



Oregon Law Institute
of Lewis & Clark Law School

Mediation Tools and Techniques for Lawyers

Mediation has become an established part of the litigation process. But is it overused? Do lawyers need to do a better job evaluating their cases, rather than relying on mediators? Have some lawyers lost the skill of negotiating directly with opposing counsel? When is a judicial settlement conference a better choice than a private mediation? Is credibility as a trial lawyer a key to success in representing clients in mediation? What do cross-cultural concerns and neuroscience teach us about how to protect the interests of our clients in mediation? This seminar will address these and other controversial questions.

Designed for civil litigation advocates with all levels of experience representing clients in mediation, this program will help lawyers decide when to mediate, when not to mediate, and how to help their clients achieve better results when mediation is chosen. Hear from highly experienced mediators, trial lawyers, judges, and law professors in what will be a fast-moving and thought-provoking seminar.

FRIDAY, OCTOBER 19, 2012

Oregon Convention Center
777 NE Martin Luther King Jr. Blvd.
Portland, Oregon

4.25 General, *plus 2* Access to Justice
and 1 Ethics MCLE Credits

SCHEDULE

8:00 a.m. LATE REGISTRATION AND DISTRIBUTION OF MATERIALS

8:25 WELCOME AND INTRODUCTORY REMARKS

8:30–9:15 **Is Mediation Overused?**

- Is mediation a crutch?
- When to mediate? When not to mediate?
- The role of counsel
 - *Elden M. Rosenthal*
 - *Richard G. Spier*

9:15–10:00 **What Works and What Doesn't in Successfully Mediating Personal Injury Cases**

- Preparing your client, the mediator, and yourself for mediation
- Telling your client's story in the settlement packet
- Utilizing the mediator and helping the client understand the messages the mediator is sending
- Identifying the issues with your case and theirs and anticipating how the jury will hear and evaluate the case
 - *John R. Barker*
 - *Christopher R. Piekarski*
 - *Ernest Warren, Jr.*

10:00–10:15 BREAK

10:15–11:00 **Mediating Business Litigation Cases**

- Does your case need mediation? Some cases just don't
- Knowing when in the life of a case to mediate
- Picking the right mediator for your case: different styles can make a big difference
- That "just right" opening offer and how to keep things moving toward settlement
- Avoiding common pitfalls: unnecessary posturing, mismanaging client expectations, failing to make full use of the mediator
- Coffee is for closers
 - *Robert L. Aldisert*
 - *Leslie S. Johnson*
 - *Kathryn P. Salyer*

11:00–12:00 **Ethics for Advocates in Mediation**

- Representing multiple clients
- Lawyer-client conflicts
- Special issues in appellate mediation
 - *Peter R. Jarvis*
 - *Roy Pulvers*

12:00–1:00 LUNCH (on your own)

1:00–1:45 **Judicial Settlement Conferences—What Do Judges Think?**

- Judicial settlement conferences versus private mediation—how to choose
- Submissions to the court
- Limits on the settlement judge's time and other practicalities
 - *Hon. Angel Lopez*
 - *Hon. Judith M. Matarazzo*

SCHEDULE (cont.)

- 1:45–2:30 **“Practitioners’ Follies”**
- A view from the trenches on counsels’ mistakes and missed opportunities in mediation
– *Julie Gentili Armbrust*
- 2:30–2:45 BREAK
- 2:45–3:45 **Different Kinds of Minds: Mediating with People with Asperger’s, ADD/ADHD or PTSD**
- A surprising number of people bring to the table different ways of viewing the world. A lack of awareness about these differences may cause a mediator or negotiator to become frustrated, to label these people “difficult” and to engage in unproductive strategies which do not lead toward resolution. This session will focus on three types of differences that are commonly encountered in deal making and dispute resolution:
- people with mild autism or who are on what is known as the “Asperger’s spectrum”;
 - people with attention deficits—both hyperactive and not; and
 - people suffering from post-traumatic stress disorder
- The presenters will describe clinical data about these psychological phenomena and will discuss their experiences working with such people in their practices
- *Richard Birke*
 - *Susan M. Hammer*
- 3:45–4:45 **The Art of Effective Cross-Cultural Mediation—Representing Your Client and Understanding the Other Side**
- How should we “see” cross-cultural issues?
 - Should we judge or generalize another culture?
 - What are the different cultural orientations that we can rely upon?
 - How do we cultivate understanding to empathize across cultures?
– *Sukhsimranjit “Sukh” Singh*
- 4:45 p.m. ADJOURN

Program Faculty

Robert L. Aldisert
Perkins Coie LLP

Julie Gentili Armbrust
Mediation Northwest

John R. Barker
Barker Mediation

Richard Birke
*Professor of Law and Director,
Center for Dispute Resolution,
Willamette University College of Law*

Susan M. Hammer
Dispute Resolution Services

Peter R. Jarvis
Hinshaw & Culbertson LLP

Leslie S. Johnson
Kent & Johnson LLP

Hon. Angel Lopez
Multnomah County Circuit Court

Hon. Judith H. Matarazzo
Multnomah County Circuit Court

Christopher R. Piekarski
Allstate Insurance Staff Counsel

Roy Pulvers
Hinshaw & Culbertson LLP

Elden M. Rosenthal
Rosenthal Greene & Devlin, PC

Kathryn P. Salyer
Tomasi Salyer Baroway

Sukhsimranjit "Sukh" Singh
*Associate Director,
Center for Dispute Resolution,
Willamette University College of Law*

Richard G. Spier
*Program Planner
Richard G. Spier JD Mediator*

Ernest Warren, Jr.
Warren & Sugarman

LIVE PRESENTATION

Portland – October 19, 2012
Oregon Convention Center
777 NE MLK Jr. Blvd.

MCLE CREDIT

*Mediation Tools and Techniques for
Lawyers* will receive **4.25** General,
plus 2 Access to Justice *and 1* Ethics
MCLE credits.

PROGRAM PRODUCTS

Even if you cannot attend, you
can still get the program on CDs
or DVDs. Use the order form in
this brochure to order your set
today! OLI Annual Passholders may
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50% off the full retail price.

QUESTIONS?

Please call OLI at (503) 768-6580 in
Portland or toll-free in Oregon at
(800) 222-8213, e-mail us at oli@lclark.edu,
or visit our website at
<http://go.lclark.edu/oli>.

VIDEO REPLAYS

Please register at least one week
prior to the replay date.

Bend – 11/2/12
Replay 8:30 a.m.
Bryant Lovlien & Jarvis
591 Mill View Way

Eugene – 10/26/12
Replay 8:30 a.m.
Harrang Long Gary & Rudnick PC
360 East 10th Avenue, Ste. 300

Portland – 11/7/12
Replay 9:00 a.m.
Oregon Law Institute
Gus J. Solomon Courthouse
620 SW Main Street, Ste. 706

QUESTIONS? Call (503) 768-6580 or (800) 222-8213.
Check out our website at www.lclark.edu/org/oli
or e-mail us at oli@lclark.edu.

Mediation Tools and Techniques for Lawyers

Friday, October 19, 2012

Name	OSB No. or Profession
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Please "✓" appropriate box below:

- Live presentation
- Video replay. Location: _____ Date: _____
Please register at least one week prior to the replay date.

TUITION *Prices apply to live and video replays.*

- \$189 Early registration (*received by October 15, 2012*)
- \$139 New attorneys (admitted 2010–2012) and legal staff (*received by October 15, 2012*)
- \$95 Legal aid attorneys (*received by October 15, 2012*)
- \$15 OLI Passholder (OLI Pass No. _____) and Oregon judges and their lawyer staff (*received by October 15, 2012*)
- \$20 **Add to above tuition if registration received after October 15, 2012**

COURSE MATERIALS *Included with registration. Please select one:*

- Electronic course book (*a link to a PDF of the materials will be emailed no later than 48 hours prior to the seminar date*)
- Print version

LIVE WEBCAST REGISTRATION

This program will be broadcast LIVE over the internet on Friday, October 19, 2012, starting 8:30 a.m. Pacific Time. You may access this event from anywhere with an established internet connection. The webcast will include video and audio of the speakers and seminar handout materials — all on your computer! To register for the live webcast, please click [here](#) or go to our website at <http://go.lclark.edu/oli> and click on "Webcasts."

PRODUCT ORDER *I am unable to attend. Please send me:*

- \$209 Audio CDs and print course book
- \$309 DVDs and print course book
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...or fax (503-768-6585) or e-mail
(oli@lclark.edu) this registration form to
OLI, including credit card information.

CONFIRMATION: Confirmation will be sent via e-mail.

CANCELLATION POLICY: Tuition minus a \$20 handling charge will be refunded if the cancellation request is written and received by Monday, October 15, 2012.

NEED ASSISTANCE: If you are a person with a disability, please let OLI know in time to make any necessary accommodations for you.

TUITION ASSISTANCE: A limited number of scholarships are available based on financial need. Contact OLI.

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