

Solutions in Seattle

Tentative Conference Program (as of January 13, 2015)

Thursday, April 16th

7:00 to 7:45 AM

Breakfast

8:00 to 8:15 AM

Conference Welcome:

8:15 to 9:15 AM

Thursday Opening Plenary:

How ADR has Shaped the Modern International Sporting World

Richard Pound

Arbitration is a widely-used process in sport, both domestic and international. This plenary session will explore how and why arbitration in sport works, including disputes arising from disciplinary matters, the use of performance-enhancing drugs and methods, and economic disputes. It will also consider mediation and mandatory resolution facilitation proceedings.

Thursday, April 16th

Concurrent Series A: 9:30 AM to 10:45 AM

Anger: The Silent Decision Maker

Most failed negotiations produce an anger state carried in to mediation. Innovative work by Nicola Hartfield and Phillip Green has gathered together the latest neurological and behavioral sciences research reporting on how anger influences and affects our judgment and decision-making. We don't stop thinking, but it is "how" we think that changes. This work is a first to comprehensively set out the dangers of believing that it is safe to make good decisions when angry. Over 30 different research based cognitive changes are explained. Understanding some of the surprising anger cognition impacts makes you a better negotiator or mediator.

Phillip Green, P D Green Barrister, Wellington, New Zealand

Nicola Hartfield, Nicola Hartfield, Napier, New Zealand

Drunk, Disorderly, and in Dispute

Mediators have ethical duties to ensure that parties participate meaningfully and consent to any agreed settlement. However, how do mediators decide that parties are incapable of participating meaningfully in the process? This panel of experienced mediators and dispute resolution scholars will offer practical guidance for dealing with parties who, because of alcohol, drugs, technological distractions, or mental impairment, have difficulty with the mediation process. Panelists will discuss different types of impairment, review the ethical guidelines in this area, and share examples from real-life experience. The audience will be encouraged to share their own experiences as well.

Rishi Batra, Texas Tech University School of Law, Lubbock, TX

Erin Archerd, The Ohio State University Moritz College of Law, Columbus, OH

Lauren Newell, Ohio Northern University, Pettit College of Law, Ada, OH

Latest Developments in FINRA Securities Arbitration

The presentation will provide up to date coverage of the latest developments in FINRA securities regulation and arbitration. Subjects will include the composition of arbitration panels, the definitions of public and non-public arbitrators, expungement procedures, a proposed rule on mid-case referrals, and increases in honorarium and fees. A report will also be given from a panelist who is a member of the national Task Force recently formed by FINRA. Lecture, discussion and case studies will be used by the expert panel. The material will be presented on PowerPoint during the presentation and included in case materials.

Philip Cottone, Property Trust Advisory LLC, Malvern, PA

Lois Rosenbaum, Stoel Rives LLP, Portland, OR

Joan Stearns Johnsen, JSJ ADR, Boston, MA

Darlene Pasieczny, Samuels Yoelin Kantor, LLP in Portland, OR

Ken Andrichik, FINRA, NY, NY

Six Ways to Court Defeat on the Battlefield of Mediation

In his classic treatise, *The Art of War*, Chinese strategist and philosopher Sun Tzu wrote: “These are the six ways of courting defeat – neglect to estimate the enemy’s strength; want of authority; defective training; unjustifiable anger; nonobservance of discipline; failure to use picked men . . .” In this interactive panel discussion, an experienced group of mediators will utilize entertaining scenarios and multimedia aids to illustrate Sun Tzu’s insights into the value of skillful preparation for successful mediation advocacy and ways to avoid common mistakes which can lead to disaster.

Greg Derin, Los Angeles, CA

Michael Young, Judicate West, Los Angeles, CA

George Brown, Resolute Systems, LLC, Memphis, TN

Karin Hobbs, Hobbs Mediation, Salt Lake City, UT

Awarding Attorneys' Fees -- The Art and the Science

It is common for arbitration agreements and arbitration rules to provide for the shifting of arbitration and attorneys’ fees and costs. It is often the case that arbitrators consider these issues in the process of issuing the Award. It is unfortunately all too common for arbitrators to apply contractual provisions, rules and legal principles incorrectly; not to provide a thoughtful process to the determination of these issues, and to fail to give sufficient attention in the Award to the proper determination of these issues. A panel of expert arbitrators and a highly regarded attorney fee expert will address these issues and will comment on common errors and best practices.

Richard Chernick, JAMS, Los Angeles, CA

Michael Young, JAMS, New York, NY

Stephen Gilbert, The Law Office of Stephen P. Gilbert, Larchmont, NY

Kenneth Moscarel, Seattle, WA

ADR Solutions and Approaches for High Performance Sports Disputes

ADR processes in handling high performance sports disputes at the national and international level are explored. A panel of experienced international sports mediators and arbitrators will discuss typical sports disputes (team selection, athlete funding, and challenges to sports federation policies/decisions), and ADR solutions used in the U.S., Canada, the Court of Arbitration for Sport, and professional sports. The panel will review international regimes for anti-doping disputes, and novel approaches and best practices for mediating and arbitrating both doping and non-doping cases. We will share innovative ADR approaches of the SDRCC, including its virtual tribunal and other distance approaches to ADR.

Paul Godin, ADR Chambers, Toronto, Ontario, Canada

Richard H. McLaren, McKenzie Lake Lawyers LLP, London, Ontario, Canada

Marie-Claude Asselin, Sport Dispute Resolution Centre of Canada, Montreal, Quebec, Canada

Carol L. Roberts, Vancouver, British Columbia, Canada

Richard W. Pound, Stikeman Elliott LLP, Montreal, Quebec, Canada

Jeffrey G. Benz, Benz Law/ Benz ADR, Los Angeles, CA

A View From the Trenches: What's Working and What's Not Working with Mediators

This program features an insider discussion about how mediators manage the mediation process. Learn from a panel of lawyers with diverse practices about what makes a good mediator stand out from the pack. Hear techniques that work and don’t work with counsel and their clients. The panel will feature 3 to 4 lawyers who use mediation, and will be moderated by Gina Miller, VP at JAMS, and Mark Travis, mediator/arbitrator with Travis ADR. Topics include: Mediator interpersonal skills/style; Evaluative v. facilitative mediator; Preparation/follow up; Pros/cons of joint sessions and ex-parte sessions; Best/worst practices for navigating through impasse; Mediator's proposal.

Grant Degginger, Lane Powell PC, Seattle, WA

Gina Miller, JAMS, Los Angeles, CA

Mark Travis, Travis ADR Services, LLC, Cookeville, TN

Gretchen Freeman Cappio, Keller Rohrback, Seattle, WA

Kasey Huebner, Mills Meyers Swartling, Seattle, WA

Symposium on ADR in the Courts: Judges and Mediation

This interactive session will explore ethical, justice, and practice issues relating to the use of mediation techniques by sitting and retired judges. Issues to be discussed include: the ethical and practice responsibilities of lawyers who represent clients in mediations conducted by both sitting and retired judges; the ethical constraints on retired judges who serve as “senior judges” and also have a mediation practice; and circumstances under which sitting judges who conduct mediated settlement conferences in cases assigned to them for trial should recuse themselves if their efforts at settlement fail.

James Alfini, South Texas College of Law, Houston, TX

Nancy Welsh, Pennsylvania State University The Dickinson School of Law, University Park, PA

Sharon Press, Hamline University School of Law, St. Paul, MN

Thursday, April 16th

Concurrent Series B: 11:00 AM to 12:15 PM

Emotions, Stress and Mediation Workshop

Attorneys confront strong emotions and physiologic stress in conflict situations and neuroscience shows us how these processes impair decision-making. Everyone--parties, advocates, and mediators--is affected. An emerging standard of care is to use neuroscience to better understand how the mind and body react in conflict situations. This presentation will examine how neuroscience provides groundbreaking insights for handling strong emotions and using them to identify emotional interests. Participants will experience hands-on practice with a range of approaches, based on the neuroscience of emotions and stress, to achieve more satisfying outcomes.

Jill Tanz, Chicago Mediation LLC, Chicago, IL

Martha McClintock, Chicago, IL

David Levin, Santa Fe, NM

Situation Assessments: Identifying Issues, Interests and Dynamics in a Public Policy Dispute

This interactive session will provide an introduction to and examples of the situation assessment, an interview-based effort to explore relevant issues, interests and dynamics between and among involved parties to a public policy dispute. It is a common first step in exploring whether a potential collaborative process would be productive. Presenters will provide an overview of the phases of a multi-party dispute resolution process, then delve into this typical first step, using specific examples from situation assessments recently conducted by the William D. Ruckelshaus Center. The session will be interactive, with time for discussion among presenters and attendees.

Amanda Murphy, William D Ruckelshaus Center, Seattle, WA

Michael Kern, William D. Ruckelshaus Center, Seattle, WA

Chris Page, William D. Ruckelshaus Center, Seattle, WA

Culture Change through Tabletop Games

Did you grow up playing only competitive games and internalizing the message that individualized competition is culturally neutral and teaches critical life skills? This session will introduce participants to lesser known models of play that depend upon team-based competition (against the game) and group problem-solving, and that offer the potential to test cultural norms of competition while allowing opportunities to practice skills that will support both interest-based negotiation and mediation practices. Learn about the ways in which games can support skills learning, be used within a negotiation or mediation, and assist parties to rethink their approach to problem solving.

Emily Martin, PERC, Kirkland, WA

Sharon Sutherland, Delta, British Columbia

Managing Dispute Resolution in Developing Economies

ADR is recognized as an essential element of successful economic development around the world. However, as companies begin to do business in developing countries, understanding of ADR and ADR capacity are often at an elementary stage. The panel will address approaches taken by corporate counsel to manage disputes effectively under such circumstances and the work of organization such as the ABA DR Section, The CPR Institute, UNCITRAL, the World Bank/International Monetary Fund and the International Financial Corporation to enhance ADR capacity in places such as the Asia-Pacific region and Brazil.

Noah Hanft, The CPR Institute, New York, NY
Geetha Ravindra, International Monetary Fund, Washington, DC
Beth Trent, The CPR Institute, New York, NY

The Appropriate Relationship Between Arbitration, Mediation and Settlement

This interactive session will be led by three experienced arbitrators and mediators. The presenters will discuss the appropriate relationship between mediation, arbitration and settlement as those processes exist along the dispute resolution continuum. We will address the following questions: (1) How can mediation be used to promote earlier, more effective settlement of disputes in pending arbitrations? (2) What interaction (if any) should the arbitrator(s) have with the mediator? (3) Can mediation or other cooperative approaches be used to set the stage for more appropriately tailored dispute resolution processes, including arbitration procedures? (4) Can med/arb (including variations like mediation and last-offer arbitration) be an effective alternative for resolution of some disputes? (4) What, if any, safeguards need to be established in such approaches?

Ruth V. Glick, Burlingame, CA
John Sherrill, Atlanta, GA
Larry Mills, JAMS, San Francisco, CA
Thomas Stipanowich, Straus Institute for Dispute Resolution, Malibu, CA

Time Management for Attorneys and Neutrals

In the business of law, "Time IS money." Time management is one of the most sought after skills for attorneys and neutrals, and one of the most elusive. This interactive seminar includes specific tools Cami uses in coaching attorneys to be more productive and improve the use of their time. She teaches attorneys to use these tools in order to work smarter rather than harder. She offers a "paradigm shift" - a different way of viewing time and time management - and specific changes that attorneys can implement right away to use their time more efficiently, ease stress, and increase productivity.

Cami McLaren, McLaren Coaching, Sacramento, CA

Symposium on ADR in the Courts: And the Crowd Roared: "Research Shows Value of Court ADR Programs"

For years courts have shown faith in ADR programs by supporting them with money, inclusion in case management plans, and referrals for a wide variety of cases. But is it worth it? Is there a positive impact on the courts? Litigants? Finally there is research to answer those questions, and the answers are resounding YES's! Attendees will learn about the research methodologies, findings, and implications from three perspectives: researchers, judges, and ADR program administrators. Attendees will learn about the impact of ADR on docket management, shifts in litigants' perceptions of justice and the judicial system, and completeness of case resolutions.

Jonathan Rosenthal, District Court of Maryland, Annapolis, MD
John Morrissey, District Court of Maryland, Annapolis, MD
Lorig Charkoudian, Community Mediation Maryland, Takoma Park, MD

Symposium on ADR in the Courts: Ethical Considerations in Mediating Disputes Involving Self-Represented Litigants

This panel explores one of the most pressing issues that confront modern day mediators—what are their ethical limits and responsibilities in helping self-represented parties participate meaningfully in mediation? Increasingly, mediation participants are self-represented, especially in family disputes and landlord-tenant disputes where the self-representation rate is over 80%. This panel will highlight the most important ethical considerations of which mediators must be aware when self-represented parties are mediation participants and will provide concrete strategies for optimizing self-represented participants' effective engagement in the mediation process. Ethical considerations to be discussed include obtaining informed consent, maintaining impartiality, balancing power, and promoting party self-determination.

Ellen Waldman, Thomas Jefferson School of Law, San Diego, CA
Sharon Press, Hamline University School of Law, St. Paul, MN
Michael Colatrella, McGeorge School of Law, Sacramento, CA
Lela Porter Love, Benjamin Cardozo School of Law, New York, NY

Thursday Networking Luncheons:

Arbitration, Mediation and International Networking Luncheon (Ticketed Event)

Symposium on ADR in the Courts Luncheon (Ticketed Event)

Thursday, April 16th

Concurrent Series C: 1:30 PM to 2:30 PM

What You Must Know About Branding Your Practice in 2015

In today's legal market, ADR buyers are sophisticated, well-informed, and have more competent ADR professionals to choose from than ever. In the age of increased competition, shrinking legal budgets, and evolving lawyer media consumption you must strategically position your firm and your practice in the marketplace. You already have a brand, whether you know it or not, now learn how to effectively harness its power. Hear first-hand from frequent ADR users and established experts, how to increase your brand equity, attract the right clients, navigate the changing media landscape, and utilize strategic and compelling marketing tactics.

Harrie Samaras, West Chester, PA
Mark Smalls, JAMS, Irvine, CA
Traci Stuart, Blattell Communications, San Francisco, CA
Jake Larson, Foster Pepper PLLC, Seattle, WA

Conflict Within Faith Communities: Different Approaches to Resolution and Spiritual Growth

This program features speakers who are regularly engaged in addressing conflicts arising within church congregations, religious organizations, and other Spirit-led communities. Very often in such settings, both the conflict resolution process and the outcome are informed by religious or spiritual concerns or principles. Indeed, some religious communities view conflict, disruptive and unpleasant though it is, as an opportunity to strengthen and revitalize the group and bring it closer to the Spirit. This is a unique perspective on a fascinating topic: What if one's "interest" is experienced as originating in the Divine?

F. Peter Phillips, Montclair, NJ
Brian J. Bloch, Potomac, MD
David Hoffman, Boston Law Collaborative, Boston, MA

Linked in...Conflicted Out - Arbitration Ethics Meet Social Media

Arbitration ethics, particularly arbitrator's duty to disclose conflicts, has become more challenging in the age of social media. What are the new parameters? The panel will caution practitioners about the pitfalls of Internet connectivity and present guidelines for arbitrator disclosure. In addition, they will explore general principles of arbitrator ethics including duties of independence, impartiality, ex parte communications and confidentiality in the age of social media. New guidelines prepared by a group of prominent arbitrators and representatives of ADR associations will also be presented.

Ruth V. Glick, Burlingame, CA
Laura Stipanowich, R. Rex Parris Law Firm, Lancaster, CA
Robert Holtzman, Arbitrator, Los Angeles, CA

ADR In Healthcare Disputes From the CEO's Perspective

The presenter has represented clients in ADR settings, has been a client, and has arbitrated, mediated and facilitated. As the former CEO of Blue Cross & Blue Shield of RI, he has a unique perspective regarding litigation and ADR. He will describe why healthcare disputes are particularly suited for ADR. Purcell will review why confidentiality, speed, and the lack of res judicata effect are so important to healthcare participants and why the failure of counsel to consider ADR in healthcare disputes approaches malpractice. He also will discuss CEO and Boards' perspectives--what is valued and what is highly irritating.

Jim Purcell, JimPurcellADR, Hyannis, MA

Introducing Evidence in an Arbitration Hearing

State statutes and rules of the American Arbitration Association and JAMS are designed to give consumers and unrepresented parties a more hospitable environment. Arbitrators thus deal with unrepresented parties unaware of procedures for introducing evidence at hearings. What basic rules for introducing evidence should they know? How should arbitrators conduct hearings involving unrepresented parties and be fair with actual and apparent impartiality? Because arbitrators are not bound by formal rules of evidence, they often admit offered evidence and "give it appropriate weight." What is that weight? How can parties increase the weight the arbitrator will give to their evidence?

*Michael Briggs, San Diego Neutrals LLC, La Jolla, CA
Kenneth Kato, Spokane, WA*

Around the Asia ADR World in 60 Minutes

ADR leaders, judges, mediators, academics and innovators from throughout Asia gathered in New Delhi, India in February 2015 for a Section initiated, Pan-Asian ADR Summit. Join a diverse group of presenters and meet new international colleagues as we recap lessons learned and explore next steps for Mediation and ADR Capacity Building in Asia and beyond.

*Sheila Purcell, UC Hastings College of the Law, San Francisco, CA
Sukhsimranjit Singh, Willamette University College of the Law, Salem, OR
Nadja Alexander, Hong Kong Shue Yan University; James Cook University, Hong Kong, Hong Kong
Rajesh Sharma, School of Law, City Univ. of Hong Kong, Hong Kong, SAR*

Effective and Creative Solutions to Resolving Disputes in Indian Country

The panel on Effective and Creative Solutions to Resolving Disputes in Indian Country will explore issues related to tribal court jurisdiction, effective types of dispute resolution agreements between Indian tribes and third parties, and creative solutions to resolving disputes between Indian tribes and third parties. The panel will include a tribal attorney, a private attorney who represents Indian tribes, and a private attorney who represents third parties that conduct business and other transactions with Indian tribes.

*Bart Freedman, K&L Gates LLP, Seattle, WA
Miko Hernandez, Faegre Baker Daniels, Minneapolis, MN
Thomas Schlosser, Morisset, Schlosser, Jozwiak & Somerville, Seattle, WA*

Symposium on ADR in the Courts: Best Practices for Designing Appellate Mediation Programs

This workshop will share the results of Justice Jewel Welch investigation of more than 45 existing Appellate Mediation Programs and propose the elements of successful programs. Factors include the preferred mediator style (facilitative / evaluative), mandatory participation, selection of the mediator, sanctions, case selection (including policies regarding unrepresented parties), and the level of "buy in" from court personell and the bar. This program seeks to address why some appellate mediation programs appear to thrive while others are being terminated because they are not cost efficient. The program will consist of a 20 minute presentation by Justice Welch and then a discussion with participants facilitated by Professor Robinson.

*Peter Robinson, Straus Institute, Pepperdine School of Law, Malibu, CA
Jewel Welch, Baton Rouge, LA*

Symposium on ADR in the Courts: Strategies for Successful Mediation Pilot Projects

This presentation will include a description of mediation pilot programs in two federal district courts (pilots targeting civil rights cases, loan modifications, and mediator assessment). The speakers will discuss what motivated these two courts to pilot certain programs, what worked and didn't work in developing the pilots, and the outcomes of the programs thus far. The speakers will encourage audience discussion about pilot programs in other mediation organizations. This program is intended to offer ideas and generate discussion about how pilots customize the mediation process for particular case types and address issues central to ADR programs (such as quality control).

Rebecca Price, U.S. District Court for the SDNY, New York, NY

Gail Killefer, U.S. District Court (C.D.CA), Los Angeles, CA

Thursday, April 16th

Concurrent Series D: 2:45 PM to 4:00 PM

Cutting Edge Closing Techniques: Where Nobody Wants to Say Yes

A select group of Distinguished Fellows of the International Academy of Mediators will reveal what is in their tool box when neither party wants to back down and accept the other's proposals at the end of a tough negotiation. Closing techniques ranging from private, written mediator's analyses to soft-ball plays, such as "three wishes" and hypothetical negotiations, to managing "the overlap" and ethical issues arising out of those nuanced end game private conversations, these mediators will tell all.

Jan Schau, ADR Services, Los Angeles, CA

Jerome Weiss, Mediation Inc., Cleveland, OH

Eugene Moscovitch, Los Angeles, CA

Steven Rottman, Los Angeles, CA

Meanings of Silence: Discovering Sound Tools for Effective Communication in Mediation

In this workshop we will explore the role of silence in the mediation process. We will look at different meanings and functions of silence. This will be an interactive workshop where the participants will be asked to reflect on their experience with silence. During the workshop we will use visual and auditory aids, music, brief movie clips and exercises involving audience participation. We will focus on mediation as a form of communication during which various types of silence may promote or inhibit successful resolution of conflict hoping for the participants to leave with sound tools to deal with silence in the mediation process.

Anita Dorczak, Westbrook Law & Mediation Centre, Edmonton, Alberta, Canada

Collaborative Law Approach to Elder Law and Probate Disputes

Collaborative Law is widely accepted as a process for resolving disputes in the area of family law. The process is gaining acceptance as a first option for resolving disputes arising in many areas of civil law, particularly where maintaining relationships is important. Elder Law is an area of legal practice that places an emphasis on the myriad of issues that affect the aging population in our country. Family relations can be severely damaged if these issues are litigated. When disputes arise in Probate, Trusts and Estates matters maintaining ongoing relationship are critically important. This presentation will demonstrate the effectiveness of face-to-face meetings, and employing interest based negotiations to resolve disputes that arise in these areas of law.

Lawrence R. Maxwell, Jr., Collaborative Lawyer-Mediator-Arbitrator, Dallas, TX

Sherrie R. Abney, Carrollton, TX

Jamie Clausen, Phinney Estate Law, Seattle, WA

Costs, Costs, Costs: Managing Arbitration Costs and Dealing with the Non-Paying Party

Costs are rising. The experienced panel will discuss tools to decrease arbitration costs and strategies for deferring or reducing administrative fees and streamlining arbitrations. The panel will also address (a) managing fee deposits and (b) the challenges raised when a party fails to pay initial or ongoing fees. What are the options for the arbitral institution, the arbitrators and the other (paying) party? Are there special exceptions excusing non-payment of fees? The presentation encourages audience participation and covers both domestic and international arbitrations.

Robert Shlachter, Stoll Berne, Portland, OR

Eric Lindauer, Portland, OR

Chris Helmer, Miller Nash, Portland, OR

The Behavior of Successful Negotiators

This session will discuss "The Behavior of Successful Negotiators," a paper written in 1976 and still very relevant today both as a teaching mechanism and as a tool for practitioners. No longer will you wonder why some questions have the impact they do. You may even find yourself preparing differently as you learn what expert negotiators do that average negotiators do not. Pick up a copy for yourself and learn from Neil Rackham, the researcher-author of the paper, and Ava Abramowitz, a mediator and George Washington Law School instructor of negotiations, how practitioners can use the study to improve their negotiation and mediation skills.

Ava Abramowitz, George Washington Law School, Washington, DC

Neil Rackham, Leesburg, VA

ADR in Innovation and Technology Cases

This program will focus on creative and practical ways to obtain the maximum benefits and efficiencies likely resulting from using ADR to resolve scientific, engineering, software and IP based disputes in our nation's innovation industries. Hear how experts in the field have handled the special considerations involved in mediating and arbitrating these disputes. To benefit all, the program will be interactive: not only will the panelists share their experiences with the attendees but also the attendees will be able to share their own.

Harrie Samaras, West Chester, PA

Michael Diamant, Taft Stettinius & Hollister LLP, Cleveland, OH

Susan Nycum, Portola Valley, CA

Conna Weiner, Conna Weiner ADR, Boston, MA

Peter Michaelson, Michaelson ADR Chambers, LLC, New York, NY

Symposium on ADR in the Courts: Ethical Dilemmas for Court Mediations & Court Mediators

Through specific fact scenarios, this interactive presentation will explore ethical pitfalls that arise for court mediators and in court-ordered mediations. The ABA Model Standards of Conduct for Mediators, ABA opinions, and various state and federal rules provide the framework for this lively discussion that will include audience input, specific guidance and best practice recommendations.

Rebecca Price, U.S. District Court for the SDNY, New York, NY

Jill Morris, U.S. District Court for the Western District of Missouri, Kansas City, MO

Symposium on ADR in the Courts: ADR Impact: Results Matter

Many proponents of ADR, especially mediation, believe that it results in better outcomes and can even change the way we respond to conflict. In this session, two programs will describe their explorations of these beliefs. In one, the Maryland Mediation and Conflict Resolution Office (MACRO) is collaborating with Johns Hopkins University to use a public health approach to changing how people respond to conflict. Think anti-smoking, HIV, and drunk driving campaigns. In the other, Resolution Systems Institute is using a cloud-based case management, monitoring and evaluation system to compare home retention and other foreclosure outcomes based on mediation program parameters.

Nick White, Maryland Mediation and Conflict Resolution Office (MACRO), Annapolis, MD

Susan Yates, Resolution Systems Institute, Chicago, IL

Heather Fogg, Maryland Mediation and Conflict Resolution Office (MACRO), Annapolis, MD

Thursday, April 16th

Concurrent Series E: 4:15 PM to 5:30 PM

Predicting Future Negotiating Behavior

Hope and uncertainty are often the coin of the realm in mediation. Mediation participants are now using predictive analytics for insights into their businesses and to forecast the distributive negotiation dance during mediation. Come see how such projections give parties hope - even when there is a large gap - and keep them engaged through troughs in the day.

Don Philbin, Picture It Settled, LLC, San Antonio, TX

Alternative Career Paths for Young ADR Professionals

Think building your own mediation practice or becoming an arbitrator will take years to develop? Interested in incorporating ADR into your practice right now instead of waiting until you've acquired grey hair and 20 years of experience? Then come to this interactive session and meet young attorneys who have built successful ADR practices shortly after leaving law school. Whether you'd like to include ADR into your practice at a firm, set up your own mediation practice or explore other ADR career paths, this is the ideal session for you! Bring your questions and ideas!

Serena Lee, American Arbitration Association, San Francisco, CA

Lani Baron, Alternative Divorce Solutions, Newport Beach, CA

Michael Aurit, The Aurit Center for Mediation, Scottsdale, AZ

Mediator Conflicts: Navigating the Waives when Worlds Collide

This interactive workshop will explore whether there are clear conflicts where a mediator should not mediate even if the mediator discloses conflicts and the parties waive. While the Model Standards of Conduct for Mediators (adopted by ABA, ACR and AAA) do not require automatic mediator recusal when clear conflicts arise, some other mediator standards, such as the Florida Supreme Court adopted Standards of Professional Conduct for Mediators, do require recusal under such circumstances. Workshop participants will 1) review the Model Standards provisions on mediator conflicts and impartiality and 2) ethics advisory opinions on mediator conflicts issued by the FSC Mediator Ethics Advisory Committee and other advisory groups. Participants will be invited to consider whether clear conflicts may arise and a framework for identifying such clear conflicts.

Gregory Firestone, University of South Florida Conflict Resolution Collaborative, Tampa, FL

Fran Tetunic, Nova Southeastern University School of Law, Fort Lauderdale, FL

An Effective Conflict Management System: The Critical Role of the Ombudsman

An effective Conflict Management System should minimize risk, assist in protecting reputation, reduce financial and human costs and build trust to foster an ethical environment. This panel will discuss current conflict management systems and why they are incomplete. They will outline how an ombudsman program is a best practice in filling the gaps. They will overview the characteristics of ombudsman programs and describe the three major ombudsman models. The discussion will conclude with outlining the five core capabilities for setting up and sustaining a best in class ombudsman program. This is the formal presentation recommended by the DRS Ombuds Committee.

Charles Howard, Shipman & Goodwin LLP, Hartford, CT

Sara Thacker, University of California, Berkeley, Berkeley, CA

Jonathan Stier, King County Ombudsman's Office, Seattle, WA

Melanie Lewis, Baker Hughes, Houston, TX

Not Gender Neutral: Mediation Advocacy and Gender

From the recent popularity and criticism of Facebook Chief Operating Officer Sheryl Sandberg's best-selling book, *Lean In*, to the press's analysis of the tactics of a female Secretary of State, women as deal makers has captured our cultural attention. This workshop asks the question, how does gender impact us as mediators or mediation advocates? Much of the reported empirical research focuses on the fact that women report more anxiety in negotiations and less self-confidence. However, women exhibit different behaviors in negotiating for others than they do in negotiating for themselves, and in fact get as much or more for their client as men. Come join this spirited, honest, and insightful conversation; everyone is welcome!

Stephanie Bell, Straus Institute for Dispute Resolution, Malibu, CA

What Makes Arbitration in Healthcare Different?

Disputes arising in the healthcare setting differ in many respects from other disputes. Parties often are in a long standing relationship that will continue after the disputes at hand, and they operate against a host of complicated regulatory, legal and ethical requirements. The panel will look at common procedural issues that occur in some typical healthcare cases. These includes: when are cases ripe for arbitration; what damages can the arbitrator award; can non-signatories to the contract be bound to arbitrate; and reasons for vacatur of the arbitration award. These arise in typical or common healthcare cases that include: physician practice break- up and shareholder issues, breach of management services and risk-sharing agreements, claims payment and reimbursement issues, as well as many other disputes.

Myra Selby, Ice Miller, Indianapolis, IN

Katherine Benesch, Benesch & Associates, LLC, Princeton, NJ

Symposium on ADR in the Courts: Real Quality Assurance in ADR Programs

When the decision is made to take a conflict to ADR, the people making that decision should be able to have confidence that the service providers will provide high quality ADR services. But, if the program is not focused on quality, how will we know the practitioners will provide high quality services? This session will explore the steps necessary to have a high quality ADR program, from practitioner qualifications to continuing education, and everything in between. This interactive and fun session will have attendees consider what is important to them in assuring a high quality ADR program.

Jonathan Rosenthal, District Court of Maryland, Annapolis, MD

Maureen Denihan, District Court of Maryland, Annapolis, MD

Michele Ennis, Bosserman Center for Conflict Resolution, Salisbury, MD

Shannon Baker, District Court of Maryland, Baltimore, MD

Symposium on ADR in the Courts: Evidence Based Practices in Mediating Cases with a History of Serious Intimate Partner Violence or Abuse

This presentation will address: (1) the development of our academic-family court collaboration in the area of mediation practice when there is a history of serious intimate partner violence or abuse (IPV); (2) the results of our first research study together, a randomized control trial that compared a 9-question, semi-structured screening for IPV with a longer 45-item behaviorally-specific screening measure for IPV; and (3) a discussion of our recently initiated second research study funded by NIJ, in which cases with a history of serious IPV deemed too violent for joint mediation are randomly assigned to go back to court without mediation, or to participate in one of two specialized forms of mediation, shuttle or videoconferencing mediation.

Amy Applegate, Indiana University Maurer School of Law, Bloomington, IN

Jeannie Adams, Multi-Door Dispute Resolution Division, D.C. Superior Court, Washington, DC

Thursday, April 16th

Welcome Reception in the Exhibit Hall: 5:30 PM to 7:00 PM

Friday, April 17th

7:00 AM to 8:00 AM: Breakfast

Friday Morning Plenary: Stress, Mediation, and the Brain Science of Grief Counseling

John Medina

This is a three-part lecture on the neuroscience behind perceptions of stress. The first section discusses how the brain responds to stressful situations, explaining how neuroscientists view aversive stimuli of any kind. The second part explains the concept of Theory of Mind, focusing on why professional mediators should know about its role in mediating human stress reactions. The third part discusses how traditional grief counseling does not work. It then discusses how new approaches to such counseling, involving both an understanding of stress and Theory of Mind, may be relevant to modern mediation practice.

Friday, April 17, 2015

Concurrent Series F: 9:30 AM to 10:45 AM

Applied Decision Theory -- Transcending "ADR"

The acronym "ADR" has never fit our field very well. With fewer than 1% of cases going to trial, we are not the "alternative" form of dispute resolution. Moreover, calling what we do "dispute resolution" ignores transactional bargaining completely. Recasting the field as one that takes inputs from such areas as law, neuroscience, economics, psychology and elsewhere and applying aspects of those inputs to government, law, business, medicine, consumer and lay decision making and elsewhere, we broaden the horizons of what we can do and how we think of ourselves and our profession.

Richard Birke, Willamette University College of Law, Salem, OR

50 Ways to Break an Impasse

Parties and advocates can flounder in the intersection of logic and emotion. What if the parties' goals are "distributive" and their "interests" are legal arguments? What if the participants are aggressive, intransigent and obnoxious? A "transformative" mediation would involve an exorcism, but that seems a bit "evaluative." A "facilitative" mediation would require a PhD. This program will focus on "nuts and bolts." Learn tips to dispense "reality therapy" and reach closure in the face of apparent impasse. Explore the psychology of decision-making, and learn practical tools for resolution. Learn tricks to reach settlement.

Sam Imperati, ICM, Inc., Portland, OR

Double Denial of Justice - Diversity in Mediation

This presentation will be aimed at the benefits of diversity and true cultural understanding in the practice of mediation. Any probing analysis of diversity issues in mediation must be a multilevel discussion: 1) modifying the current training of active members to develop responsible multi-cultural understanding; 2) understanding why the practice of mediation has historically not produced a diverse set of mediators; 3) developing better standards for training a more diverse population of mediators and 4) broadening the term "diversity" as applied to mediation recruiting, selection and training to include gender, minority and LGBT status issues/concerns as defined by ABA Goal III.

Tasha Willis, University of Houston, Houston, TX

Kay Elkins Elliot, Texas Wesleyan Law School, Fort Worth, TX

Mitchell Katine, Law Office of Katine & Nechnam, LLP, Houston, TX

The Restorative Neutral: What Neutrals Can Learn and Integrate from Restorative Practices

What can neutrals learn from the field of restorative practices? This workshop will provide an overview of restorative practices and its relevance to the dispute resolution community. By exploring the foundational philosophy of restorative practices, the presenters will share their experiences in applying practices to the dispute resolution field. Participants will learn ways to integrate practices into their roles as mediators, facilitators, and supervisors. Information provided includes emerging use of restorative practices in the workplace and traditional applications in criminal justice and schools. The presenters will share their own implementation strategies and explore common challenges and attempted solutions.

Toby Guerin, UM Carey Law, Baltimore, MD

Polly Davis, King County Office of Dispute Resolution, Seattle, WA

Marcus Stubblefield, King County Office of Performance, Strategy and Budget, Seattle, WA

Designing Voice and Processes for Participation in Governance

When people do not have channels to participate in decisions that affect their lives and situations become unbearable, options range from protests and riots to overthrowing government, as recent events in the Middle East demonstrate. At home and abroad, there is little systemic design of processes for voice and participation in the public arena. Dispute resolution professionals can play a role in fostering democracy if they expand their skills. This session will explore dispute system design across policy and governance. It will examine how we design these systems to enhance procedural justice and legitimacy of public institutions.

Lisa Blomgren Amsler, Indiana University School of Public and Environmental Affairs, Bloomington, IN

Mariana Hernandez Crespo, University of St. Thomas School of Law, Minneapolis, MN

Janet Martinez, Stanford Law School, Stanford, CA

Mediation Convening and Intake Best Practices

Confidentiality, neutrality, voluntariness and self-determination are critical elements of the mediation process. These principles potentially are challenged when one party wants to mediate, the other party (or parties - family, elder or complex commercial disputes, etc.) has not yet agreed to participate and an ADR provider or individual mediator is asked to help persuade the part(ies) to come to the table. Additional issues pile on when a mediator hears about a dispute and wants to sell the mediation process (and the mediator) to potential parties. Ethics experts and practitioners will conduct an interactive session discussing best practices in convening a mediation.

Kim Taylor, JAMS, New York, NY

Kristen Blankley, University of Nebraska College of Law, Lincoln, NE

Conna Weiner, Conna Weiner ADR, Boston, MA

Nancy Greenwald, Construction Dispute Solutions, PLLC, Washington, DC

Responding to Problems Relating to Sexual Misconduct on Campus

Sexual misconduct on college and university campuses, and responses to this issue, have garnered intense scrutiny as of late. The panel will discuss the value that a confidential and neutral ombuds office can contribute to the institution's response to allegations of sexual misconduct and associated issues covered by recent regulatory developments in Title IX and the Clery Act, among others. The panel will discuss the unique role the ombuds plays in relation to parties involved with sexual misconduct cases, the challenges of potential reporting responsibilities, and how the ombuds can support and even enhance institutional compliance with regulatory requirements.

Charles Howard, Shipman & Goodwin LLP, Hartford, CT

Howard Gadlin, National Institutes of Health, Bethesda, MD

Wayne Blair, University of North Carolina, Chapel Hill, NC

Karen Connolly, Surman Law group, San Marino, CA

Building an Effective Divorce Professional Team

Attorneys can maximize client experience and outcome by successfully enlisting mental health professionals. Two unique roles, Child Specialist and Divorce/Co-Parent Coach, offer options for preparing divorcing couples, providing guidance during the divorce process and post-decree. Working in close coordination with the legal team, the experienced co-parent coach and child specialist can have a dramatic positive effect on outcomes. Demonstrating how we work together to support the client, we endeavor to strengthen co-parents, make the divorce transition more supportive and intentional, and ultimately set up parents for successful implementation of their parenting plan -- a functioning co-parenting relationship, and with skills for managing their two-home family. Children benefit.

Karen Bonnell, Coach.Mediate.Consult, Bellevue/Seattle, WA

Justin Sedell, Lasher Holzapfel Sperry & Ebberson, PLLC, Seattle, WA

Kristin Little, Seattle, WA

The Effective Interview: Tips from Journalists and Storytellers for Lawyers and Mediators

Mediators, lawyers, journalists and storytellers all help someone tell their story. Artful mediators approach their clients the way a skilled journalist approaches a new topic or interview: informed but without judgment, with a curious desire to learn; listening attentively; and asking thoughtful, often probing questions. This engaging panel of thoughtful, experienced journalists and storytellers will share practice tips to help lawyers and mediators improve their interviewing techniques. Participants in this presentation will hear examples and techniques that cross over from the discipline of journalism to law and mediation.

Kathleen Wareham, Seattle, WA

Paul Brannan, Seattle, WA

Stokley Towles, Seattle, WA

Marcie Sillman, KUOW, Seattle, WA

Negotiating Like a Child

What navigates the conversation of conflict? There's no denying that children are very successful negotiators. What skills and qualities do children use in negotiating with parents, siblings and friends? Children are willing to make opening offers, ask simple questions and use every tactic available. Have they read negotiations textbooks? Children aren't restricted by the "social norms" of the adult world in their negotiations. They're bold, aggressive, play to their strengths, and willing to take risks we often avoid. This interactive workshop will focus on the way fairness, honesty and ethics sway our ability to participate in the conversation of negotiation and the need for understanding executive functioning.

David Dowling, Fowler School of Law, Orange, CA

Jennifer Kresge, Jennifer Kresge, Mediation, Training & Counseling Services, Saint Helena, CA

Effective Advocacy and Management in Arbitration Part One: Choosing the Process

The first program in a five-part series exploring the role of the "Managerial Arbitrator" and the Advocate's responsibility to the client and the process. Part One will address: Application of Protocols; Drafting; Applicable Laws; Rules Procedures; Choosing Arbitrator.

Connie Peterson

Deborah Rothman, Los Angeles, CA

Thomas Brewer, Seattle, WA

Seattle Process Reset: Negotiating the Implementation of the \$15 Minimum Wage Law

"Living wages for working people" is a rallying cry across the country. Seattle passed a \$15 minimum wage ordinance (MWO) in June 2014, and established a Labor Standards Advisory Group (LSAG). Seattle is legendary for 'process.' These can be laborious 'collaborations' that may muffle dissent, pursue harmony over content, and provide cover for politicians wishing to avoid hard decisions. The LSAG took an approach that allowed it to fulfill its charge and reach full consensus on over 30 substantive recommendations. We will discuss the challenges associated with implementation of the MWO, how the LSAG addressed these, how trust was built, and how the LSAG assured its work was supported, rather than burdened, by process.

Martha Bean, Mediator and Facilitator, Seattle, WA

Friday, April 17, 2015

Concurrent Series G: 11:00 AM to 12:00 Noon

Can Today's Technology Answer Yesterday's Social Justice Questions about Mediation?

This roundtable discussion will present information on how crowdsourcing may be a tool in ADR research involving public policy issues. To explore this idea, we will use Transgender civil rights as an example of where this model could be effectively used. The session presenters will share thoughts on the subject and ask audience for feedback on how crowdsourcing could potentially resolve social justice critiques of mediation. We will provide a brief summary of those social justice critiques as well as information on the unique issues facing transgender individuals.

Alyson Carrel, Northwestern Law, Chicago, IL

Alan Boudreau, Northern Illinois University College of Law, DeKalb, IL

The Full Pinnocchio: Lying for the Sake of the Deal

Let's review what is a bad versus a noble lie and query whether a lie is different or distinguishable from a partial truth, puffing, exaggeration, understatement or non-disclosure. Then let's review/remind ourselves about some of the Ethical Canons that are supposed to guide our actions as we shepherd a mediation. Finally, let's work through some real-life examples and ask ourselves whether a lie has been committed or whether deception is in the air, and what the mediator's response should be.

Rebecca Callahan, Callahan Dispute Resolution, Newport Beach, CA

Harold Coleman, Mediation.org, Los Angeles, CA

Getting to Arbitration and Mediation with Indian Tribes

Indian tribal governments possess sovereign immunity. Tribes consider sovereign immunity essential for their government and economic development engagements. State and federal courts defined and re-defined the scope of tribal sovereign immunity time and time again. Because of perceived uncertainties surrounding tribal sovereign immunity and associated waivers, tribal sovereign immunity is considered a significant barrier to the investor, lender or developer (and their uninformed attorneys) who otherwise may be interested in doing business in Indian Country. Accordingly, questions addressed are: What is tribal sovereign immunity? How can it fit with alternative dispute resolution goals? What practical steps are required?

Diana Bob, Stoel Rives LLP, Seattle, WA

Seeking Governance Solutions in Global-Local Post-Disaster ADR

Seeking solutions to the question of how to improve the governance of global-local post-disaster humanitarian relief is an emerging topic for research and practice. Global-local partnerships are increasingly drawing on creative problem solving skills and open source technology platforms to seek solutions to complex post-disaster questions. This presentation will explore the attitudes and perceptions of practitioners working in the field of disaster response. It will report on the results of a 'post disaster ADR governance survey' administered to 69 humanitarian aid practitioners at the international, national and local levels. The aim is to provide insights into the dynamics, challenges and lessons learned in effective post-disaster problem solving and decision making.

Shahla Ali, University of Hong Kong, Faculty of Law, Hong Kong

Re-conceptualizing and Leveraging "Diversity" to Build an ADR Practice

Many questions have recently been raised about diversity—or the lack thereof—in ADR practice. For instance, do aspiring neutrals who are diverse along age, race, gender, or other lines face an unfair disadvantage? Or are some things like youth or lack of legal training genuine demerits? Are some non-apparent differences regarding religion, disability, or sexual orientation best kept hidden, or can they actually be valuable to providers and end-users? Drawing on practitioner, provider, and academic perspectives, we will facilitate an interactive discussion that will challenge assumptions about what diversity means, the obstacles it presents, and the opportunities it promises.

Serena Lee, American Arbitration Association, San Francisco, CA

Hiro Aragaki, Loyola Law School, Los Angeles, CA

Theodore Cheng, Fox Horan & Camerini LLP, New York, NY

Game Playing in Negotiation and Mediation: Machiavelli's Place At the Table

While often dismissed as disingenuous, irrational, or "Machiavellian," game playing strategies and devices are a natural and necessary part of the negotiation and mediation of difficult issues and controversies. The behavior offers participants protection and provides a lubricant for collaboration which can allow difficult issues to be managed constructively and creatively. This interactive workshop will offer an inventory of common strategies and devices, their applications, benefits, risks, and ethical limits.

Robert D. Benjamin, Mediation & Conflict Mngmnt Svcs, Portland, OR

What I'm Reading

What inspires ADR practitioners and scholars? At the past two ABA DR Section spring conferences, we have featured established ADR scholars speaking about recent ADR-relevant books or articles (or movies, or TV shows, or artworks, or music) that they found personally and professionally meaningful. We continue this tradition for a third year, bringing together people from different parts of the ADR universe to explore the breadth of literatures that support and inspire those who work in dispute resolution.

Ronald Aronovsky, Southwestern Law School, Los Angeles, CA

Jennifer Reynolds, The University of Oregon School of Law, Eugene, OE

Michael Moffitt, University of Oregon School of Law, Eugene, OR

Richard Reuben, University of Missouri School of Law, Columbia, MO

Amy Glass, Michigan Mediation & Arbitration Services, Kalamazoo, MI

Effective Advocacy and Management in Arbitration Series, Part Two: Pre-Hearing Preparation

The second program in a five-part series exploring the role of the "Managerial Arbitrator" and the Advocate's responsibility to the client and the process. Part two will address Prehearing Preparation, including narrowing issues, preliminary hearings and orders, relevant and efficient discovery, dispositive motions, and realistic and effective scheduling.

John Holsinger, John R. Holsinger, LLC, Hackensack, NJ

Edna Sussman, Scarsdale, New York

John Blankenship, Murfreesboro, TN

Friday, April 17, 2015

Concurrent Series H: 1:30 PM to 2:45 PM

Arbitration Case Law Update

This panel will discuss the most important arbitration issues of the past year, including the United States Supreme Court rulings dealing with arbitration issues, as well as notable federal and state court decisions. This panel will also consider important legislative and agency updates.

Kristen Blankley, University of Nebraska College of Law, Lincoln, NE

Maureen Weston, Pepperdine University School of Law, Malibu, CA

James Madison, Madison Mediation, Menlo Park, CA

Ronald Aronovsky, Southwestern Law School, Los Angeles, CA

Eric Tuchmann, American Arbitration Association, New York, NY

The 21st Century Lawyer: Coaching Can Make You A Better Lawyer

Yes, you can coach them! By learning and using coaching skills, lawyers can help clients clarify their goals and the process to obtain reach those goals. Coaching skills can increase the quality of interactions with your clients and colleagues and grow your legal practice. This presentation will teach powerful coaching tools for lawyers through discussion, demonstration, and exercises.

Matilda Brodnax, Federal Emergency Management Agency, Washington, DC

Cindy Mazur, Federal Emergency Management Agency, Washington, DC

Ethical Dilemmas in Family and Business Mediation

Mediators often encounter situations in which their ethical duties are in conflict. How does the mediator remain impartial, provide for informed consent, manage the tension between their duty to maintain client confidences about possible settlement terms and their duty to avoid any misrepresentations to the mediator and opposing parties? Attendees will have the opportunity to develop their own answers to such questions in an interactive format involving small group discussion.

Zena Zumeta, Ann Arbor, MI

Geetha Ravindra, International Monetary Fund, Washington, DC

Ellen Waldman, Thomas Jefferson School of Law, San Diego, CA

Mediating Same-Sex Separations in a Rapidly Changing Legal Landscape

As marriage equality spreads, the sweep of legal divorce is transforming the nature of lesbian and gay break-ups. Couples are enmeshed in the judicial dissolution process, facing the implications of signing up for law that often are incongruent with their sense of identity. Mediators who work in this field need to understand the changing laws and develop communication skills that are effective for this diverse community. This workshop will review the legal changes, explain the impacts on parties, highlight the special concerns of non-traditional families and transgendered parties, and provide interactive opportunities for mediators to learn how to be effective in this arena.

Alan Boudreau, Northern Illinois University College of Law, DeKalb, IL

Frederick Hertz, Oakland, CA

Mariette Geldenhuys, Attorney and Mediator, Ithaca, NY

The Joint Session is Disappearing -- What's Your Plan B?

It began on the West Coast and has now spread east: "All-caucus" is becoming the norm for commercial mediation. After hellos and a mediator's opening words, if that, each side goes to separate rooms. What should a mediator do when disputants strongly oppose having a meaningful joint session? What's behind the trend, and should mediators try to buck or work around it? You'll hear the results of a special JAMS survey and about techniques suggested by leading mediators. We'll then exchange ideas about how to deal with this new reality in our work.

Dwight Golann, Suffolk University Law School, Boston, MA

Jay Folberg, JAMS, San Francisco, CA

Marjorie Aaron, University of Cincinnati, Cincinnati, OH

Social Media Do's and Don'ts for Neutrals: Marketing Your ADR Practice

The program will review effective ways of presenting and marketing one's practice through the most prevalent forms of social media generally used by attorneys and ADR professionals (e.g., LinkedIn, Facebook, Twitter) as well as blogging. Ethical rules including those related to attorney advertising, the evolving law and rules on disclosures for neutrals related to their presence and activity on social media, and trademark and copyright protections will be discussed. The program will also review problems and remedies related to protecting one's on-line presence from unwanted activity by third parties.

Gilda Turitz, Sideman & Bancroft LLP, San Francisco, CA

Naomi Jane Gray, Harvey Siskind LLP, San Francisco, CA

Mediating with Multiple Generations

This session will address characteristics and motivations of the current five generations in existence through a new Generations Game; Present changing demographics in your client populations; and consider how meeting formats, communication modes, career goals, cross-generational mentoring, and views on independence, finance, and technology influence a conflict situation or mediation case. Workplace and family dispute case studies will be used to generate small group and larger discussions.

Donna Lurie, Lurie Workplace Solutions, Woodinville, WA

Class, Collective and Representative Actions in Employment Arbitration -- Cutting Edge Issues

Employment arbitrators and counsel face thorny issues when arbitrating class, collective and representative actions. While the decisions in *AT&T v. Concepcion* and *American Express Co. v. Italian Colors* hold that class arbitration waivers are to be enforced, many issues remain unresolved, including waivers in FLSA/Equal Pay Act cases and in cases under private attorney general-type statutes, who interprets the agreement – (the court or the arbitrator), appropriate interpretation of agreements, and what procedures should be followed. Ms. Hemminger and Ms. Saxe will provide a case law update and share valuable insights and practical tips in this cutting-edge presentation.

Deborah Saxe, American Arbitration Association, Los Angeles, CA

Pamela Hemminger, Law Offices of Pamela L. Hemminger, La Canada, CA

The Arbitration of Tech Disputes

In recent years, bulging patent portfolios and multi-million dollar litigations have characterized the technology sector, especially the smartphone and tablet industry. For the world's most prolific technology companies, the time and expense of litigations around the world raises the question of whether litigation is the best way to resolve complex, multinational disputes. This presentation considers the advantages of international arbitration in the context of the Apple-Samsung patent dispute. Key points of discussion include: party autonomy, cost and time efficiencies, privacy and confidentiality, substantive law, procedural tools, arbitrator selection, juries vs. expert panelists, appellate review, multinational coordination and foreign recognition of awards.

Lester Schiefelbein, Silicon Valley Arbitration and Mediation Center, Palo Alto, CA

Gary Benton, Silicon Valley Arbitration and Mediation Center, Palo Alto, CA

Maria Chedid, Arnold and Porter, San Francisco, CA

Malissia Clinton, Aerospace, Los Angeles, CA

Effective Advocacy and Management in Arbitration Series, Part Three: Ethical Obligations of Arbitrators and Advocates.

The third program in a five-part series exploring the role of the "Managerial Arbitrator" and the Advocate's responsibility to the client and the process. In Part Three we will address the ethical obligations of arbitrators and advocates, including disclosure obligations (a two-way street), confidentiality, party-appointed arbitrators, application of Code of Ethics and Code of Responsibility.

Eugene Farber

Connie Peterson

"The "Top Five" - Miscommunication Across Cultures and Genders

Based on her own experiences in conducting over 4,000 mediations, Nina Meierding will share her "top five" situations where miscommunication often occurs. These communication differences, which come from research in both gender and culture, will be discussed in a practical, interactive format and include rapport and report talk (including the use of rapport and ritual apologies), the art of ritual opposition and debate, the use of validation, the types of humor, and the difference between situational distrust and high uncertainty avoidance. By understanding these concepts, as well as discussing practical strategies, participants will interact more effectively with their own clients and other attorneys.

Nina Meierding, Negotiation and Mediation Training Services, Bainbridge Island, Washington

Friday, April 17, 2015

Concurrent Series I: 3:00 PM to 4:15 PM

How Moral Psychology Helps Mediators Understand the Disputants

Behavioral economics and contemporary cognitive psychology have become immensely useful to mediators in understanding how disputants make decisions. The growing field of moral psychology shows similar promise for insights into how disputants' moral judgments can either hinder or facilitate a good resolution. Moral judgments are not simply matters of "fairness;" they span a range of "moral modules," such as cheating, harm, betrayal, subversion, disgust and oppression. This session will introduce Moral Foundations Theory (MFT), show examples of it from the world of mediation and negotiation, and discuss with the audience how MFT might apply to their own mediations.

Jonathan Hyman, Rutgers Law School - Newark, Newark, NJ

Thomas Hildner, Podvey, Meanor, Catenacci, Hildner, Coccoziello & Chattman, P.C., Newark, NJ

Mediation – The New Social Engineering?

Local, state, and federal governments now require mediation in a host of new areas. Once conceived as a private process predicated on consensus and party self-determination, mediation is deployed to stop foreclosures, reduce medical malpractice claims, and improve special education. Many applaud the expansion of mediation beyond court-annexation, but are such schemes ill-thought-out attempts to impose public policy goals on private citizens, regulating their behavior under the guise of individual decision-making? Or, are they empowering institutions to promote a new realm of civic discourse? Join our presenters in a debate over mediation's expanding role in public institutions.

Erin Archerd, The Ohio State University Moritz College of Law, Columbus, OH

Lydia Nussbaum, UNLV Boyd School of Law, Las Vegas, NV

Jennifer Reynolds, The University of Oregon School of Law, Eugene, OR

Everything You Know about Dispute Resolution is Wrong

How many times have you heard that mediators equalize power? Or that everything in mediation is confidential? These are just two examples of illusions that people in our field perpetuate. Why do we do it so often? This highly interactive session will discuss some of the top misconceptions about dispute resolution and use them to analyze why people in our field propagate such ideas. We won't litigate the truth of the statements but will suggest ideas about how we can be more honest with ourselves and others about the field we love.

Alyson Carrel, Northwestern Law, Chicago, IL

John Lande, University of Missouri School of Law, Columbia, MO

James Coben, Hamline University School of Law, St. Paul, MN

Noam Ebner, Werner Institute, Creighton University School of Law, Omaha, NE

National Academy of Arbitrators New Guidelines for Standards of Professional Responsibility for Employment Arbitrators

The National Academy of Arbitrators (NAA) has recently approved a set of guidelines for professional standards for employment arbitrators. The Guidelines were developed over a two-year period by an NAA committee chaired by Professor Theodore J. St. Antoine. The Guidelines address arbitration rules and ethical standards. Topics covered include arbitrator appointment issues, initial and continuing disclosure obligations, prehearing discovery, public law issues, and post-award activity. The panel presentation, headed by Professor St. Antoine, and including other NAA arbitrator committee members, will discuss the development of the Guidelines and their application to current arbitration issues.

Effective Preparation Strategies for Mediators, Arbitrators, Clients, and Attorneys

Procedures for mediation arbitration are fairly well-established, but procedures for preparations vary widely, as new research demonstrates. Mediators and arbitrators often do not understand important aspects of the case; parties do not understand the process; and attorneys underperform for their clients. Some experts believe ADR professionals can over-prepare--too much information could bias neutrals, or in-depth consideration of settlement options could anchor parties and make movement more difficult. This session will help ADR professionals and attorneys understand perceptions around ADR preparation, simulate scenarios in which preparations help, rather than hinder, a process, and provide research-backed recommendations for effective ADR preparation.

Larry Schooler, City of Austin/University of Texas, Austin, TX
Eric Galton, Lakeside Mediation, Austin, TX
Kimberlee Kovach, Austin, TX
Lonnie Schooler, Jackson & Walker, L.L.P., Houston, TX

Mediation Advocacy in the Transformative Model

For the first time a video documents the process of a commercial dispute where both parties are represented by counsel in a transformative mediation. Using selections from "The Contractors Contract" by the Institute for the Study of Conflict Transformation, participants will engage in an analysis of the turning points of a non-directive mediation while gaining deeper understanding of the transformative approach. Special attention will be given to the role of mediation advocacy in the transformative context with an analysis of inhibiting factors that keep attorneys from engaging in transformative mediation. Panelists will offer strategies to overcome these factors for achieving more effective mediation advocacy.

Peter Arcese, New York, NY
Thomas Chu, New York, NY

The Current State of Federal ADR

The panelists will discuss various areas of ADR practiced within federal government, such as Workplace, Procurement/Contracts, Regulatory, Environmental, Litigation, and Freedom of Information Act requests. The presenters will also discuss many ADR techniques employed by the government, including mediation, ombudsmanry, facilitated group discussions, early neutral evaluation, settlement conferences, etc. The panelists will also highlight the opportunities for the ADR professionals to work with and for the federal government. Throughout the discussion, the panelists will answer questions from the audience.

Victor Voloshin, U.S. Equal Employment Opportunity Commission, Washington, DC
Jennifer Gartlan, Federal Maritime Commission, Washington, DC
Debra Drechsel, Udall Foundation's U.S. Institute for Environmental Conflict Resolution, Washington, DC
Miriam Nisbet, Washington, DC

Toward a Vision of Productive Joint Opening Sessions

There is increasing resistance, especially in sophisticated civil mediation settings, to the traditional joint opening session. Some mediators have abandoned the joint opening entirely, and conduct the entire mediation in caucus. Other mediators limit the opening to introductions and procedural issues. These are responses to legitimate concerns about the way joint sessions can create an adversarial and negative environment. But in our experience, a well managed joint opening can promote more efficient and effective work in caucus as the mediation progresses. In this session, we examine creative approaches to the joint session - including challenging traditional "opening statements" - to overcome the problems encountered in many joint opening sessions and lay the foundation for more effective problem solving.

Claudia Bernard, Ninth Circuit Court of Appeals, San Francisco, CA
Howard Herman, U.S. District Court, N.D. Calif., San Francisco, CA

Effective Advocacy and Management in Arbitration Series, Part Four: The Efficient Hearing

The fourth program in a five-part series exploring the role of the "Managerial Arbitrator" and the Advocate's responsibility to the client and the process. In Part Four we will address the efficient hearing, including focusing the issues, documentary evidence, testimonial evidence, expert witnesses, and closing the hearings.

John Holsinger, John R. Holsinger, LLC, Hackensack, NJ
Patricia Galloway, Cle Elum, WA
Richard Silberberg, New York, NY

Beyond Screening: Intimate Partner Abuse and Mediation

There have been many presentations on how to screen for intimate partner abuse, but not many presentations on the negotiation stage of mediation when there is abuse present. This workshop will go into some of the considerations in negotiation and logistics of mediating when physical or non-physical abuse is part of the history of the relationship.

Kelly Olson, UALR, Little Rock, AR

Zena Zumeta, Ann Arbor, MI

Dialogue on Access to Justice - Part 1

David Moora, ABA Section of Dispute Resolution, Washington, DC

Friday, April 17, 2015

Concurrent Series J: 4:30 PM to 5:45 PM

Effective Advocacy and Management in Arbitration Part Five: Awards

Part Five of the Effective Advocacy and Management in Arbitration series. This session will cover all facets of awards, including Interim, Partial and Final, Arbitrator's Responsibility and Advocates Role. Attorneys' Fees. Appeals, and the Role of the Courts.

Connie Peterson

Larry Leiby, Miami, FL

Lawrence Mills, Seattle, WA

Cultural Diversity: Mediation Models Around the World

Understanding culture is key to constructive mediation. Conflict resolution theory and practice often place culture on the periphery, and within dichotomous categories that have become insufficient for studying diversity of complex cultures. Lederach's elicitive approach is about "drawing out and using what people bring you... it understands language, metaphor, proverb, and story as resources, mechanisms, and approaches to conflict resolution." Through interactive dialogue, culturally-specific mediation models are discussed and practiced by participants to demonstrate their effectiveness in addressing conflicts in intercultural mediation. Specific models and skills from Argentina, the Bahamas, Laos, Vietnam, and Zimbabwe will be highlighted.

Charles Crumpton, Crumpton Collaborative Solutions, Honolulu, HI

Stephanie Stobbe, Menno Simons College at University of Winnipeg, Winnipeg, Manitoba, Canada

Lilian Vargas, Fundacion Instituto de Mediation (FIME), Resistencia, Chaco, Argentina

Koschina Marshall, University of West Indies/College of the Bahams Law Program, Nassau, Bahamas

Ismael Mvingi, The Graduate School of Humanities and Social Sciences, Fort Lauderdale, FL

Who is Afraid of Real Mediation?

The current trend in commercial mediation is decidedly away from real mediation – a party-centered process, with joint sessions allowing parties to seek a resolution addressing their needs and interests and, possibly, repairing relationships. Settlement conferences now substitute for real mediation. Why? What is it in us as mediators and in the culture of those who hire us that denigrates or fears real mediation? What are we and our field losing? What are the participants losing? In this interactive workshop, we will explore the causes of this trend, examine what we are losing, and remember who we must become to practice real mediation.

Dana Curtis, Dana Curtis Mediation, Sausalito, CA

G. Daniel Bowling, ADR Program, US District Court for N.CA., San Francisco, CA

David Hoffman, Boston Law Collaborative, Boston, MA

Legal Educators Colloquium Professor Resource Share

Law faculty are always looking for good materials to use in their classes. Legal educators are invited to describe, in a minute or two, a resource (could be a website, a terrific simulation, a TED talk, etc.) and are also encouraged to bring 1/2 page handouts with longer descriptions and information on how to access the resource. This session is like an in-person listserv announcement, and it provides opportunities for attendees to follow up with "presenters" afterwards.

Dialogue on Access to Justice - Part 2

David Moora , ABA Section of Dispute Resolution, Washington, DC

Saturday, April 18th

Breakfast Programs: 8:00 AM to 9:15 AM

The 'Yes' Factor

Through a series of interactive, thought-provoking exercises and activities, participants will learn how to apply the improv concept of 'Yes, And' to sharply increase positive, effective communication and interpersonal interactions. Galen's high energy presentation will captivate and engage attendees while providing them with powerful skills that can be applied immediately. This unique, compelling content is delivered in a dynamic, entertaining way that will have attendees laughing and enjoying this impactful, memorable experience.

Galen Emanuele, Bellingham, WA

Trailblazers: Lessons in Practice Development from Trailblazers in Dispute Resolution from Underrepresented Groups

Pursuant to the ABA Goal III to enhance participation of the target population (women, minorities, LGBT lawyers and lawyers with disabilities), this program brings together a group of members of the target population who have been able to create successful dispute resolution practices. These trailblazers are sought to share with the participants the approaches and strategies they found successful in building their diverse successful practices in dispute resolution.

Ben Davis

Deborah Masucci

Frederick Hertz, Oakland, CA

Calvin Hamilton, Hamilton Abogados, Madrid, Spain

Scott Burr, Concepcion Martinez and Puentes, Coral Gables, FL

Saturday International Workshop

9:15 AM to 10:30 AM

Practice Tips for Effective International Commercial Mediation:

Practical tips on cutting edge, innovative methods, techniques and approaches for attorneys, clients and mediators to making effective use of the mediation process and mediators to achieve settlements that are preferable to litigation or arbitration.

Jaya Sharma

Daniel Yamshon

10:45 AM to 12:00 PM

Asia Pacific International Mediation Summit Roundtable

Kim Taylor, JAMS, New York, NY

Saturday Legal Educators Colloquium Programs

8:00 AM to 9:00 AM

On Teaching Negotiation With Clients

Lawyers tell us their most important negotiations are often with their own clients. How can we teach this aspect of bargaining with or counseling a client? This session presents three new scenarios and supporting videos: a discussion of how to deal with an employee's non-compete agreement, the reassessment of whether to settle in light of unwelcome legal developments, and dealing with a client who demands deceptive bargaining tactics. The simulations and videos will be available for classroom use without charge. Professors Dwight Golann and Marjorie Aaron will show excerpts, discuss how their experiences using these materials, and explore with attendees how to teach an important area of practice.

Dwight Golann, Suffolk University Law School, Boston, MA

Marjorie Aaron, University of Cincinnati, Cincinnati, OH

8:00 AM to 9:00 AM

Beyond Small Claims: New Venues for Mediation Programs

This program will discuss new frontiers for mediation that are being developed at our country's law schools. In January 2011 and on the heels of the newly adopted statute for Harassment Prevention Orders (HPO), the Harvard Mediation Program (HMP), began mediating Harassment Prevention Orders (G.L. 258E). What began as a pilot program in one Massachusetts court has now expanded to include two other local courts where judges screen and refer appropriate (i.e., no threat of violence or alleged abuse) HPO cases.

Maureen Griffin, Harvard Negotiation and Mediation Clinical Program, Harvard Law School, Cambridge, MA

9:15 AM to 10:30 AM

Teaching Arbitration Law, Policy and Practical Skills

This session will discuss teaching arbitration to law students. Arbitration professors confront various issues, including how to define the scope and organization of an arbitration course, what areas of arbitration should be addressed, what balance should there be between the teaching of arbitration law and theory, on the one hand, and practice skills, on the other. If teaching arbitration skills is desirable, how should it be done? A professor teaching arbitration must decide which skills, if any, should be emphasized. Among other choices, the professor might consider: drafting arbitration agreements, arbitrator selection processes, etc.

Maureen Weston, Pepperdine University School of Law, Malibu, CA

Jill Gross, Pace Law School, White Plains, NY

Sarah Cole, Moritz College of Law, Columbus, OH

Andrea Doneff, Chicago, IL

Teaching Practical Negotiations

Legal educators in dispute resolution have always been on the forefront of practice-ready skills training. But with the increasing focus on practice readiness as a goal for legal instruction, can instructors do more to get students ready for the realities of negotiating early in students' careers? In this session, five experienced negotiation professors will discuss strategies, role plays, and exercises that give their students experiences that the students can apply one to two years in to practice. By adding these "practical negotiations" to more traditional role-plays, educators can increase practice readiness, promote learning, and increase student engagement.

Andrea Schneider, Marquette University Law School, Milwaukee, WI

Rishi Batra, Texas Tech University School of Law, Lubbock, TX

Hiro Aragaki, Loyola Law School, Los Angeles, CA

Peter Reilly, Texas A&M University School of Law, Fort Worth, TX

Cynthia Alkon, Texas A&M University School of Law, Fort Worth, TX

10:45 AM to 12:00 AM

How Being Angry Leads to Good Research

Wondering where good ideas for research in dispute resolution come from? This panel will discuss the genesis of research ideas stemming from perceived injustice, bias, discrimination and wrongdoing. We will use a variety of examples from negotiation, mediation and arbitration to explore how anger, frustration or concern can lead to research agendas, articles and empirical work. Furthermore, we will discuss the dangers of a research agenda that are designed to "fix" society in one way or another.

Andrea Schneider, Marquette University Law School, Milwaukee, WI

Jill Gross, Pace Law School, White Plains, NY

Nancy Welsh, Pennsylvania State University The Dickinson School of Law, University Park, PA

Ellen Deason, Ohio State University, Columbus, OH

Timothy Hedeem, Kennesaw State University, Kennesaw, GA

1:45 to 3:00 PM

Integrating international students into Your Dispute Resolution Courses.

Given the increasing importance of international students in American legal education, dispute resolution faculty can play a significant role in shaping students' experiences. This shoptalk will explore the challenges and opportunities presented by students' different languages, cultures, legal systems, and levels of legal experience. Moderators will take turns leading discussion around the following questions: How can we enrich JD and LLM students' collective learning experiences? How do you design a class for students whose culture you are not familiar with? How can we adapt our cultural framework to include multiple worldviews? How do we assess students given these challenges?

Mariana Hernandez Crespo, University of St. Thomas School of Law, Minneapolis, MN

Brian Pappas, Michigan State Law, East Lansing, MI

Sukhsimranjit Singh, Willamette University College of Law, Salem, OR

Janet Martinez, Stanford Law School, Stanford, CA

3:00 PM to 4:15 PM

Integrating Dispute Resolution into the Curriculum: Ideas and Political Strategies for Making It Happen

Almost everyone attending this conference would like to see Dispute Resolution have a more prominent place in the law school curriculum – and there are many opinions on how it should be integrated and when such courses should be offered. Using the ADR listserv discussion on the topic as a jumping off point, this Shoptalk session focuses on moving from talk to action – what strategies should we use to put our ideas into action at our respective schools?

Art Hinshaw, Arizona State University Sandra Day O'Connor College of Law