluative," with guest moderators Ben Drory (C.Med, C.Arb) and Sharad Kerur (Q.Med), whose photographs are displayed on the banner above.

Ben Drory opened the session by providing historical context for the facilitative vs. evaluative dichotomy that has dominated the mediation training communities for over two decades. Drory noted that when the mediator and academic Leonard Riskin introduced those categories in the mid-1990s[1], he intended for them to be descriptive, not prescriptive. He hoped to enhance discussion about alternative dispute resolution by developing a classification system for the hodgepodge of practices that had been lumped together under the umbrella of "mediation."

Riskin proposed a spectrum ranging from processes where the mediator never presented their own opinions or made recommendations (facilitative), to processes where the mediator actively intervened with their own perspective (evaluative). That terminology quickly gained popularity, and the facilitative/evaluative dichotomy continues to dominate how mediation is discussed, perceived and taught, as well as how mediators self-identify. Drory noted that Riskin himself eventually recognized some problems with this state of affairs – in 2003 he published an article where he reconsidered and revised some of his original ideas, and proposed that a more appropriate spectrum would range between what he now described as "elicitive" and "directive."[2] However, Riskin's 2003 paper never approached the popularity that his previous works attained and is often forgotten in the field.

Sharad Kerur pointed out that facilitative approaches seem to be popular in academic circles, but that lawyers tend to favour evaluative approaches. He described the facilitative versus the evaluative methods taught at the highly influential Harvard Mediation Program. Kerur noted that the students in the introductory classes, where the facilitative method is taught, seem uncomfortable with the approach mainly because they are mostly lawyers and judges whose experience with mediation is primarily of the shuttle kind.

Kerur's opinion is that there is much value in both models, but that students and practitioners benefit most when they are willing to freely flow between the approaches based on the circumstances they face. He described how his own work involves reviewing the intake information and choosing whether to begin the mediation utilizing facilitative or evaluative techniques. This depends largely on considering this factor: the importance of the parties' relationship. He then adjusts his approach as necessary during the mediation if circumstances turn out to be different from his initial assessment.

This article continues on the next page.

[1] Riskin, Leonard L. (1994). Mediator Orientations, Strategies and Techniques, *Alternatives to High Cost Litigation*, *12* (1994) 111. Available at: https://doi.org/10.1002/alt.3810120904; Riskin, Leonard L. (1996). Understanding Mediators' Orientations, Strategies and Techniques: A Grid for the Perplexed. *Harvard Negotiation Law Review*, *1*(7). Available at: https://www.mediate.com/articles/riskinL2.cfm

[2] Riskin, Leonard L. Decision making in Mediation: The New Old Grid and the New New Grid System. Notre Dame L. Rev. *79*(1). Available at: http://scholarship.law.nd.edu/ndlr/vol79/iss1/1

Drory maintained that mediation is an art where the practitioner must in all cases be using both facilitative and evaluative practices – with the relative extent depending on the circumstances. Accordingly, since both skills are always necessary, Drory said he finds more value in Riskin's later ideas about relatively "directive" practice (i.e. where the mediator leads parties in a particular direction) versus "elicitive" practices (i.e. where the mediator encourages parties to reveal information and priorities). He encouraged session participants to read Riskin's 2003 article and formulate an opinion for themselves.

Audience members shared their own experiences and opinions relating to facilitative and evaluative techniques. One participant recounted a mediation where he was uncharacteristically very forward in presenting recommendations. He said that the outcome was surprisingly transformative for the parties given how little the process had followed the "transformative" model. Drory agreed that effective mediators will end up transforming the parties' relationship regardless of the specific model they use. Discussion then turned to the fact that in many cases parties are eager to have the mediator's opinion, and in fact have invested in the mediation process partly because they want a reasonable neutral party's perspective.

Another on-site participant, a retired lawyer who now practices mediation exclusively, spoke about sometimes taking a mildly evaluative approach with parties – but always with great care not to be perceived as "practicing law" without a license. He distinguished between giving clients "general information about the law" rather than "legal advice." An online participant commented that when giving his assessment to the parties, he tries to be very careful to avoid phrasing his evaluation as if he is "the holder of truth." While doing so may force a settlement, he said it is always a mistake – it is important to present one's evaluation as a neutral party who simply has an opinion to offer. Another online participant said that he protects himself from going too far in offering an opinion by always phrasing his evaluation as a "perspective."

Another online audience member expressed concern about mediators directing parties in the way that had been described earlier in the discussion. They were adamant that the mediator should in all cases remain disinterested and not be "definitive." They described their own approach as "trying to get the two parties to the point where 'I' as the mediator can back away and allow the parties to resolve the matter themselves."

An attendee specializing in estate disputes and property valuation matters said that his approach is to only give his opinion when both parties want it – and only at the end of the mediation if all else has failed. Another participant offered his understanding of the term "evaluative"; to him, the term refers to "asking questions, highlighting risks and getting the message across" from one party to another.

The session concluded with Drory and Kerur thanking the audience. They expressed appreciation for so many insightful contributions from both online and on-site audience members.

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Mary Korica *is a speechwriter. Since 2004 to the present, Mary has written and edited hundreds of communications products for non-profit and international organizations, in intern, volunteer and professional roles. Mary is an ADRIO volunteer writer. Read more about Mary at:* [*http://marykoricaspeechwriting.com/*](http://marykoricaspeechwriting.com/)

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– Helen Lightstone, C.Med

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COMMENTS FROM AN ADR INSTRUCTOR

HELEN LIGHTSTONE, LLM, C.Med, Q.Arb

In 2005 I participated in my first 40-hour Alternative Dispute Resolution course at Seneca College - it was a mandatory part of a two-year paralegal program - and I was hooked. To be honest, the interest-based course held far more appeal to me than the rights-based program. After I graduated, I sought other mediation courses which included St. Stephen's Community House, Conflict Mediation Services of Downsview, and York University Certificate course in ADR, to name a few. Naturally, after all that training, I was an expert in dispute resolution … or so I thought.

One day (or should I say, for several weeks), I sat down at my computer and created a community mediation course that I peddled at every community college in the GTA and surrounding areas, you know, because I was such an expert and all! I knew nothing about colleges other than from being a student, and certainly had no idea about administrative procedures, policies, ministries, Universal Design for Learning (UDL), adult learning, and certainly nothing about Kolb and Gardner's Learning Styles, or Bandura's Social Learning Theories. But I was still an expert, and let's just say, I didn't know what I didn't know; I was at the first level of The Four Stages of Competence[1]: unconscious incompetence.

However, one proposal landed on the right desk at the right time and thus started my teaching career. The course had absolutely nothing to do with dispute resolution and was, in fact, Computer Applications for Paralegals, in a continuing education program whose days were numbered to no fault of the college. I was given an 8.5 x 11 sheet of paper with the required content needed for the semester typed on it. "Can you create a 40-hour course based on this, Helen?" "Of course, I can!" because I was now an expert … in Computer Applications for Paralegals. Hurray, I moved up The Four Stages of Competence to: conscious incompetence!

Eventually, I started picking up part-time teaching gigs around the GTA and taught more courses, mainly ADR in paralegal and mediation programs. Eventually I was spending the bulk of my teaching at a college in Durham Region, in the paralegal and mediation program and teaching ADR at another college; in brief, putting a lot of mileage on my car and loving every minute of it.

Reflecting on the last, wow, twelve years teaching ADR, there are many moments that have left impressions on me as an ADR instructor. There have been many paralegal students who simply did not understand a collaborative process amidst a process that was meant to advocate for a party.

Here are a few of my favourite comments as I recall them:

- ✓ "Helen, I really enjoyed your ADR course, but frankly, I'd rather sue."
- ✓ "Isn't this a lot like therapy?"
- ✓ "Miss Helen, may I ask you a question?"
- ✓ "Why should I negotiate with that person, when I can simply get someone else who will agree to my client's terms?"
- ✓ "I don't think I'll be a good advocate or mediator, but I really like this class."
- ✓ "How do I become a mediator?"
- ✓ "Does mediation work on kids/spouses/partners… etc.?
- ✓ "Let's ask Helen, she's the Mediation Lady!" (And that's how I got the name).
- ✓ "This is good in real life!" (Now there's a student who was already at level three of The Four Stages of Competence: conscious competence!)

This article continues on the next page.

[1]The Four Stages of Competence, n.d.)

I am constantly amazed by my students, their comments and their insightful questions. They demonstrate an in-depth analysis of the negotiation, mediation or arbitration process and quite frankly, have sometimes left me at a loss. I *don't* know everything! So, I use the concept of a "Parking Lot," I *park* the question, write it down and answer the question the next time I see them. Did it matter that I did not know the answer at that time? No. If you say that you don't know something, typically students are fine with it if they later receive the answers. Subsequently, I found the "Parking Lot" a very useful tool in establishing credibility, plus the students receive the answers they were searching for.

In truth, all my previous instructors, including my first ADR instructor, I still consider the industry "machers" (an important or influential person). They are the machers who have reached the fourth level of The Four Stages of Competence, unconscious competence. These are the people who I look up to and one day I hope to be like. I say this, because I still believe I am a beginner in the field and new to the industry, and that I am just starting my career … unconscious incompetence. Sometimes I am amazed that I can help students on their ADR journey no matter what my delivery platform is: a college setting or in the context of my own accredited course.

One day, I went back to my first ADR instructor and thanked him for everything he had done for me, to which he replied, "Helen, the only person you have to thank is the person you look at in the mirror every day." That was my favourite moment with one of my ADR instructors.

I'll close by sharing one of my favourite memories. I always show a mediation film about a brother suing his sister and attempting mediation before going to court. It is produced by a big mediation company in Toronto and stars the mediator/lawyer/businessperson of that company. As a teaching tool, the film is terrific, and I love using it as it's easy to break-down the stages of a mediation and analyse the mediator's fantastic skill set. It is most likely the first time my students have ever seen anything to do with mediation. Fast forward a few years, and a student was attending a sporting event and ran into the same mediator/businessperson, he was so excited to meet him, that he took a selfie with the mediator and sent it to me. He was over the moon, I was over the moon, we were all over the moon! OK, maybe it was just my student and I, but we were really happy!

I have a saying: "I love teaching and I love teaching ADR." That's it for me, I love teaching and I love teaching ADR.

Thank you, instructors and thank you students, it's been great!

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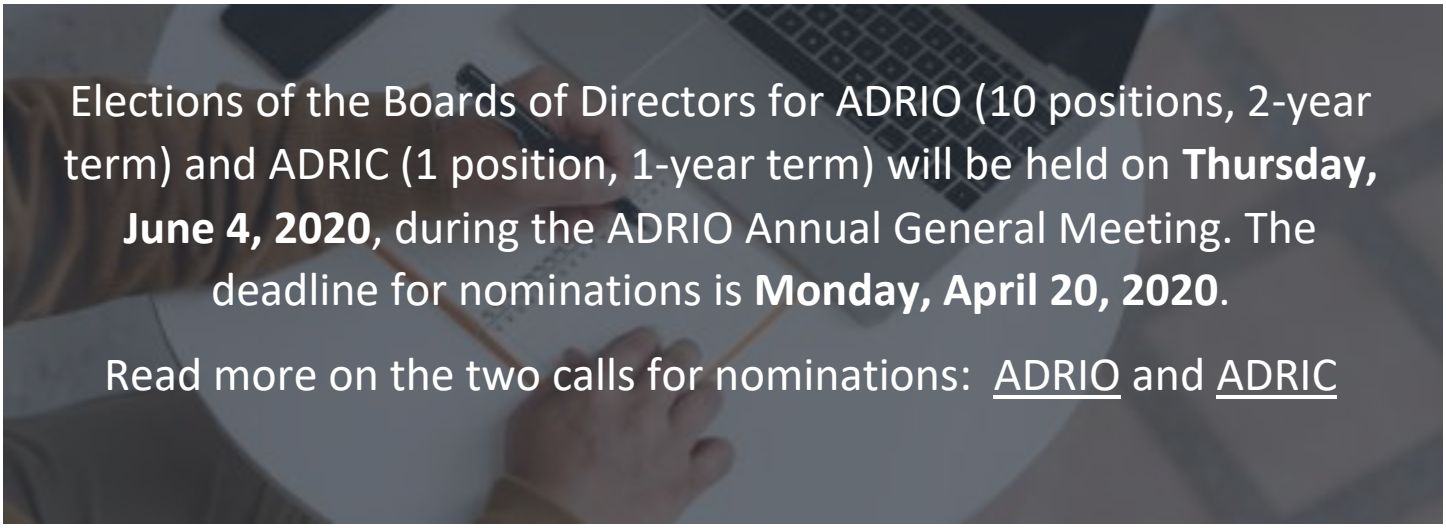
***Helen Lightstone** is a Chartered Mediator and Qualified Arbitrator. Dubbed "the Mediation Lady" by her students, Helen is also a respected and experienced professor of Alternative Dispute Resolution and has worked with the following colleges: Durham College, Centennial College Seneca College and Sheridan College. Read more about Helen at: https://lightstonemediationservices.com/about/*

2020 CALL FOR NOMINATIONS FOR THE ADRIO & ADRIC BOARD OF DIRECTORS



Elections of the Boards of Directors for ADRIO (10 positions, 2-year term) and ADRIC (1 position, 1-year term) will be held on **Thursday, June 4, 2020**, during the ADRIO Annual General Meeting. The deadline for nominations is **Monday, April 20, 2020**.

Read more on the two calls for nominations: ADRIO and ADRIC

COLLABORATION: PRACTICING WHAT WE PREACH

CONOR BRANNIGAN, Q.Med

A basic definition of mediation is a facilitated negotiation that encourages collaboration, or at the very least, cooperation between parties as they seek to resolve their disputes. However, as an industry or emerging profession, mediation does not seem to foster these values among its practitioners.

New mediators face the extremely difficult challenge of there being no clear pathway to begin their career. You work hard to obtain training and perhaps a designation … but then what? How do you gain the experience necessary to develop your craft? Much could be gained from learning in multi-mediator practices and team environments as we see in the civil service and other organizations. Private internships cost thousands of dollars and this highlights the lack of opportunity for those who have invested so much in ADR programs and courses already. Mentorships need to be encouraged, so that the next generation can learn from the talents and experiences of established mediators. More team-based practices and structured mentorship opportunities should be developed.

As a new ADR practitioner, I was fortunate to have the opportunity to join the ranks of ten talented and experienced mediators and work with a team in the public service. The Canadian Transportation Agency (CTA) is a quasi-judicial tribunal and regulator that works to resolve disputes between transportation providers and their clients. After settling in and beginning to take on files, I could see the rapid growth of my ADR learning.

Participating in co-mediations exposed me to many different mediator styles and techniques. There was always an opportunity to ask questions and discuss all things ADR. This type of supportive environment enabled me to transition from an unseasoned mediator to a professional that was able to craft their own style. With a range of disputes from air travel and accessibility to rail and marine disputes, having colleagues with expertise in different areas was vital to my learning and provided me with a wealth of knowledge. Another advantage with this group approach is flexibility in the assignment of work, so that a high quality of service can continue to be delivered even when some mediators are over-burdened. The ability to share caseloads, without losing work, can give these groups the upper hand over sole practitioners. It is a setting that promotes development and efficiency. This dynamic helped to create and refine my craft, my confidence and the know-how for me to implement the best conditions for parties to negotiate.

This dynamic and the benefits of teamwork should be possible and encouraged in the private sector also; it should not be exclusive to government and larger groups. Private practices should develop a team-based approach to encourage the growth of benefits that I've experienced at the CTA. Experienced mediators could merge into a larger network where they work collaboratively. There is a sense that some cooperation already exists, but imagine ADR practitioners building something together rather than just maintaining professional relationships with each other. New mediators could then have a space to work with, and learn from, accomplished mediators on a consistent basis. At the same time, fresh minds in the industry have a great deal to offer those who have been doing this for years.

An experienced mediator, who has practiced law prior to becoming an ADR practitioner, generally has learned through experience to think in a very structured, linear way. I see mediators, who do not possess a law

background, look at problem-solving in a different way; they can sometimes see more creative and outside-the-box solutions, based on interests, or in a different framework, based on rights. Having practitioners with both experiences could give a balance that would enable a variety of disputes to be tackled. That flexibility is important because our personal lives can become incredibly busy or complicated, sometimes overnight. It is crucial to prioritize mental health; a team could protect mediators from burnout and high levels of stress. We can all use a shoulder to lean on at times.

The ADR community in Ontario has an impressive number of expert mediators in all areas of practice. As a member of the new generation of practitioners, I believe we need the opportunity to learn and seek guidance from these practitioners. Many are willing, and do help new practitioners, but not everyone has access to those individuals.

There needs to be more organization on this front, and a solution I am suggesting, although it may come across as radical, would benefit the ADR community. As part of maintaining best practices and the obligations of professional membership, the ADR Institute of Ontario should look to establishing a mandatory mentorship program; for members to maintain their designations, they would have to take on a new practitioner and be their mentor – with suitable standards being maintained. For example, a mediator who has been a C.Med for over 4 years would be required to act as a mentor for a stipulated (reasonable) number of hours/individuals at no cost to the individual. To ensure mediators who are experienced do not avoid this obligation by remaining a Q.Med, Q.Meds who have held this designation for more than 7 years would also have to take on a mentee. Innovative measures are necessary to ensure future generations of mediators can have the resources they need to reach their potential.

It is not easy for new ADR practitioners in Ontario to find their path to success. Large practices - like those found in the public service, with easy access to mentorships - will aid in the development of new mediators. Collaboration in this way would be a benefit to new mediators, to those we work with, and to the clients we service. The future looks bright when we all work together.

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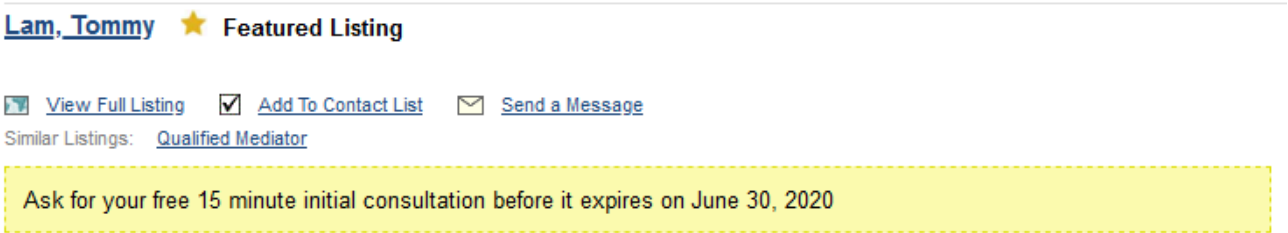
Conor Brannigan *is a Mediator with the Canadian Transportation Agency in the Capital Region. He deals with railway, accessible transportation and air passenger related disputes that come through the tribunal.*



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CANADA'S ATTRACTIVENESS AS AN "EMERGENT SEAT" FOR INTERNATIONAL ARBITRATION

HYUNJU PARK, LLB, LLM

Canada has been at the forefront of promoting the use of arbitration to settle disputes. However, despite encompassing many of the features of an "attractive seat," Canada continues to fall short when competing with the "traditional seats" for arbitration, such as London (England), Paris (France), Singapore (Republic of Singapore), Hong Kong (China), Geneva (Switzerland) and New York (USA).[1] This article aims to establish what makes Canada an attractive seat and identify what can be improved in order for cities like Toronto to become an "emergent seat," or an internationally recognized hub for arbitration services.

The seat of arbitration is the legal location[2] of an arbitration – not its physical location. This means that processes within the arbitration process, such as hearings, may occur elsewhere than the "seat" of the arbitration. However, the "seat" is where the arbitration would be legally recognized for the arbitration. The success of a "seat" relies heavily on the State's willingness to support arbitrations therein, and more importantly the enforcement of awards after they are delivered. The laws of the seat regulating the arbitration sets the foundational rules of the game. Parties choosing a jurisdiction to be the seat of arbitration de facto choose that jurisdiction's laws to be applied, such as the legal framework for the arbitration's operations, and the nationality of the award.[3]

An attractive seat includes a supportive legal environment, the local court's respect for the arbitration process, cost efficiency and effectiveness, proper infrastructure that allows for smooth operation of arbitration services, neutrality, potential for representation by foreign lawyers, access to well-trained local arbitrators, political and economic stability, location, languages offered and positively developing jurisprudence.[4]

Arbitration in Canada has grown significantly over the past three decades since Canada's adoption of the UNCITRAL Model Law. The administration of justice constitutionally falls within provincial and territorial jurisdiction. All provinces except Quebec have enacted two arbitration statutes – one governing international commercial arbitrations[5] and the other governing domestic arbitrations. Most of the provinces have adopted the UNCITRAL Model Law framework through legislation.[6] The federal government has supplemented this with the federal Commercial Arbitration Act, which governs arbitration involving a federal government department, a Crown corporation or any issues concerning maritime or admiralty law.[7]

This article continues on the next page.

[1]The 2018 Queen Mary International Arbitration Survey at p. 9; http://www.arbitration.qmul.ac.uk/media/arbitration/docs/2018-International-Arbitration-Survey---The-Evolution-of-International-Arbitration-(2).PDF (Last accessed February 6, 2020)

[2]Cole, T. & Ortolani, P. *Understanding International Arbitration (1st ed.)*, Routledge, London and New York, 2020: 29.

[3]Id. at p. 30.

[4]Vial, G. & Blavi, F. (2016). New Ideas for the Old Expectation of Becoming an Attractive Arbitral Seat. *Transnational Law & Contemporary Problems*, *25*(2),: 281-287.

[5]Carter, J.H. (Ed.) "Chapter 8: Canada" - Picco D., Howie R., Pearson L. and Capes B. *International Arbitration Review*. Law Business Research Ltd., United Kingdom, 2016: 103.

[6]Rosenthal J. et. al. (2019). International Arbitration Canada. *Global Legal Insights* https://www.globallegalinsights.com/practice-areas/international-arbitration-laws-and-regulations/canada (Last accessed February 2, 2020)

[7]Supra note 4, at 104.

Since Canada's adoption of the UNCITRAL Model Law, arbitration has become widely accepted as a result of parties' and lawyers' frustration with inefficiency and the exorbitant expenses associated with the Canadian public courts system. This has consequently led to an increase in well-trained arbitration practitioners, law firms with arbitration practices and private arbitration bodies with their own procedural rules, such as the ADR Chambers and the ADR Institute of Canada (both headquartered in Toronto), and others in British Columbia and Quebec. Concomitantly, Canadian courts have shown acceptance towards arbitration as vital parts of the legal system and public policy. Canadian courts have shown deference to international arbitral awards in accordance with the New York Convention, to which Canada acceded in 1986.

Canada is also an attractive "seat" in terms of political stability. It consistently scored in the 75-90th percentile for "political stability and absence of violence" for the Worldwide Governance Indicator[8] – a World Bank project that provided governance indicators for over 200 countries and territories between 1996 and 2018.

A factor that may negatively impact Canada's attractiveness as a "seat" could be its close proximity to New York City – a well-established, "traditional seat." However, Toronto's multicultural composition and commitment to diversity in its legal practice and industry has significant potential to reconcile the successful resolution approaches in the East and the West. For example, parties' access to multilingual adjudicators from different cultural backgrounds can positively impact an arbitral tribunal's understanding of international cases. Business practices and trade usages in the East may differ from those in the West. Eastern dispute resolution approaches tend to focus on finding a "middle way," whereas Western approaches tend to look for resolutions that will be applicable to everyone in approximately similar circumstances.[9]

The features that make a "seat" attractive will mostly rely on a supportive legal environment – including enactment of the UNCITRAL Model Law and adoption of the New York Convention – and the willingness of local courts to respect duties inherent to arbitration, such as party autonomy and confidentiality. Courts must limit their interference while still safeguarding the integrity of the arbitral procedure. The acceleration of integration of global markets will increase the demand for neutral dispute settlement mechanisms that can cater to diverse users and cultures. Canada already has many of the critical features of an "attractive seat." By focusing on its merit as a neutral jurisdiction and catering to diverse users through promoting reconciliation of Eastern and Western ADR approaches, Canada (and particularly Toronto) can increase its chances of becoming an "emergent seat" comparable to the "traditional seats" in the coming years.

[8]For more information, visit http://info.worldbank.org/governance/wgi/Home/Reports. (Last accessed February 2, 2020)

[9]Shahla, Ali, "Approaching the Global Arbitration Table: Comparing the Advantages of Arbitration as Seen by Practitioners in East Asia and the West", *The Review of Litigation*, Vol. 28:3, 2009: 772.

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***Hyunju Park** (LLB, LLM) is a Global Professional LLM candidate at the University of Toronto. She is currently fulfilling the NCA/LSO requirements to become a licensed lawyer in Ontario and recently completed all the requirements to obtain the Q.Arb designation from ADRIO.*

"As a licensed lawyer, standards of practice are important to me. ADRIO requires members to complete an ethics training, which is the foundation for professionalism. As well, the Qualified and Chartered Mediator and Arbitrator designations are excellent options for members to build upon that ethical foundation in order to become the most knowledgeable and skilled among dispute resolution professionals in Canada.

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Angela Bradley, B.Sc, JD
ADRIO Member since 2015
Former ADRIO Board Director

MOST CANADIANS EMBRACE TECHNOLOGY, SO WILL MORE MEDIATORS START TO PRACTICE ONLINE?

LAURA REDMAN

Thinking of offering e-mediation as a new tool in your mediation services toolbox? Research indicates that e-mediation is a promising growth field for mediation practice in Canada.[1]

The practice of managing disputes online started back in the '90s, most often to deal with commercial disputes. eBay was an early adopter, with its online dispute resolution process between its buyers and sellers. Early on, OnlineResolution had a roster of 600 mediators and arbitrators, while SquareTrade boasted 300 mediators. These businesses performed intakes of cases, collections and assigned more difficult cases to their mediators.

More recently, an increasing number of individual mediators have started offering e-mediation services to their clients. In writing about this evolution, Noam Ebner, professor of negotiation and conflict resolution at Creighton University, attributed that trend to several factors. Mediation is a highly competitive field and practitioners are continuously seeking new ways to attract clients; the general population is now more comfortable participating in online activities; and there is an increased availability of accessible and affordable platforms designed for online communications.

Durham College ADR students were recently surveyed about their interest in using e-mediation as new professionals. Thirteen of the 16 students surveyed said they'd use e-mediation in their practices, but most of those added the caveat that e-mediation would only be used on a case-by-case basis, and in addition to face-to-face communications – not as an exclusive alternative. Notably, only four of the 16 students were convinced that e-mediation was as effective as face-to-face sessions with their clients.

Nine of the 13 students who would consider using e-mediation cited concerns around the "inability to see the body language of participants" – which is in line with concerns expressed by professionals in the field. Two others were concerned about the capacity to create personal connections with – and between – clients participating in the online process. All agreed they would require lots of mediation experience in order to transfer their skill set effectively online. The students cited convenience and flexibility as the most important benefits of e-mediation. A few also cited time and money savings as an additional bonus of an online process – allowing clients to potentially avoid transportation or daycare. But students were most excited about the "flexibility" of the process, for both mediators and clients.

Considering that more than 80% of those surveyed were open to the idea of using e-mediation (given the right clients and circumstances), the comfort level of working online appears to be increasing alongside our increasing acceptance of technology as an essential part of our daily lives. The Internet research company Statista states that as of 2019, 89% of Canadians have access to and regularly search the Internet, with an almost equal split between male and female users.[2] The Canadian Internet Registration Authority's data shows that in 2019, 16% of Canadians found a new home, 9% completed their education, 22% found a new job and 10% found a spouse online. 87% of Canadians made some kind of purchase

This article continues on the next page.

[1]Ebner, Noam. (2012). E-Mediation. Abdel Wahab, M.S., Katsh E. & Rainey D. (Eds.) (2012). Online Dispute Resolution: Theory and Practice. The Hague: Eleven International Publishing. P Available at SSRN: https://ssrn.com/abstract=2161451

[2]Statista Canada, Distribution of internet users in Canada from 2014 to 2019, by gender. Retrieved from: https://www.statista.com/statistics/482438/canada-online-user-distribution-gender/

online last year. For a time, Canadians were the single largest users of the social media platform Facebook, and those numbers were explained by researchers as simple geography and demographics – a large land mass and a small population – leading Canadians to lean heavily on an online space in order to stay in touch with family, or to feel socially connected.

The evolution of e-mediation will be interesting to witness – even as an alternative "bad weather" option inside ongoing mediation sessions. Dismissing the practice could potentially lead to a loss of clients, especially if it began to resemble a mediator's "inflexibility." It would seem that Canadians may consider video conferencing or chat rooms to complete mediation sessions as a viable alternative to traditional face-to-face sessions.

There is room for more research to be undertaken about e-mediation's effectiveness and capacity to meet clients' interests and needs, but such services appear to be a growth opportunity for practitioners. Mediators must find their clients wherever Canadians are, and increasingly they would appear to be online.

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*A former grad student in the Mediation/ADR program at Durham College, **Laura Redman** has managed people and programs in the news and social services industries and was an early adopter of technology.*

"ADRIO membership means association and working with, and opportunity to refer to, experienced professionals with high ethical standards; well-conceived and drafted Mediation and Arbitration Rules; learning resources, such as conferences, webinars and regular publications; and excellent staff assistance. With ADRIO membership, I get high-calibre education and professionals that I can recommend and thus, personal and professional peace of mind and confidence.

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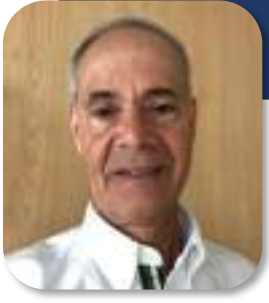

Sander Gibson, C.Arb
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The participants will include a practicing mediator, experienced defence and plaintiff lawyers, a plaintiff and an insurance professional.

April 2
Assessing the Adjudicator's Decision – Construction Adjudication Section
Marvin Huberman will lead a discussion on assessing the adjudicator's decision.

April 7
Excellence in Coaching and Mediation – Conflict Management Coaching Section (Online-Only)
How can we learn from experience to become more competent and effective?

May 7
Challenging the Adjudicator's Decision – Construction Adjudication Section
This will be a continuation ("part 2") of the discussion on the April 2.

To register for section meetings, view the full event calendar here:

www.adr-ontario.ca/event-calendar

WORKPLACE CONFLICT – CAN WE WORK IT OUT?

LAURENE WILLIAMS

The breakup of the legendary rock band, The Beatles, caused much discussion and speculation, since it surprised many. While there is no consensus regarding which straw broke the camel's back, it is clear that multiple factors contributed to that end. The sudden death of their manager Brian Epstein in 1967 seemed to hurry the dissolution, as the band seemed increasingly unable to collaborate. I imagine that whatever inspired their hopeful note in "We can work it out" was conspicuously absent in those days.

Try to see it my way,

Only time will tell if I am right or I am wrong.

While you see it your way

There's a chance that we may fall apart before too long

We can work it out

Tragedy that it was, the events offer relevant insight on the role that managers play in managing conflict and fostering effective collaboration in workplaces. Epstein was known to act as a mediator of the team's disputes, and his role was never replaced after his death.

In my experience as a new ADR professional working in human resources (HR), I have observed that managers are often ill-equipped to act as neutral intermediaries in disputes involving their team members. This is due to several reasons, but I suspect some of the main ones are lack of conflict management training; poor interpersonal communication skills; a "go to HR" mentality – where managers simply refer team members to HR for any and every difficulty they have with each other, rather than attempt to aid a resolution; and a "do as I say, not as I do" attitude among some managers and executives.

While managers are sometimes afforded certain concessions inherent to their authority position, flagrant disregard for following established processes, while expecting subordinates to do otherwise, is hardly worth the trouble in the long term. Companies soon find themselves spending thousands of dollars to try and effect organizational and cultural changes – expecting fast changes to situations that sometimes took decades to establish. Much like children live what they learn, I believe employees tend to model collaborative and healthy dispute resolution behaviour if that is displayed around them.

HR professionals are, by the nature of their roles, often expected to facilitate conflict resolution and management in the workplace. But like managers, many often lack fundamental ADR skills, and often only develop them after years of "blood, sweat and tears" in the field. I am fast becoming aware that those who work in HR are often seen as the "bad guys." Admittedly, many aspects of HR work are fraught with opportunity for conflict. Whether enforcing punitive policies or disciplinary processes leading up to (and including) terminations, many see HR as little more than evil henchmen taking away livelihoods. This is amplified in organizations whose HR department does not have programs in place to foster employee engagement and morale. It doesn't take much to see the connection between low engagement and a disenchanted workforce – with increases in employee turnover, worker stress and conflict. It is important that HR folk are empathetic and ensure that due process is observed. Things generally escalate unnecessarily when an employee being disciplined or terminated feels they were treated unfairly or not heard.

An important (if not the only) client of HR is the general workforce, which includes employees in positions of authority. We must be the third parties who will help our client subgroups identify common interests and see the bigger picture.

I believe that destructive workplace conflict can only be managed when HR works to implement effective conflict resolution policies and procedures, ensure compliance with legislative employee safety requirements and bring a strategic lens in partnering with business leaders to drive organizational development and desirable work culture. As the primary gatekeepers for fostering productive working environments, HR is – like Nationwide Insurance – on your side!

--

Laurene Williams *completed post-graduate studies in Alternative Dispute Resolution and Human Resources Management at Humber College. She currently works in human resources and volunteers as a mediator and conflict coach.*

Membership with ADRIO has provided me with an invaluable network of support while I work towards completing my Q.Med. The opportunities to interact with and learn from experienced professionals have increased my confidence and provided practical resources beyond my training program. From Day 1 I've felt like a part of a community rather than just a certification and for someone switching careers, this is meaningful.

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ADRIO Student Member
since 2019

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Rudy Scholaert
Radhika Sekar
Natai Shelsen
Jennifer Snowsill
Sonia Thomas
Shirley Thorning
John Westdal

New Qualified Arbitrators (Q.Arb)

Yazan Al-Naib
Cindy Chatzis
Cynthia Kuehl
Helen Lightstone

HOW TO GET INVOLVED IN THE ADR PROFESSION: A GUIDE FOR STUDENTS

SAMAN GHAJAR DAVALU, BA (Hons)

Learning how to get involved with the ADR profession is an uphill battle. Here's a guide to help you get started on your climb:

1. Do Your Research

You should begin by familiarizing yourself with the various forms of ADR. The two most popular forms are mediation and arbitration.

- ✓ Mediation involves a third-party professional who empowers parties to reach their own agreement.
- ✓ Arbitration involves an arbitrator making the final decision.

There are also other forms of ADR such as: med-arb (mix of mediation and arbitration) and conflict coaching. Familiarizing yourself with the lingo is a great way to get all your gear in check before starting the climb.

1.1 Find your niche

After learning more about the various forms of ADR, continue your research and determine what area of practice appeals to you. Here are some common areas of interest: Workplace Safety and Mental Health; Legal: settlement conferences and litigation; Employment: working with employers or workplaces; Family; Government: Office of Informal Conflict Management.

1.2 Educate Yourself

This can include a certificate program in college, private ADR training or workshops and even conflict resolution/dispute resolution programs in university. Having some form of education is important, not only to show your interest but for you to make sure that this is the field you want to be in.

If you're feeling ready to climb this mountain, keep reading!

2. Get Involved with the Professionals

2.1 Network

If I could put a million stars here I would. Networking is the best (and frankly - only) way to get your foot in the door in this profession. This doesn't mean going up to every person and saying: "Hi, I'm interested in ADR and would like a job." But it's attending events, listening to speakers and engaging in meaningful conversations with people in the profession.

My best advice to you for networking is to ask questions and listen. Although we millennials like to think we know everything, our parents are right, we really don't. So, listen to the stories, experiences and challenges that are being shared with you.

If you find yourself interested in something that was mentioned, ask questions and exchange contact information (great if you have a business card - if you don't, that's okay too, ask for theirs!) Lastly, follow up on your conversation by contacting them shortly after your meeting.

2.2 Find a Mentor

The best thing you can do for yourself, is engage in mentorship opportunities. With that being said, finding a mentor can be tricky.

If you meet someone who captures your attention and curiosity with their abundant wisdom, consider asking them to be your mentor.

In my opinion, the best way to do this is to go for coffee after you first meet and see if you're still interested in learning about their path and sharing yours! If you are, consider touching base a few more time before asking them to be your mentor. Before committing, really ask yourself: "Do I trust their judgement?"

Don't forget, you may also have the opportunity to be a mentor in the future! So be nice and respectful.

2.3 Volunteer

Voice your interest by contacting someone in the field you're interested in. This is as simple as introducing yourself and offering your time to help support their team. Not only do you get to meet people in the field, but you get to see the ins and outs of how they work! After all, what's the worst that can happen? They can just say no or ghost you.

3. Propel Yourself Forward

Alright. Now that we are almost at the summit of this climb, here are a few last things to consider:

3.1 Voice your interests

You never know who is around or who is listening. We know about the six degrees of separation so even in a general conversation, if someone asks you what you're interested in, share! They might know someone in the field or have advice to help you move forward. This could also be a form of affirmation; positive affirmations can help you create new ideas and build your confidence.

3.2 Listen, actively

Active listening involves continuous practice and self-reflection, so listen well.

This skill is key for all ADR professionals. When engaging in conversations, really immerse yourself and pay attention to what is being shared. After some practice, you will feel the shift happen within you (and bonus, acquire a new skill!).

3.3 Learn, continuously

I strongly believe in lifelong learning. Not only is it beneficial for your personal growth and development, but it keeps you on your toes and keeps the creativity flowing through your body. Surround yourself with people you admire and engage in meaningful discussions on new topics by challenging yourself and step out of your comfort zone.

Beyond a good conversation, here are my favourite ways to learn about the ADR profession:

- ✓ Reading articles online:
  - *Tip*: LinkedIn. Follow people who you find interesting and want to learn more about and read their latest work!
- ✓ Reading a good book. Some classics are:
  - *Getting to Yes: Negotiating Agreement without Giving In* - Roger Fisher, Willian Ury & Bruce Patton
  - *Never Split the Difference: Negotiating As If Your Life Depends On It* - Chris Voss
  - *Beyond Neutrality: Confronting the Crisis in Conflict Resolution* - Bernard Mayer

3.4 Collaborate

Now that you've reached the summit and are enjoying the view, don't forget to throw down your rope to someone who was trying to climb the same mountain. It can often be difficult to get your foot in the door in this field, so I encourage you to share some of your tips and resources.

The stronger we become as a profession; the more change we can foster for those whose lives we impact.

--

Saman Ghajar Davalu, *is a Psychology and Law graduate the University of Ottawa. She is currently in the licensing process with the Law Society of Ontario and works in the Property Assessment Industry.*

ADR Institute of Ontario

IMPASSE MANAGEMENT

FOR THE MASTER MEDIATOR

July 16, 2020

9:00AM-5:00PM

222 Bay St. Toronto, ON., Suite 900

Early-Bird Member $245 (Ends June 25)

Member Regular $285| Non-Member $345 | President's Circle Member $245

Full day of interactive educational content with roleplays and group exercises.

Registration includes impasse management workbook, certificate, breakfast, lunch and refreshments.

- ✓ *Broaden your conflict management skills to maintain negotiation momentum*
- ✓ *Advance practices with new tools, ideas and competencies through peer to peer learning, topical presentations and case study exercises*

Mediators, conciliators and facilitators do many things to create and build momentum in negotiations and to prevent and overcome impasses when they occur. This workshop is designed for experienced mediators to sharpen and expand their impasse avoidance and management skills. Understanding why and when a strategy, process or approach proves effective in advancing the course of negotiations and averting an impasse is an endlessly fascinating subject of study. The workshop will review, explore and apply a broad spectrum of over 60 tools, approaches and strategies that have been successfully used by mediators and conciliators to build, advance and maintain momentum in negotiations until resolutions are reached. See the next page for workshop agenda and instructor's bio.

Instructor:

From Honolulu, Hawaii

Lou Chang
Mediator, Arbitrator, Facilitator
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Register: www.adr-ontario.ca/manageimpasse

ADR Institute of Ontario

Workplace Fairness Institute
Conflict Management Solutions

Advanced Workplace Restoration and WFA Certification

9:00 AM – 5:00 PM

At Victory Verbatim
222 Bay Street
9th floor,
Toronto, Ontario

JUNE 15-19, 2020

5 Important Reasons to Attend:

1. **Prepare** for the new wave of workplace mediation.
2. **Understand** how workplace culture and conflict works.
3. **Improve** workplace health.
4. **Gain** recognition from WFI and ADRIO.
5. **Learn** how to turn around a workplace in crisis.

*This Program will **Exceed Your Expectations***

*I took the WFA certification course in 2017 as National Defence was exploring ways to modernize its approach to conflict and complaint resolution. I was **highly impressed** with the comprehensive content of the course and the quality of the instruction delivered by Mr. Blaine Donais. This course **exceeded my expectation**...Since then, more than 40 conflict and complaint specialists within my team have received the certification. While the WFA process can be useful to address toxic workplaces, its greatest added value is preventive in nature as it contributes to create healthier workplace through positive engagements. **Highly recommended** to any organization interested in investing in their people and to improve team synergy and effectiveness.*
- Alain Gauthier, Director-General Conflict and Complaint Resolution, Department of National Defence

*The WFA course not only gave me **helpful tools** that I regularly turn to when mediating conflict in workplaces, it also taught me a **new vocabulary** about workplace dynamics. When looking at a conflict through the lens of the WFA model, you see more of what is going on behind problematic behaviours. I am grateful for the ability to draw on the **thoughtful work** of the WFI's founders as I pursue this line of work.*
- Christine Kilby, Accredited Mediator and Experienced Lawyer, Kilby Mediation

*The Workplace Restoration and Workplace Fairness Analyst Certification seminars provided me a safe and educational environment that was **thought provoking and reflective**. I walked away with **new assessment tools**, gained and refined **practical skills** and was provided with **great reference material**. The interactive workshop and **networking with professionals** from Human Resources, Union Representatives, ADR practitioners, Labour Relations, Lawyers, Service Providers, Non Profit Services and Business Owners provided insight into the various levels of conflicts within the workplace and different communities...I am excited to apply my learning and motivated to be a part of the progressive proactive change in my workplace environment for the next century.*
- Treena Reilkoff, Parole Officer, Correctional Service of Canada

Register:

http://www.adr-ontario.ca/WFA2020

Instructor:
Blaine Donais
LLB, LLM, C.Med, Q.Arb, PHSA, WFA

This program combines a three-day workplace mediation offering with a two-day Workplace Fairness Analyst Certification process. Enroll and better equip yourself to practice workplace conflict management in all its varieties. Each day we will have a different Workplace Fairness Analyst who will act as co-facilitator.
View full flyer:
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MEDIATOR MASTERMIND #8

Let's talk about...

Managing Power Imbalances

In this session we will explore the signs a mediator should look for in identifying those who have power over others during a mediation. Once identified, what are the strategies you use to help the parties feel they are on a leveled playing field? Is it possible? Is it important? Your thoughts and experiences will help others manage this particular issue in supporting fairness during mediations.

***Mediator Mastermind** is a peer-to-peer mentoring and coaching group that allows members to address their challenges with input and advice from the other group members. This is also a group devoted to learning and improving practices through discussion of articles, books and fact-scenarios.*

Come prepared to share your own experiences, advice and questions!

This interactive discussion will be led by Tom Girling, MOM, Q.Med, WFA

Tom Girling is a qualified mediator and workplace fairness analyst. He specializes in first responder workplace conflict. He has spent the last 40 years in law enforcement and leading investigators.

March 26, 2020 | 5:30PM – 7:30PM

234 Eglinton Avenue East, Suite 405, Toronto, ON.

Registration Fee:

Member $35 | Non-Member $55

*Participate **online**! Use the registration link below.*

http://www.adr-ontario.ca/mastermind8

+HST on all rates. Cancellation Policy: If you are unable to attend, your registration is fully transferable to another person in your organization. If you must cancel, notice must be received in writing before March 20, 2020. No refunds after March 20, 2020. Sessions, speakers and times are subject to change. Registrations are tentative until March 25, 2020.Should ADRIO need to cancel this event, you will receive a full refund.

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The ADRIO™ Education Committee is charged with the responsibility of approving courses that instructors, institutions and universities submit to the Institute for review.

The following alternative dispute resolution programs have been evaluated by the education committee. Completion of a total of 40 hours meets the educational criteria for membership in the Institute. For details regarding additional upcoming course dates, fees and locations, please see contact information in each of the listing. Contact us to submit your course for approval by ADRIO™.

Mediation Courses

ADR & Advanced ADR Workshops (two 4-day programs)

Instructors: Stitt Feld Handy Group

Location: Toronto and Ottawa, Ontario (and other cities throughout Canada)

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Website: www.adr.ca

The Alternative Dispute Resolution (ADR) Graduate Certificate Program (full-time one-year program over two academic semesters)

Instructors: Various ADR practitioners

Location: Humber College Institute of Technology, Lakeshore Campus

Contact: Mary Lee, LL.M. (ADR), Program Advisor, ADR Graduate Certificate Program (mary.lee@humber.ca)

Website: www.humber.ca/program/alternative-dispute-resolution

Certificate in Dispute Resolution (140-hour program)

Instructors: Desmond Ellis, PhD.; Blaine Donais, BA, LLB.; Richard W. Shields,LLB., MA., LLM., PhD., LSUC, Cert. CFM, C.Med., C.Arb., Cert.F.Med., Acc.F.Med.;Dennis Hodgkinson, BComm, LLM, Cert. ADR.

Location: York University, Toronto, Ontario

Contact: School of Continuing Studies, Ph: 416-736-5616

Website: http://continue.yorku.ca/certificates/dispute-resolution/certificate/

3-Day Advanced Workplace Restoration Course

Instructor: Blaine Donais, B.A., LL.B, LL.M., RPDR C.Med & Ann Morgan BA, CVP, RRP, RP, WFA

Location: Toronto, Ontario

Contact: blainedonais@gmail.com

Dispute Resolution Courses

Upcoming Dates:
Level 1 – Fundamentals, July 13 – 15, 2020

Level 2 – Mediation, July 16 – 18, 2020

Instructors:
Rick Russell, B.A., LL.B., C. Med., C. Arb., Distinguished Fellow I.A.M.

Heather Swartz, M.S.W., C. Med., Acc. FM, Cert. F. Med.

Shelley Stirling-Boyes, BA (Hons), Acc. FM

Contact: Rose Bowden – 1-800-524-6967 or (905) 627-5582 or roseb@agreeinc.com

Website: https://agreeinc.com/our-services/training/dispute-resolution-level-1-2

At Conrad Grebel University College, Waterloo, ON

Both workshops also qualify for credits toward a Certificate in Conflict Management and Mediation offered by Conrad Grebel University College, affiliated with the University of Waterloo.

These courses also qualify for LSUC CPD hours.

More courses on the next page.

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All courses and practicum/supervised experience for professional family mediation certification with ADRIO, FDRIO and OAFM; eligible for court-connected services.

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Instructors:

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Elizabeth Hyde: Acc. FM (OAFM); FDRP PC (FDRIO).

Guest lecturers and coaches: TBD

Contact: Frank@riverdalemediation.com

www.riverdalemediation.com

Fundamentals of Mediation

This program contains 1.75 Professionalism Hours and 38.25 Substantive Hours.

Instructor: Kathryn Munn, LL. B., Cert. ConRes., C. Med., C.Arb, IMI Certified Mediator; Donald Bisson, Q.Med (Northern Ontario)

Location: London, Ontario and other locations in Ontario; Northern Ontario – D. Bisson

Contact: Munn Conflict Resolution Services – Ms. Munn at (519) 660-1242 or kmunn@munncrs.com;

Northern Ontario – Mr. Bisson 1-888-647-1720 or donald@bissonmediation.ca

Website: www.munncrs.com; or for northern Ontario www.bissonmediation.ca

Upcoming Dates in London, Ontario:

March 25, 26, 27, 30 & 31, 2020

October 28, 29, 30, Nov 2, & 3, 2020

Mediation – Alternative Dispute Resolution (graduate certificate, one-year program)

Instructors: Dale Burt, MA Psych, Q.Med, Virginia Harwood, Q.Med, Tricia Morris, Q.Med

Location: Durham College – Oshawa, Ontario

Contact: Dale Burt, MA Psych, Q.Med (Program Coordinator), Dale.Burt@durhamcollege.ca

Website: http://www.durhamcollege.ca/programs/mediation-alternative-dispute-resolution

5 Day Foundational Conflict Management & Mediation Workshop – MDR Associates Conflict Resolution Inc.

Instructors: Richard J. Moore, LL.B., C.Med, C.Arb, CFM, Cert. Med. IMI – MDR Associates

Location: Ottawa and various sites across Canada

Contact: Richard Moore at 613-230-8671

Website: www.mdrassociates.ca

Upcoming dates: March 23-27, 2020 in Ottawa, and April 26 – May 1, 2020 in Toronto.

Toronto location: First Unitarian Congregation of Toronto, 175 St. Clair West

5 Day Advanced & Multiparty Mediation Workshop – MDR Associates Conflict Resolution Inc.

Instructors: Richard J. Moore, LL.B., C.Med, C.Arb, CFM, Cert. Med. IMI – MDR Associates

Location: Ottawa and various sites across Canada

Contact: Richard Moore at 613-230-8671

Website: www.mdrassociates.ca

Upcoming Dates: May 25-29, 2020 in Toronto

Toronto Location: First Unitarian Congregation of Toronto, 175 St. Clair West

Conflict Management Coaching

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Conflict management coaching – also known as conflict coaching – is a one-on-one technique in which a trained coach assists people to independently manage specific disputes or to strengthen their conflict management skills. This process may also be used to prepare individuals to participate in mediation and negotiation. Conflict management coaching may be used in any context in which clients want assistance to better engage in conflict.

For more information and to register go to www.cinergycoaching.com or contact us at cinnie@cinergycoaching.com.

More courses on the next page.

The Essentials (also offered online)

Instructor: Helen Lightstone LL.M.(DR),C-Med

For more information: www.lightstonemediationservices.com

The Essentials is designed to provide Dispute Resolution Training students with the ability to differentiate between the negotiation and mediation processes, to explain the roles of negotiator and mediator and to provide insight into the positions of the parties of a conflict. The Essentials will include engaging lectures, in-depth class discussions as well as plenty of opportunity to practice newfound skills by way of role-playing.

The Essentials is targeted to HR professionals, public and private sector employees, legal professionals and anyone interested in resolving disputes. Students will learn the consequences of each type of dispute resolution process which could potentially save time, money and increase morale and productivity. Anyone interested in enhancing their current personal and professional relationships will benefit from this course.

Course completion satisfies the educational component and membership requirements of the ADR Institute of Ontario and count as hours towards the educational component of the Q.Med and C.Med designations.

Mediation for Professionals – Online

Instructors: LOUIE SPEDALIERE LL.B (Hons); Mary Joseph, Q.Med.; Hayley MacPhail M.Ed., CYC cert., Q. Med; Laura gray, BA, MA, LLM, AccFM

Contact: Alysha Doria, 905-839-0001

Website: https://www.herzing.ca/professionaldevelopment/mediation-for-professionals-certificate

ADR specialization (within the Legal Studies Program) Program consisting of the following courses: Human Rights Mediation; Employment & Mediation; Family Mediation; Theory and Practice of Mediation

Name of Approved Course Provider: Legal Studies Program, Faculty of Social Science and Humanities, University of Ontario Institute of Technology

Location: UOIT, Oshawa, Ontario

Contact: Ms. Sasha Baglay, PhD, Director of Legal Studies Program, Faculty of Social Science and Humanities, University of Ontario Institute of Technology (UOIT)

Website: http://socialscienceandhumanities.uoit.ca/legalstudies/current-students/course-descriptions.php

Arbitration Courses

Comprehensive Arbitration Training

Instructor: Murray H. Miskin, LL.B.

Location: Toronto, Ontario

Contact: 416-492-0989, 905-428-8000 or by email at miskinlaw@yahoo.com

Website: www.adrworks.ca

Correspondence Course in Arbitration

Location: Available anywhere in Canada

Contact: ADR Institute of Canada, Inc. at 416-487-4733 extension 101

Website: http://adric.ca/resources/training-handbooks/

For more courses, workshops and seminars, check our events calendar, **HERE**.

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