

SUCCESSFUL ADVOCACY IN INSURANCE MEDIATIONS

For counsel and for insurance professionals:
enhance your ability to generate favourable
results at mediations.

Topics include:

- Establishing and maintaining your credibility with the mediator
- Tactics the other side will use and how to counter them
- Critical turning points in the mediation and the opportunities they pose
- Getting a failing mediation back on track
- Ethical and professional issues arising throughout the process

“*This is the best program that I have ever seen, that I have ever attended, or that I’ve ever been involved in...[on] mediation advocacy.*”

Jon Fidler, Distinguished Fellow, International Academy of Mediators

Register today at:

osgoodepd.ca/successfuladvocacy

Program Chairs

Frank K. Gomberg, Gomberg
Mediation Solutions Inc.

Paul Torrie, Global Resolutions

Dates and Times

Day 1: February 21, 2018

9:00 a.m. – 5:00 p.m. EST

Day 2: February 22, 2018

9:00 a.m. – 12:45 p.m. EST

In Person or Webcast

OPTIONAL WORKSHOP

February 22, 2018

1:45 p.m. – 4:45 p.m. EST

In Person

ONLINE REPLAY

March 27-28, 2018

Location

**Osgoode Professional
Development**

1 Dundas St. West, 26th Floor
Toronto, ON

A rare opportunity to get the tools you need to boost your effectiveness throughout the mediation process.

Mediation aims to settle disputes in a way that the parties can accept, at less financial and psychological cost than through traditional civil litigation.

Whether the mediation succeeds, or is a way-station on the road to the courtroom, it's a unique process – one that requires judicious handling on the part of counsel (for either side) and senior examiners and adjusters.

This OsgoodePD program is chaired by **Frank Gomberg** and **Paul Torrie**, two highly-respected mediators who have between them mediated over 5,000 insurance-related disputes, on top of longtime PI litigation experience. Together with a faculty of over twenty distinguished counsel and mediators, they will provide you with tools that will inform every mediation you appear on and maximize your ability to obtain the best possible results for your clients.

Plus!

An optional add-on workshop in which you'll apply the skills you've learned and receive individual feedback from mediation experts.

Who Should Attend

- Plaintiffs' and defendants' counsel in mediations involving insurers (including but not limited to tort and personal injury)
- Claims managers and other insurance professionals who make settlement decisions at mediation
- Institutional litigants who make settlement decisions at mediations

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Agenda

Day 1

February 21, 2018

8:30 a.m.

Registration and Continental Breakfast

9:00 a.m.

Chairs' Welcome and Introductory Remarks

9:10 a.m.

What's Unique About Mediation Advocacy?

Frank K. Gomberg, Gomberg Mediation Solutions Inc.

Paul Torrie, Global Resolutions

In this context-setting session, you'll get a realistic picture of the differences between mediation and other dispute resolution mechanisms, and the practical implications of those differences for counsel and insurance professionals. Understanding the differences – some obvious, some subtle – and how these should influence your approach before, during and following mediation, is key to maximizing your credibility with all parties, and your ultimate chances of a successful result.

9:50 a.m.

Your Relationship With the Mediator

Frank K. Gomberg, Gomberg Mediation Solutions Inc.

Kadey B.J. Schultz, Schultz Frost LLP

The mediator is a resource whose value to your case can be maximized or minimized according to the choices you make. This panel will dispel myths about how to deal with mediators and provide practical guidance on how to manage the relationship from the outset – or put it back on track if things are going amiss.

Topics include:

- Must you avoid disclosing your strategy to the mediator?
- How much candor can you afford?
- Can/should you 'hide behind the mediator'?

10:45 a.m.

Refreshment Break

11:00 a.m.

Handling Bad Behaviour and Difficult Personalities

Susan E. Gunter, Dutton Brock LLP

J. Jay Rudolph, Rudolph Mediation & Arbitration Services Inc.

Experienced counsel, insurance professionals and mediators all have to cope on occasion with behaviors that leave scars both on the process and the participants. Our panelists will offer practical insights to help you respond effectively while avoiding being manipulated or drawn into replicating the other side's unproductive or aberrant conduct.

12:00 p.m.

Lunchtime Learning Session

Applying Nonverbal Communication Skills For More Effective Advocacy

A presentation by **Dr. Mark G. Frank** that will deepen your insight on how your effectiveness at mediation may be increased or undercut by nonverbal cues (some culturally influenced) that the opposite party, that party's counsel and the mediator will pick up on, such as:

- Posture
- Eye contact
- Gestures
- Vocal tone
- Facial expressions

Learn how, with increased awareness of these cues, you can boost your ability to grasp the intentions of others and your overall credibility as an advocate.

Dr. Frank is Chair of the Department of Communication, as well as Director of the Communication Science Center at the University at Buffalo, The State University of New York. His work has been funded by The National Science Foundation, the U.S. Department of Homeland Security, the U.S. Department of Defense, and the intelligence community, and he has presented briefings on deception and counterterrorism to the U.S. Congress and the National Academies of Sciences. Dr. Frank's lecture series, *Understanding Nonverbal Communication*, is included in the Great Courses series.

1:00 p.m.

The Insurer's Representative In the Mediation Process

Paul Torrie, Global Resolutions (moderator)

A panel of senior insurance industry experts will explore the life of a file from its arrival in the claims department to the mediation table. They will discuss how reserves are set, the challenges of managing a file as evidence is gathered and what the opportunity to mediate means to them. They will also offer their views on the role they want to play in the process and what their expectations are of counsel on both sides of the table.

2:00 p.m.

Advocacy at the Mediation, Part 1 (Openings)

Catherine Bruder, Bruder Springstead LLP

Elizabeth Grace, Lerner LLP

Rebecca L. Nelson, Azevedo & Nelson

Paul Torrie, Global Resolutions (moderator)

This session will examine the utility of openings at mediation—a matter of some debate – as well as the elements of an effective opening.

Demonstrations of openings will be shown and dissected by a panel of experts. The advantages and disadvantages of both 'hard' and 'soft' approaches will be illustrated and discussed, along with choosing the approach that best fits with the demands of the particular case and with the speaker's individual style.

5:00 p.m.

Day 1 Ends

All are welcome to attend a post-program reception.

Day 2

February 22, 2018

8:30 a.m.

Registration and Continental Breakfast

9:00 a.m.

Advocacy at the Mediation, Part 2 (After the Opening: Crucial Turning Points and Breaking Impasses)

Heidi R. Brown, Bogoroch & Associates LLP

Christine Fotopoulos, Global Resolutions

Frank K. Gomberg, Gomberg Mediation Solutions Inc. (moderator)

Matthew B. Lerner, Lenczner Slaght Royce Smith Griffin LLP

Using examples and/or demonstrations, our experts will take you through some commonly-encountered problems in the mediation room that complicate attempts to settle cases, with the emphasis on creative solutions and approaches which counsel and insurance professionals can employ to put a potentially or actually failing mediation back on track.

11:45 a.m.

Ethical and Professional Issues In Insurance Mediations

Deborah Berlach, Stieber Berlach LLP

Valerie A. Edwards, Torkin Manes LLP

Judith A. Hull, McKenzie Lake Lawyers LLP

Gavin MacKenzie, MacKenzie Barristers

*Paul Torrie, Global Resolutions
(moderator)*

An experienced panel will review a sequence of fact situations raising vexing ethical and professional questions that you will face before, during and after mediation.

12:45 p.m.

Day 2 Plenary Session Ends

Optional Add-On Workshop

1:45 p.m.

Effective Written Advocacy In Insurance Mediations

Antonella Ceddia, Lawyer, Legal Services, City of Toronto (Litigation)

Frank K. Gomberg, Gomberg Mediation Solutions Inc.

Paul Torrie, Global Resolutions

Using a learning-by-doing, exercise-based approach, and providing attendees with personalized feedback, this small-group workshop will provide a rare opportunity to learn and apply key techniques for generating a persuasive mediation brief.

4:45 p.m.

Workshop Ends

What previous program attendees have said:

“*Excellent program: comprehensive and very informative discussions from both plaintiff and defendant perspectives... Practical examples were very effective to illustrate points and strategy. Mediations had become a somewhat routine exercise in my practice and today’s program has inspired me to use some of the tools and strategies in my openings and dealings with my client.*”

Grace Leung, Bruder Springstead LLP

“*A very well-conceived program designed to arm a litigator... with basic and advanced skills for mediation as well as an understanding of some of the more nuanced aspects of mediation strategy, process and problems.*”

Jayashree Goswami, Zurich Canadian Holdings Ltd.

“*All the panelists were very informative and it was very helpful to hear from so many experienced lawyers and mediators.*”

Paul Ratcliffe, Buset & Partners LLP

“*Much-needed program. Excellent!*”

William Blakeney, Blakeney Henneberry Murphy & Galligan

“*The panels were exceptional, well-organized and relevant.... not a boring moment.... superb and helpful program.*”

Stephen Newell, Hooper Law

Drawing on the expertise and experience of leading lawyers and mediators, including:

Program Chairs



Frank K. Gomberg
Gomberg Mediation Solutions Inc.



Paul Torrie
Global Resolutions

Program Faculty

Deborah Berlach

Stieber Berlach LLP

Heidi R. Brown

Bogoroch & Associates LLP

Catherine Bruder

Bruder Springstead LLP

Antonella Ceddia

Legal Services, City of Toronto
(Litigation)

Valerie A. Edwards

Torkin Manes LLP

Christine Fotopoulos

Global Resolutions

Dr. Mark G. Frank

Chair of the Department of
Communication, & Director of the
Communication Science Center at
the University at Buffalo, The State
University of New York

Elizabeth Grace

Lerners LLP

Susan E. Gunter

Dutton Brock LLP

Judith A. Hull

McKenzie Lake Lawyers LLP

Risa M. Kirshblum*

Lenczner Slaght Royce Smith
Griffin LLP

Troy Lehman*

Oatley Vigmond Personal Injury
Lawyers LLP

Matthew B. Lerner

Lenczner Slaght Royce
Smith Griffin LLP

Gavin MacKenzie

MacKenzie Barristers

Jerome R. Morse*

Morse Shannon LLP

Rebecca L. Nelson

Azevedo & Nelson

Donna A. Polgar*

Dutton Brock LLP

Donald H. Rogers*

Rogers Partners LLP

J. Jay Rudolph

Rudolph Mediation & Arbitration
Services Inc.

Kadey B.J. Schultz

Schultz Frost LLP

Robert W. Traves*

Borden Ladner Gervais LLP

* Demonstrating mediation advocacy approaches on videotape

Our past attendees say it best:

“*Very educational and useful for future mediations.*”

Bradley Lewis
Claims Representative, Intact Insurance Company

“*Good practical tips that could be applied to practice immediately.*”

Joanna Eubanks
Shah Eubanks Professional Corporation

“*Great program.*”

Christopher Statham
Devry Smith Frank LLP

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Registration Details

Fee per Delegate

Program Only: \$695 plus HST

Program + Workshop: \$895 plus HST

Fees include attendance, program materials, continental breakfast, lunch and break refreshments. Group discounts are available. Visit www.osgoodepd.ca/group-discounts for details. Please inquire about financial assistance.

Program Changes

We will make every effort to present the program as advertised, but it may be necessary to change the date, location, speakers or content with little or no notice. In the event of program cancellation, York University's and Osgoode Hall Law School's liability is limited to reimbursement of paid fees.

Cancellations and Substitutions

Substitution of registrants is permitted at any time. If you are unable to find a substitute, a full refund is available if a cancellation request is received in writing 14 days prior to the program date. If a cancellation request is made with less than 14 days notice, a \$75 administration fee will apply. No other refund is available.



OsgoodePD has been approved as an Accredited Provider of Professionalism Content by the LSUC.



Eligible CPD/MCLE hour:

Program Only – LSUC (ON): 11h 15m CPD (9h 45m Substantive; 1h 30m Professionalism)
Program + Workshop – LSUC (ON): 14h 15m CPD (12h Substantive; 2h 15m Professionalism)

OsgoodePD programs may be eligible for CPD/MCLE credits in other Canadian jurisdictions. To inquire about credit eligibility, please contact cpd@osgoode.yorku.ca

 osgoodepd.ca

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Successful Advocacy In Insurance Mediations

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