



# THE ESSENTIAL GUIDE TO ESTATE DISPUTE MEDIATIONS: UNIQUE CHALLENGES, CREATIVE SOLUTIONS FOR COUNSEL

Identify and master the distinctive challenges of mediation in the estate dispute context.

- Preparation for the mediation: documentation, choice of mediator, timing, and managing the expectations of parties in these often emotionally fraught disputes
- Most effective techniques and problem-solving approaches for counsel at the mediation
- Impact of substantive estates and family law issues on the mediation
- Documentation and implementation of the settlement

Register today at:

[osgoodepd.ca/estatemediations](http://osgoodepd.ca/estatemediations)

## Program Chairs

Ian M. Hull  
Hull & Hull LLP

Paul Torrie  
Global Resolutions Inc.

## Date and Time

June 5, 2019  
9:00 a.m. – 4:30 p.m.  
In Person or Webcast

Online Replay:  
August 15, 2019  
9:00 a.m. – 4:30 p.m.

## Location

Osgoode Professional  
Development  
1 Dundas St. West, 26th Floor  
Toronto, ON

# The Essential Guide To Estate Dispute Mediations: Unique Challenges, Creative Solutions For Counsel

Learn how to avoid the traps that confound even experienced advocates in the mediation of estate disputes, from the initial fact-gathering stages through the mediation itself, to documenting a settlement that can be implemented successfully.

In this intensive new one-day program, an expert faculty will set out essential strategies and tactics for managing the mediation narrative in a way that will be coherent and persuasive to the mediator and which will also avoid or minimize the risks of solicitors' negligence throughout the process.

## Topics Include

- Dealing with the substantive estates law issues that will arise at or influence the mediation, including dependants' relief, variation of trusts claims, and matters impacting the interests of minors or individuals with diminished mental capacity
- Next steps in the event that the settlement is not approved by the Court
- Dealing with difficult or emotional parties and with self-represented parties
- Recent trends in the use of med-arb in resolving estate disputes

## Who Should Attend

- Counsel and other professionals who appear on mediations of estate disputes.

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## Agenda

**8:30**

**Registration**

**9:00**

**Chairs' Welcome and Introduction:  
The Particular Challenges of Estate  
Mediations**

**Paul Torrie**

Global Resolutions Inc.

**Ian M. Hull**

Hull & Hull LLP

- Family relationships
- Strategies for assisting in the preservation of positive relationships during the mediation and beyond
  - Repairing family relationships as part of the mediation process
  - Factoring in the likelihood of ongoing relationships after mediation
- Use of opening statements
- Situations in which open plenary sessions may or may not be suitable
- Use of staged negotiations and negotiation strategies

**9:30**

**Estate Mediation Preparation Steps**

**Christine Fotopoulos**

Global Resolutions Inc.

**Paul Torrie**

Global Resolutions Inc.

**Craig R. Vander Zee**

Torkin Manes LLP

- Preparation that appropriately reflects the purposes of the mediation
- Identifying financial interests (and, to the extent possible, their approximate values) and encouraging the participation of all parties with a potential financial interest
- Choice of mediator
- Knowing your mediator

- Documentary preparation
  - Ensuring that the mediator has the opportunity to review all key documents
  - What types of documents should or should not be included as tabs to a comprehensive yet concise mediation brief?
- Timing of the mediation: before or after examinations? before or after formal litigation has been commenced?
- Preparing the client and managing expectations
  - Advising clients of the best and worst alternatives to a negotiated agreement and the next steps in the litigation (and related costs) should mediation fail

**10:15**

### Refreshment Break

**10:30**

### Best Practices in the Mediation and Documenting the Settlement Properly

**Ian M. Hull**

Hull & Hull LLP (moderator)

**Bryan A. Tannenbaum**

RSM Canada Limited

**Paul Torrie**

Global Resolutions Inc.

**Kimberly A. Whaley**

WEL Partners

- Conducting the mediation
  - The impact of counsel's obligations under the *Rules of Professional Conduct*
  - Tips and traps
- Reacting to emotional clients and counsel
  - Best practices in ensuring clients are in the right state of mind to make decisions regarding settlement
- Use of precedent briefs and precedent clauses
  - Avoiding over-reliance on precedents
  - Accommodating the unexpected in the implementation of settlement terms

**12:15**

**Lunch**

**1:00**

### Use of Med-Arb in Mediation in Estates

**Karon C. Bales**

Bales Beall LLP

**Aaron Franks**

Epstein Cole LLP

**Paul Torrie**

Global Resolutions Inc. (moderator)

**Charles Wagner**

Wagner Sidlofsky LLP

- Recent trends in the use of the process
- Reviewing the legal parameters
- Tackling ethical issues presented by med-arb in particular

**1:45**

### Solving Specific Problems Under Applicable Estates, Trusts and Family Law

**Shael Eisen**

Eisen Law

**Ian M. Hull**

Hull & Hull LLP (moderator)

**Felice C. Kirsh**

Schnurr Kirsh Oelbaum Tator LLP

**Charles B. Ticker**

Charles B. Ticker Law Office

- This session will serve as a refresher and a checklist of matters commonly arising in preparing for or advocating at the mediation, in such areas as dependant's relief, will clause interpretation and wills challenges, and variation of trusts claims, along with:
- Solicitor's negligence: areas to watch
    - Whether solicitor's negligence claims ought to be mediated independently or as part of the mediation of a related estate proceeding
  - Matters impacting the interests of minors or individuals lacking mental capacity
    - Ensuring that settlements are in the best interests of vulnerable persons
    - Considering future applications or motions for court approval;

contemplating next steps should the settlement not be approved by the Court

**2:45**

### Refreshment Break

**3:00**

### Ethical and Professional Issues in Estate Mediation

**Howard S. Black**

Minden Gross LLP

**Stephen Grant LSM, ASM, Cert. F. Arb**

Grant Crawford Watson LLP

**Shannon Moldaver**

Shannon Moldaver Dispute Resolution Inc.

**Paul Torrie**

Global Resolutions Inc.

A discussion, based on realistic fact situations, of ethical and professional conundrums in this area and their solution, with reference to the Rules of Professional Conduct and other relevant law. Includes:

- The importance of understanding how culture impacts the perspectives of parties to the mediation
- Strategies for identifying and managing mediations with cultural awareness and competence
- Screening for domestic violence prior to mediation
- Accommodating the self-represented party at mediation

**4:15**

### Question and Answer Period

**Ian M. Hull**

Hull & Hull LLP

**Paul Torrie**

Global Resolutions Inc.

**4:30**

**Program ends**

## Chairs

Ian M. Hull  
Hull & Hull LLP

Paul Torrie  
Global Resolutions Inc.

## Faculty

Karon C. Bales  
Bales Beall LLP

Howard S. Black  
Minden Gross LLP

Shael Eisen  
Eisen Law

Christine Fotopoulos  
Global Resolutions Inc.

Aaron Franks  
Epstein Cole LLP

Stephen Grant, LSM, ASM  
Grant Crawford Watson LLP

Felice C. Kirsh  
Schnurr Kirsh Oelbaum  
Tator LLP

Shannon Moldaver  
Shannon Moldaver Dispute  
Resolution Inc.

Bryan A. Tannenbaum,  
FCPA, FCA, FCIRP, LIT  
RSM Canada Limited

Charles B. Ticker  
Charles B. Ticker Law Office

Craig R. Vander Zee  
Torkin Manes LLP

Charles Wagner  
Wagner Sidlofsky LLP

Kimberly A. Whaley  
WEL Partners

### What attendees said about previous *OsgoodePD* programs on estate disputes:

*“Very impressive line-up of speakers with very useful comments. The practical case study portion of the program was especially helpful. Materials excellent.”*

Christopher D. Salazar, HGR Graham Partners LLP

*“This program provided a lot of insight into the ‘back-end’ of the wills process when things go awry.”*

Charles Eyton-Jones, Barrister & Solicitor

## Registration Details

Fee per Delegate  
**\$695 + HST**

**\*Special offer:** Bundle pricing of **\$1295 + HST** for this program (June 5, 2019) **PLUS** *Estate Litigation: The Practical Guide For Legal Professionals* (in three evening sessions: May 14, 21 & 28, 2019)

Fees include attendance, program materials, lunch and break refreshments. Group discounts are available. Visit [www.osgoodepd.ca/group-discounts](http://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.



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The Essential Guide To  
**Estate Dispute Mediations:**  
Unique Challenges, Creative Solutions  
For Counsel

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