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GENERAL INFORMATION

LIVE PRESENTATION

Friday, October 25, 2019
Minnesota CLE Conference Center
600 Nicollet Mall, Suite 370
Third Floor City Center, Minneapolis

IN-PERSON REPLAYS

Schedule times may differ from the live program. Start times are as indicated below. Please register at least one week in advance to secure your copy of the course materials on the day of the seminar.

Minneapolis – 11/12/19 (Registration 8:30; Replay 9:00)
Minnesota CLE Conference Center
600 Nicollet Mall, Suite 370
Third Floor City Center, Minneapolis

Bemidji – 12/5/19 (Registration 8:30; Replay 9:00)
Brouse Woodke & Hildebrandt PLLP
312 America Avenue Northwest

Detroit Lakes – 12/12/19 (Registration 8:30; Replay 9:00)
Becker County Courthouse
915 Lake Avenue

Duluth – 12/6/19 (Registration 8:30; Replay 9:00)
Pier B Resort
800 West Railroad Street, Pilot House Boardroom

Mankato – 12/6/19 (Registration 8:15; Replay 8:30)
Farrish Johnson Law Office
1907 Excel Drive

Rochester – 12/6/19 (Registration 8:30; Replay 9:00)
Samaritan Bethany
24 Eighth Street Northwest

Saint Cloud – 12/12/19 (Registration 8:15; Replay 8:30)
Rinke Noonan Law Firm
1015 West Saint Germain Street

CANCELLATION / NO-SHOW POLICY

Paid registrants who cancel before the seminar will receive a full credit on their account, or refund upon request. Paid registrants who do not cancel and are unable to attend will retain access to the seminar written materials and PowerPoint presentations through their website account. Passholders may purchase the materials at 50% of the full retail price.

CREDITS

Minnesota CLE has applied for **6.0 CLE credits, including 1.25 ethics credit for session #103, 1.25 elimination of bias credit for session #202, 1.25 ethics credit for session #204, and 1.0 elimination of bias credit for session #302.** The maximum number of total credits you may claim for this course is 6.0.

The ADR Institute also qualifies for **6.0 Continuing Education in ADR credits**, which are required by the Minnesota Supreme Court to remain on the state roster of ADR neutrals.

SCHOLARSHIPS AVAILABLE

Minnesota CLE maintains a scholarship program for those individuals with a financial need. Most scholarships awarded are 50% off the seminar price. To obtain a scholarship application, contact Grant at gdavies@minncle.org or **651-254-2111**.

ACCOMMODATION

If you have a disability and need an accommodation in order to attend, please contact Minnesota CLE at 2550 University Avenue West, Suite 160-S, Saint Paul, MN 55114 or call us at 651-227-8266 or 800-759-8840.

PARKING – SPECIAL DISCOUNTED RATE!

Parking is available in the City Center parking ramp for only \$13 per day if you arrive before 8:30 a.m. and leave after 1:00 p.m.

QUESTIONS?

Call Minnesota CLE at **651-227-8266** or **800-759-8840**.
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The 22nd Annual

ADR Institute

Friday, October 25, 2019

In-person replay dates available.

- *15 Insightful Presentations*
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Friday, October 25, 2019

Minnesota CLE Conference Center
600 Nicollet Mall, Suite 370
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In-person replay details inside.

The 22nd Annual

ADR Institute

The 2019 ADR Institute Welcomes



Dwight Golann

Professor Golann will deliver the keynote presentation on **The Impact of Loss in Mediation** and will also teach **The Parties Don't Want to Hold**

a Joint Session...What's Your Plan B? and present **Videos of Diverse Mediator Styles.**

- Professor and Director of the Center for Representation in Dispute Resolution, Suffolk Law School, Boston, Massachusetts
- Author of *Mediating Legal Disputes: Effective Strategies for Lawyers and Mediators* and *Sharing a Mediator's Powers: Effective Advocacy in Settlement*
- Scholar in Residence at the International Academy of Mediators



The ADR Section of the Minnesota State Bar Association
and Minnesota CLE proudly present

SCHEDULE

8:30 – 8:45 a.m. CHECK-IN & CONTINENTAL BREAKFAST

8:45 – 9:00 a.m. WELCOME & INTRODUCTION

9:00 – 10:15 a.m.

KEYNOTE PRESENTATION

Grieving over Settlement: The Impact of Loss in Mediation

The story of mediation is one of success, allowing parties escape from intractable disputes, often with value-creating deals. But this story obscures an underlying reality: Many, perhaps most, litigants experience the process of settlement as a loss. Perceptions of losing powerfully distort parties' decision making, generate feelings strikingly similar to those observed in terminally ill patients, and provoke behaviors similar to adversarial bargainers. This workshop explores why perceptions of loss are so strong, how they can derail the bargaining process, and what mediators can do to respond to them.

– *Dwight Golann*

10:15 – 10:30 a.m. BREAK

BREAKOUT SESSION A

101 Mediation Basics: Your First Mediation

Have you completed the 30-hour mediation training, but haven't mediated a case yet? Have you mediated a few cases, but still want a refresher on the basics? Experienced mediator Susan Mainzer reviews important steps in preparing for mediation, discusses process considerations and principles to keep in mind during mediation, and offers valuable tips for closing the mediation and completing post-mediation paperwork. Most importantly, she will answer your questions about any stage of the mediation process.

– *Susan D. Mainzer*

102 In-House Perspectives on ADR: What We Want from the Process and the Neutral

The impact of ADR is broad with ramifications that affect organizations and corporations. On the frontline of these institutions are in-house counsel. Have you ever wondered what in-house counsel thought about the usefulness of ADR for the legal support of their organization? This unique discussion will give you the opportunity to hear an esteemed panel of veteran in-house lawyers share their likes, dislikes, and priorities when engaging in ADR.

– *Jeffery S. Brockmann, Jen Dellmuth & Laurie A. Olson*
David J. Lauth, moderator

103 Mediation Ethics: Caucus Conundrums

1.25 ethics credit applied for

Mediation often involves the use of caucus or separate meetings with different parties. In fact, some parties never see each other during the entire process. What are the ethical issues that can arise when working with parties in mediation who never meet? Join mediators and trainers for a discussion of the ethical considerations that may come into play in the caucused mediation. Standards addressed will include: impartiality, confidentiality, conflicts of interest, quality of the process, working with pro se parties, and self-determination.

– *Leslie Sinner McEvoy & Linda Mealey-Lohmann*

104 The Top 10 Mistakes Family Law Mediators Make – and How to Avoid Them

A panel of seasoned family law mediators will discuss mistakes they have encountered in their careers, including: misstated agreements, confidential information leaks, bias towards one party, failure to screen for domestic abuse or coercive control issues, assuming "this will be an easy one" and more. Learn how to correct a deal-busting mistake, and how to effectively avoid future errors.

– *Michael C. Black, Dana McKenzie & Kristin Woulfe*
Marty Swaden, moderator

11:45 a.m. – 1:00 p.m. INSTITUTE LUNCHEON (Lunch provided)

12:15 – 12:45 p.m.

SPECIAL LUNCHEON PRESENTATION Now What?!

– *Madge Thorsen*

BREAKOUT SESSION B

201 2019 Arbitration Update: Key Developments in the Past Year

A review of case law developments affecting arbitration and the practical implications for advocates and arbitrators.

– *Liz Kramer*

202 Elimination of Bias: Religion and Politics – Mediating Values-Based Disputes

1.25 elimination of bias credit applied for

Discussions about politics and religion often devolve into passionate – and sometimes fraught – discourse. "Values-Based" or "Identity-Based" disputes can seem unresolvable and polarizing. As a mediator, these disputes can be even more challenging when we hold an opinion that threatens our impartiality. Through the use of core ADR practices, such as interest identification and reframing, mediators (and attorney representatives too) can foster mutual understanding and resolution between parties with differing points of view. Join our co-presenters for a review of best practices for dispute-resolvers in situations where values or identity play a significant role.

– *Elise M. Chambers & Alexander S. Glassman*

203 The Parties Don't Want to Hold a Joint Session... What's Your Plan B?

Increasingly lawyers tell mediators that their clients (or perhaps the advocates themselves) don't want a substantive joint session. They might agree to just a "meet and greet," they say, but it cannot include discussing the actual dispute – and if the mediator insists, they'll find someone else. This session explores why this is happening and why we care, then focuses on the difficult question: How can we develop substitutes, workarounds, and even maneuvers to achieve the benefits of a joint session when parties won't agree to talk directly with each other.

– *Dwight Golann*

204 Serving Incompetent Clients in the Family Law ADR Process

1.25 ethics credit applied for

What should an attorney do if they learn (or suspect) that their client is lacking in mental capacity? Is the ADR process appropriate? What are the ethical obligations of the attorney? When should you seek an appointment of a guardian ad litem? These questions, plus more, will be answered in this informative session.

– *Lisa Watson Cyr, Kathryn A. Graves & Amy M. Halloran*
Katie Kelley, moderator

2:15 – 2:30 p.m. BREAK

BREAKOUT SESSION C

301 Playing with Fire: The Challenges of Mediating Sexual Harassment and Gender Discrimination Claims in the #MeToo and #TimesUp Culture

The seismic and public reckoning that has unfolded in the aftermath of the Harvey Weinstein fallout is ushering in a new world order for the workplace. Where employees have initiated legal claims (or demand letters) against their employer alleging sexual harassment or gender discrimination, unique challenges lie ahead when parties consider mediating such disputes. This esteemed panel will dive into this hot topic with cogent and timely insights. This presentation is a highly interactive intermediate level session that is specifically designed for plaintiff/defense employment counsel, in-house counsel, and mediators.

– *Frances E. Baillon, Ann M. Clowser, Mary M. Krakow & Magistrate Judge Hildy Bowbeer*
Antone Melton-Meaux, moderator

302 Elimination of Bias: Mediating with LGBT Parties

1.0 elimination of bias credit applied for

Individuals from the LGBT community, like those in other marginalized groups, may be wary of using ADR processes based on concerns about whether the neutral, the lawyers, or the other parties will be culturally competent and whether the process can be truly fair. In this presentation, presenters Celeste Culberth and Martin Ho will discuss their experiences from all sides of the process, working with gay and transgender parties to make sure that they can fully participate in and benefit from the transformative possibilities of mediation.

– *Celeste E. Culberth & Martin B. Ho*

303 Strategies and Considerations for the Active Mediator

The panelists will discuss techniques, such as mediator's proposals, use of ranges and evaluative feedback, employed by active mediators. They will also discuss ethical and fairness issues that may arise in active mediations.

– *Judge Kathleen R. Gearin (ret.), Gregory M. Weyandt & Magistrate Judge Elizabeth Cowan Wright*
Magistrate Judge Arthur J. Boylan (ret.), moderator

304 Appointing, Maintaining, and Removing a Parenting Consultant

This experienced panel will discuss how to find an appropriate parenting consultant (PC), how to keep the professional engaged in an affordable manner, how to manage communication with the PC, and situations when a PC may not be appropriate. Learn what to do if a PC is no longer able to serve the parties, due to lack of payment, perceived bias, or refusal of a party to communicate in the process, and the ethical obligations involved.

– *Valerie D. Arnold, Jennifer E. Joseph, Andrea Niemi & Matthew Shore*

3:30 – 4:00 p.m.

Reception Break

Enjoy tasty snacks and refreshments while you network and relax with your colleagues.

4:00 – 4:45 p.m.

Fly on the Wall: Videos of Diverse Mediator Styles

It's a lonely profession... Have you ever wondered how other mediators do their work? We've filmed leading mediators from North America, Asia, Europe and Africa. Their styles, as you'll see, vary too widely to fit comfortably into a "Riskin Grid"; in fact, they often move from one approach to another in a single session. You'll observe how these mediators modify formats, tactics, emotions and body language as they move recalcitrant parties toward settlement. We'll stop the videos every few minutes, to ask the audience to discuss what they're seeing and how they might deal with the situation.

– *Dwight Golann*

PUBLICATION SALE!

Buy the *Minnesota ADR Handbook* at the Minnesota CLE Conference Center on October 25 and **save 20%**!



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The 22nd Annual ADR Institute

Friday, October 25, 2019
Minnesota CLE Conference Center, Minneapolis

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