President’s Message

It has been an honour to serve as your President for the last 2 years. Thank you to our dedicated staff and enthusiastic volunteers. Through your work, our section meetings, professional development programs, and rosters are helping to meet the needs of our members throughout Ontario.

I extend a special thank you to my fellow members of the Board of Directors. This is a very committed group of volunteers who have met the challenges and consistently managed to make time to advance ADRIO. During the last two years we concluded an ambitious strategic planning process. We launched the internship pilot program. We welcomed a new Executive Director, Susette Clunis. We streamlined many processes throughout the organization.

In ADRIO we are building relationships with institutions in need of conflict resolution processes. We are also building relationships with schools educating the newest ADR professionals. ADRIO is committed to improving recognition of the work that our members do so that we can all grow as individuals and as a community of professionals.

Members, we need even more of your creativity and your experience! Consider being an active member and help the organization while ramping up the benefits for yourself. Join a committee, an excellent way to connect with other professionals. Take a leadership role in a section, a great way to network and learn new skills. Participate in our internship program, to share your experience with the next generation of mediators or to put your learning into a practice setting. Run for election to the Board of Directors. Read the newsletter and Member Bulletins to find out about opportunities to get more value out of your ADRIO membership.

On June 2, 2016 join us for another inspiring professional development event along with our Annual General Meeting. Every year at this event, I enjoy meeting new people and learning new ideas. This year we will be challenged with some of the hot topics in the ADR field. Join us at the Metro Toronto Convention Center. More information is available online.

Welcome to our incoming President, Jennifer Bell. I look forward to new projects to support the growing ADR industry. Jennifer and I, along with the entire ADRIO board and staff, will continue building bridges within the ADR field and outside it. We hope you will join us.
The ADR Institute of Ontario is proud to present

Civil Procedure Workshop for Non-Lawyer Mediators

The ADR Institute of Ontario is pleased to present a full-day workshop covering the basics of civil procedure in Ontario for non-lawyer mediators. The workshop goes toward fulfilling the civil procedure requirements for the Ontario Mandatory Mediation Program (OMMP). Topics will include:

**Basic Civil Procedure** - the litigation process from start to finish, each of the steps in a lawsuit, cost implications, a glossary of legal terms, and what mediators need to know about the process;

**Civil Procedure for Contract & Employment Claims** - legal concepts and terminology related to two of the most common file types that reach mediation: basic contract disputes and wrongful dismissal;

**Civil Procedure for Tort & Insurance Claims** - concepts and terminology specific to both insurance and personal injury claims and the various automobile insurance acts passed over the last decade.

Click here for more information and to register.

http://adrontario.ca/resources/event_details.cfm?announcementId=2467

**Excellent Workshop, very well organized, chock-full of useful information!** Gary Furlong is incredibly knowledgeable and has a very engaging style as a presenter with infectious enthusiasm. I will take any workshop I can if he is presenting.

— Joan Cass, MSW, RSW

ADR Institute of Ontario, 234 Eglinton Avenue E., Suite 405, Toronto.
Upcoming Events & Courses

Please register for events via your Member Portal. Registration links for non-members may be found on the website.

Events

**Membership Orientation**
May 18, 5:30—7:00 pm EST
ADRI Office
234 Eglinton Ave. E., Suite 405, Toronto

This event is held twice per year and is designed to introduce new and prospective members to ADRI's structure, requirements, and all it has to offer! You will gain a better understanding of this organization, our strategic alliances, partnerships and relationships with ADRIC. You will meet some of our Committee and Section Chairs, staff, and fellow members. Tap into our wide network! This event is free, you can attend in person or online, and advanced registration is required. Details and registration at [adrontario.ca](http://adrontario.ca)

**ADRI Annual General Meeting and Professional Development Program**
June 2, 8:30 am—2:00 pm EST
Metro Toronto Convention Center
255 Front Street W., Room #201BD, Toronto

The ADR Institute of Ontario (ADRI) is looking forward to seeing our members at our Annual General Meeting on June 2nd, 2016 at the Metro Toronto Convention Center. Following the meeting, stay for professional development, lunch, networking, and a keynote address from Kim Stanton, Legal Director for Women’s Legal Education and Action Fund (LEAF). See the program:

Med-Arb: Risks and Rewards
Moderator—Ian Mackenzie, Panel—Hilary Linton, Barry B. Fisher, David McCutcheon, Kathleen Kelly

The ADR Transition: From learning skills to successful results
Moderator—Kim Parish, Panel—Jeff Musson, John Becker, Lorraine Joynt, Jennifer Bell

Keynote Speaker: Kim Stanton
Legal Director, Women’s Legal Education and Action Fund

Beyond Settlement: PD Webinar with Michael Lang
June 23, 5:45—7:15 pm
Webinar Only

That mediation is focused on attaining solutions and helping parties reach an agreement is central to a mediator’s professional responsibility. However, when problems arise the mediator’s behavior can inadvertently influence the parties in negative ways – especially when the approach is singularly focused on settlement.

Well known and regarded mediator Michael Lang believes mediators can help parties reach mutually acceptable agreements in a way that enlarges, rather than constrains, the parties’ discussion and the development of practical solutions. He will share his expansive knowledge and experience with us in this webinar brought to you by the Professional Development Committee.

Details and registration via your Member Portal.

**ADRIC 2016—ADR: Reflections and Innovations**
October 13 & 14, 2016
Ritz-Carlton Hotel, Toronto

*In conjunction with* The Global Pound Conference & Full-day Workshop: Getting the Most Out of Arbitration

Details and registration available online at [adric.ca/adric2016/](http://adric.ca/adric2016/).

**National Introductory Arbitration Course**
November 23-December 1, 2016
Regina, Saskatchewan

Registration online at [www.adrsaskatchewan.ca/](http://www.adrsaskatchewan.ca/).

**ADRI Special Interest Sections Meetings**
There are over a dozen sections hosting meetings throughout the year. Advance registration is required via your Member Portal and previously recorded meetings are also available on your Member Portal. View a list of our Sections [here](#) and view meetings [online here](#).

Courses

**Practical Ethics for Working Mediators**
Ongoing, 24/7 Online Access
[http://www.adrontario.ca/resources/](http://www.adrontario.ca/resources/)

**Civil Procedures Workshop**
In-person, once - twice per year
Call ADRI office: 416-487-4447 for next course date

**ADRI Approved Courses**
The Education Committee has evaluated and approved courses which meet the educational criteria for membership in ADRI. See these approved courses [online](#).

**Other Courses**
Many ADRI members list ADR courses on our website. You can see courses [online](#).
Canadian businesses are turning to arbitration with increasing frequency as a way to resolve business disputes within time frames and budgets that make business sense. All types of business disputes are being resolved in this manner and, increasingly, arbitration is seen as a way to provide customized solutions for particular types of disputes.

Commercial arbitration in Canada has many unique features that are often overlooked in programs that focus more heavily on international arbitration and arbitration institutions. The predominantly ad hoc nature of Canadian arbitration creates many opportunities for flexible and creative approaches to arbitration procedure. However, lawyers and arbitrators must be familiar with the available choices, trade-offs and limitations in order to meet the expectation that arbitration will in fact provide more efficient and cost-effective processes.

This program will focus on key elements of the commercial arbitration process in which participants will hear from and interact with leading practitioners to develop an enhanced understanding of how commercial arbitration is being practised in Canada today, and how it may be improved.

Learn from an outstanding faculty:

Edward J. Rabin
LL.M.,
Babin Bessner Spry LLP

J. Brian Casey
FCIARB,
Bay Street Chambers

Mary Comeau
LL.B, Norton Rose Fulbright Canada LLP

Bryan C. Duguid,
Q.C., FCIARb,
Jensen Shawa Solomon

Gerald Ghikas,
Q.C., C.Arb,
Ghikas Arbitration

David McCutcheon,
LL.B., C.Arb,
Dentons Canada LLP

Participants will be encouraged to send in questions before the program and to present those or other questions during the program. Each module will begin with a 10 to 20 minute presentation in total by one or more speakers, followed by an open discussion format guided by the topic outline.


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The Mediation Introduction –
Off to a Good Start, Onto a Good Settlement

Although the mediation introduction only represents a small fraction of the conversation that occurs between the mediator and the parties, it is arguably the piece that carries the most weight on the success of the mediation.

By: Rachel Frydman, BHSc, Q.Med

YorkStreet Dispute Resolution’s Peter Braund and Fred Sampliner, both mediators, shared personal anecdotes as well as best practices for conducting an effective mediation introduction.

The first step in mediation actually occurs before the meeting of the parties. Reviewing materials is a vital activity that allows the mediator to achieve better foresight into the mediation issues and the dynamics of both the counsel and the parties involved. Even the few minutes prior to the mediation are critical, according to Peter. Personally, he enjoys arriving early and taking some time to himself on the day of the mediation. He also urges the mediator to strike casual conversation with the parties as a way to both “set the tone” as well as learn tidbits about the parties that may end up helping move the session forward. Peter and Fred agree upon three essential ingredients that must be gained by the mediator during this short window of time: trust, credibility, and empathy. Without these, it is extremely difficult to convince the parties that settlement based on compromise is in their best interest at that moment in time.

One of the best weapons that a mediator has to use with the parties in order to help a settlement be reached is the truth about the legal system. This includes discussion of the negative aspects of trial as well as the positive aspects of resolution at that point in time. Fred always approaches his clients by having them realize that they have the “proper information to analyze things, proper people here, and we’ve got the time, we’ve got all day, we won’t have this opportunity again...”

The next step in the mediation introduction is the establishment of ground rules. While Peter admits that he may be one of few,

Peter Braund is a mediator, arbitrator, appraiser and neutral evaluator with YorkStreet Dispute Resolution Group Inc. Peter was called to the Ontario Bar in 1971 and obtained his LL.M. from York University / Osgoode Hall Law School in 1977. Peter attended the Advocates’ Society Harvard Mediation Course in 1997, and completed the University of Windsor ADR and Advanced ADR Mediation Courses with Stitt Feld Handy in Toronto in April and July of 2010. Peter has practiced Civil Litigation at Borden Ladner Gervais LLP for over forty-one years.

Fred Sampliner is a lawyer who served 20 years as an arbitrator at the Financial Services Commission of Ontario (formerly the Ontario Insurance Commission). He is well-known for his ability to direct parties towards an amicable resolution of personal injury claims. Fred’s extensive knowledge of the various Accident Benefits Schedules, the Insurance Act and tort law have assisted parties settle thousands of complex cases. He has issued over 200 reasoned decisions on insurance claims, trained the Commission’s arbitration and mediation staff and has spoken at many practice seminars.

He values the use of a flip chart to provide a common focal point to share the following 7 C’s: confidentiality, civility, convincing, caucusing, clients come first, compromise, and concluding settlement. This provides order and structure at the outset of the mediation. Also on the flip chart, the main issues to be discussed should be outlined. Peter finds that this keeps the clients focused and engaged. In reference to confidentiality, Fred adds another ‘C’ to the conversation: control. He explains to his clients that the spirit of mediation is not to win the case, but to have the most control over its outcome, and this usually requires compromise.
It is never too early in a mediation to anticipate the hurdles that will ultimately cause its demise. A common potential “ticking time bomb” that can occur in mediation is when a party admits to not having the authority to settle the case under any other conditions than what was discussed with the proper authority. It is therefore important to ensure that all parties present do have the authority to negotiate beyond boundaries that were provided by higher authorities. Other time bombs can be diffused by seemingly simple strategies such as taking breaks or grabbing a refreshment. People tend to be much more willing to continue the process once they are comfortable. Another tip to generating successful mediations is to structure the order of issues logically. Peter and Fred suggest beginning with non-contentious issues and then moving towards contentious ones. In cases of insurance mediation, liability issues are often dealt with before issues of damages.

Fred likes to do “spot checks” on the individuals involved in the mediation to ensure their understanding of the process. If there are questions at any point in the mediation, Fred asks his clients to write them down rather than interrupt. This way, the mediation can continue in a respectful manner where all parties have the opportunity to both speak and be heard.

Peter and Fred spoke to the social and emotional aspects of mediation, even in the cases of corporate and insurance settlements. This was reiterated when a question was asked towards the end of the session about mediating through the phone. The general feeling around this is that it is much preferable to be able to interact with clients face-to-face in order to be able to achieve all that the mediation introduction, and subsequent negotiations, set out to accomplish.

The ADR Institute of Canada is playing a key role in hosting the Canadian Edition of the IMI Global Pound Conference Series 2016-2017 this October in Toronto, in conjunction with ADRIC 2016: Annual National Conference. The Global Pound Conference (GPC) Series 2016-17 will facilitate the development of 21st century commercial and civil dispute resolution tools, at domestic, regional and international levels. Launching in Singapore and finishing in London, the GPC Series will convene all stakeholders in dispute resolution - commercial parties, chambers of commerce, lawyers, academics, judges, arbitrators, mediators, policy makers, government officials, and others - at conferences around the world.

36 cities across 26 countries are already confirmed. These conferences will provoke debate on existing tools and techniques, stimulate new ideas and generate actionable data on what corporate and individual dispute resolution users actually need and want, both locally and globally.

If you have any interest in the future of ADR, you will want to be there!
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Case Comment

Jacob Securities Inc. v Typhoon Capital B.V., [2016 ONSC 604 (CanLII)]
Jacob Securities Inc. v Typhoon Capital B.V., [2016 ONSC 1478 (CanLII)] (costs decision)

Ontario courts are generally favourable to private arbitration. This message was reinforced earlier this year, when the Ontario Superior Court of Justice dismissed a challenge to an arbitrator’s impartiality and awarded $55,000 in costs against the challenger.

The case involved a contract between a Dutch company (Typhoon) and its subsidiary, which develop energy projects, and a Canadian investment bank (Jacob) which was engaged to raise financing for those projects. A dispute arose relating to Jacob’s entitlement to compensation for financing provided by Northland Power Inc. and Northland Capital Inc. (“Northland”) for a venture called “Project Gemini.”

Thomas Heintzman, an experienced Toronto litigator and retired partner of McCarthy Tetreault, was appointed sole arbitrator under the Engagement Agreement between Typhoon and Jacob. After he dismissed Jacob’s claim for compensation in an award issued in October 2015, Jacob retained new lawyers to challenge the award.

Jacob did some research and found that McCarthy’s had acted for Northland or its securities underwriters on several transactions, including acting for the underwriters on Project Gemini, prior to the date Mr. Heintzman retired from the firm. When he was appointed, Mr. Heintzman confirmed that he was not aware of any conflict relating to the parties or their individual principals. The parties also confirmed that they were not aware of any conflict or grounds to object to the appointment.

Although both Typhoon and Jacob said they were unaware of the relationship between McCarthy’s and Northland, that information was readily available in public securities filings at the time of the appointment. They could have found it, if they had looked.

Everyone agreed that Mr. Heintzman had no actual knowledge of the relationship between McCarthy’s and Northland when he was appointed or at any point during the arbitration, but Jacob argued that he should have done a search with his former firm and disclosed the conflict.

The judge noted that it is common for commercial arbitrators to be partners or former partners of a law firm. He agreed that “an arbitrator who is a partner of, or otherwise works for a law firm, has a positive duty to investigate any potential conflicts of interest with his or her law firm in order to satisfy his or her disclosure obligations.” (56)

However, as a retired partner, Mr. Heintzman had no access to McCarthy’s client records to do a conflict search.

As, Justice Mew noted:

(59) As a practical matter, firms such as McCarthy’s owe an obligation to their clients not to disclose confidential information to third parties, which would include former partners and
lawyers. It is presumably for that reason that McCarthys are rarely asked to conduct conflict searches by individuals who formerly worked at the firm. Furthermore, the parties to a private arbitration might have confidentiality concerns of their own about their names being run through the conflict search system of a firm that an arbitrator is no longer a member of.

In his decision, Mr. Justice Mew said there is a strong presumption of arbitrator impartiality. He concluded that:

(61) A reasonable person would not conclude that there was a reasonable apprehension of bias on the part of the Arbitrator. The Arbitrator did not have a duty to disclose any connection between his former firm and the underwriters or Northland. The connection between the Arbitrator and his former firm’s representation of those parties is too remote. Despite the Arbitrator having only been retired for approximately one year when he accepted the appointment as arbitrator in this case, he was no longer able to conduct a conflict search, in any event. Furthermore, he was unaware of such connections, whether or not such connections were sufficient to question his impartiality. As such, the applicant has failed to rebut the presumption of impartiality. The application is therefore dismissed.

The judge went on to strongly criticize Jacob for raising the challenge to the arbitrator’s impartiality after the fact. He called the challenge “a thinly disguised attempt to avoid the consequences of an adverse decision on the merits,” and said he thought Jacob should pay costs on a “substantial indemnity” basis “to deter losing parties in international commercial arbitrations from launching baseless ex post facto challenges to an arbitrator’s impartiality.”

After receiving further written submissions from both parties, Justice Mew acknowledged that the case did raise novel points of law that hadn’t been decided in Canada. However, “the fact remains that the applicant purposely went out looking for some reason to be able to challenge an award which, because it was an international arbitral award, was not susceptible to appeal.”

Having considered the appropriate sanction further, he concluded that the application was one “straddling the dividing line between a speculative claim on the one hand, and, on the other, one which raises bona fide novel or untested issues.”

So he decided to give the applicant the benefit of the doubt and reduced the award to a “partial indemnity” of $55,000, which covered only part of the legal costs.

Parties to an arbitration in Ontario should take a strong warning that they can’t go looking for excuses to overturn an arbitration award after the fact. If they aren’t successful, it could be a very costly exercise.

And arbitrators should take this as a timely reminder to fully disclose any circumstances they are aware of that might give rise to a future challenge, including business or personal relationships with the parties, their counsel, known witnesses, and any related parties. Ensure that the parties themselves make full disclosure as well.

Although disclosure may sometimes result in the loss of an appointment, it will ensure that an award cannot be challenged later.
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A WORLD LEADER IN LAW SCHOOL LIFELONG LEARNING
On September 30, 2015, the ADR Institute of Ontario (“ADRIO”)’s new Special Interest Section (SIS), Conflict Management Coaching, held its inaugural live program and webinar. Hosted by co-chairs Cinnie Noble and Shelley Stirling-Boyes, this first meeting was a general discussion about the group’s goals, topics for speakers and meetings, and other subjects of interest to members.

Ms. Noble is a pioneer in conflict management coaching (also known as conflict coaching) and began the section out of a recognition that the field has grown immeasurably in recent years, as has the demand for it. She started off the meeting by defining conflict management coaching as “a technique that helps people on a one-on-one basis to develop and enhance their skills, knowledge, and competencies to effectively engage in and manage interpersonal conflict.” Ms. Noble elaborated that it is a voluntary and confidential process focussed on achieving the individual’s conflict management goals. It can be used in tandem with any other Alternative Dispute Resolution (ADR) process or independently of ADR when clients want to manage their conflicts without the intervention of a third party (or when only one disputant shows up for mediation).

Ms. Stirling-Boyes described her involvement in conflict management coaching as an outgrowth of her mediation practice, through which she conducts family and workplace mediation, workplace assessments, and conflict resolution and communication training. Her experience led her to recognize that mediation is often more successful when individual parties are coached at the beginning of the process on ways to communicate more effectively.

Mediation is often more successful when individual parties are coached at the beginning of the process on ways to communicate more effectively.
incumbent on us to make it as easy as possible on people to be able to actively engage in mediation by providing pre-mediation coaching. This involves, among other things, “having parties identify what is important to them, what they want to express and how, what they want to be most prepared for, and other variables to help them interact and communicate in confident and constructive ways”.

As part of this first meeting, the co-hosts canvassed the on-site and online participants to find out their backgrounds and interests for topics to cover during section meetings. The diverse group included audience members involved in health care, workplace accommodation for disabilities, finance, family mediation, multi-party negotiations, labour relations, municipal land use planning, First Nations issues, the federal bureaucracy, and the military. The group’s interests were equally wide-ranging. For instance, audience members requested the SIS address how to apply conflict management coaching to elder mediation, and to youth-peer and group work. Additional ideas included how to support a party who has initiated a mediation process when the other party refuses to participate, how to better help high-conflict people recognize their contribution to their conflict, how to address the problem of clients bullying staff, and how to market conflict management coaching. Attendees also suggested that this SIS include real life case studies in its program.

An audience member was interested to discuss how mediators can build self-awareness about their own responses to conflict. Ms. Noble welcomed the suggestion and talked about how coaching in this area (as in other conflict management practices) involves modelling conflict competence and that coach training typically includes reflective work.

Ms. Noble and Ms. Stirling-Boyce have found that clients are eager to learn effective conflict management skills, whether it is for an upcoming ADR process or to better manage their professional and personal lives.

Vote in the

**ADRIO ELECTION!**

All full members are eligible to vote in our annual election. We remind you to do so by June 2nd at 8:30 AM using the unique link sent to your email inbox. The new board will be announced during the Annual General Meeting on June 2nd.

ADRIO Internship Program

**Seeking Supervisors:**

ADRIO’s new Internship Program is seeking additional supervisors for Interns throughout the GTA. You will find a comprehensive description of the program, a supervisor application, and an agreement governing the supervisor/supervisee relationship online here:

[http://www.adrontario.ca/resources/PilotInternshipProgram.cfm](http://www.adrontario.ca/resources/PilotInternshipProgram.cfm)

**Interested in applying for an Internship?**

ADRIO is accepting internship applications! Interns must possess a post secondary degree, diploma or certificate or educational equivalent and will have completed 80 hours of approved mediation training. This internship will also be of interest to members with experience in one area who wish to expand their practice. A completed internship will contribute to a Qualified Mediator (Q.Med) or Chartered Mediator (C.Med) designation. Read more and find the application online:

[http://www.adrontario.ca/resources/PilotInternshipProgram.cfm](http://www.adrontario.ca/resources/PilotInternshipProgram.cfm)

If you are interested in being a Supervisor, or have any questions regarding this program, please contact Mena Sestito, 416-487-4447 ext. 101, mena@adrontario.ca.
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ADRIC 2016: CALL FOR SPEAKERS

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CPD ACCREDITATION PENDING FROM ALL CANADIAN LAW SOCIETIES. VISIT WWW.ADRIC.CA FOR UPDATES, AND TO LEARN MORE.
MARKETING CORNER: The one practice revenue growth tip to take to heart

By: Craig Fagan, principal, thebrandgroup.ca craig@thebrandgroup.ca

#1 Tip:
Your practice building partners going forward are the people you already know, have done or are doing business with now.

All practitioners have the same challenge, how to keep the lights on, roof over our families, food on the table and our taxes paid. We come to our profession because we are passionate about what we do. But, many of us open a professional practice with little or no sales and marketing experience. Today, let’s discuss the most powerful tip to growing a new business: leveraging existing business and personal relationships. Why? The primary reason from a marketer’s perspective is because you have already done the heavy lifting; you’ve already opened the door, built a personal and professional relationship, demonstrated your expertise, and proven that you deliver what you promise – a state of trust exists. From a personal perspective, it is always easier to speak to someone with whom you already have a connection.

For existing and lapsed clients, introduce one to three services based on needs they have expressed or hinted at during conversation.

There are only two ways to grow a business
At the core of business growth there are only two ways to grow your business. The one most of us spend our time doing with varying degrees of joy is chasing new clients. We spend our time, energy and hard earned cash prospecting for new clients with varying degrees of success. This is something we all must do and we’ll discuss tips on how to be more successful prospecting in future articles.

The other way is leveraging existing clients and contacts. There is a strong likelihood that your best, longest lasting client, friend or past business associate does not know all the services you offer. Thus results in opportunities being squandered through neglect.

Why do clients choose one firm over another?
Most firms believe competitive advantage comes from within: their deeper experience, superior expertise, talented staff or ability help them win contracts. On first blush this seems true. In reality, the most valued client relationships are based on a continuous business relationship between firms. They have very little to do with personal chemistry and lot to do with a state of trust that you, their supplier, will deliver what you promise, when you promise and it produces the results promised for their need.

80% of your competitors aren’t even on your radar.
Has a client ever said “Oh, you do that” and you’ve thought how could they not know that, I do it every day? It is a simple fact; your clients don’t recall all the services you offer. They haven’t visited your website since they first hired

Craig Fagan and 360integralmarketing use inbound and outbound marketing to assist professional practitioners brand, build awareness of, and increase revenue for their firms. Contact cfagan@360integralmarketing.com 647.677.6790
you. When you first met, they pegged you as being able to meet the one pressing need that they had at that time. They forgot all the other services you offer. Instead they are searching the web for some other supplier that can fulfill their current need. This means satisfied clients will move to other suppliers because they don’t believe there is anything more you can do for them. In other words, you are “leaving money on the table” simply because you haven’t kept your clients informed about your full range of services. Never assume they know — tell them! Remind them!

Solution
Reach out to your existing and lapsed clients, former colleagues, ask them if they have or know of anyone who has a need for the services you offer. Listen closely for any challenges either they or their colleagues are having. For existing and lapsed clients, introduce one to three services based on needs they have expressed or hinted at during conversation. Demonstrate at every opportunity that you are a solution provider and not simply a product seller. Don’t forget to ask if they know of someone in their organization or in another organization who may have a similar need. If they say yes, be sure to ask for the referral. In most cases they will give it.

When is it best to ask for a referral? Immediately after completing a project successfully.

Bonus Tip #2:
Make yourself and your team referable. Everything you do, your approach to business, and how you provide your services should evolve around making your firm referable. (Aren’t all? No. A future article topic)

Bonus Tip #3:
Reach out to existing and lapsed clients every six weeks. Keep yourself top-of-their-mind. Reaching out does not mean you need to schedule a face to face meeting. It can be forwarding a relevant article that you’ve read and feel may be of interest. 🖥️
Roundtable on Workplace Mediation: Where Have all the Opportunities Gone?

The Workplace section of the ADR Institute of Ontario (ADRIO) presented a live panel discussion and webinar on “Workplace Mediation: Where Have all the Opportunities Gone?” at the ADRIO office in Toronto on January 19, 2016.

Led by Suzanne Sherkin, Q.Med., and Angela Bradley, J.D., the roundtable comprised highly experienced workplace mediators and conflict management experts, including Lyn Adamson, Coordinator, Workplace and Organizational Services at St. Stephen’s Conflict Resolution and Training; Bernard Morrow, LL.B., LL.M., C.Med, Principal of Morrow Mediation; Barbara Benoliel, PhD, President of Preferred Solutions, Inc.; and Glenn French, M.S.W., R.S.W, President & CEO of The Canadian Initiative on Workplace Violence.

In the last number of years, there has been a shift in workplaces away from mediation by independent practitioners like ADRIO members. What’s given rise to the shift? And how are the changes being reflected in the way organizations deal with conflict, harassment and human resource management?

Panel members shared their experiences regarding opportunities and challenges with workplace mediation and other external Human Resources services, the potential impact of the Workplace Violence and Harassment Policy (formerly Bill 168), and their thoughts around how ADRIO and its membership can build awareness of the value of workplace mediation.

Several themes emerged: the purported scarcity of resources for mediation services; the need to educate and build awareness of mediation with leaders and decision-makers; and ADRIO’s role in marketing and aligning the profession with other professional services.

Bernard began the discussion by identifying that ADR workplace opportunities are a function of money. “Employers tend to be reactive first, proactive second,” he said. Budgetary concerns make it particularly challenging.

The scarcity of resources translates to mediators only becoming involved when a crisis is at hand. Glenn echoed Mr. Morrow’s comment. “We see (employers) at the end of the escalation, but if the employer had taken the time to have the discussion up front it would have been much more effective.”

There was a general consensus that mediators are not being engaged at the point when mediation can be most beneficial. At present, mediators are often hired to solve a crisis rather than to prevent one. The panel questioned whether the level of opportunity for workplace mediation is related to lack of awareness, hesitation in addressing conflict, or unwillingness to pay for the benefits of mediation services.

The discussion then turned to marketing and the panel was asked: How do we get our mes-
sage out to key decision-makers? Glenn, in sharing that he had spoken at organizations’ conferences, emphasized the importance of educating and building awareness of mediation. Joining forces with and learning about sector-specific stakeholders and their needs is the first step for mediation to be more widely recognized as a valuable organizational asset.

But it’s a hard sell. Many organizations are resistant when considering external consultation. “Everyone wants to deny conflict in the workplace,” Lyn explained. Therefore, it’s up to AD trio and its membership to find the right context in which to address conflict when employers deny its existence.

Barbara explained that the impact of new laws such as the Workplace Violence and Harassment Policy drives employers to change their approaches to conflict. “The magic words are compliance and due diligence,” she said. “The fear of not complying to the rules puts more responsibility on the employer for a positive work environment. As mediators, we go out to train organizations, talk about dispute resolution and new strategies for early intervention. They know that without it they face a risk.”

“Under the Occupational Health and Safety Act and the Human Rights Code, resources are increasing but getting employers to be proactive is still a challenge,” she added.

Further complicating the matter is potential turf wars within organizations. Is there a union involved? Does Human Resources feel the need to protect their turf? Often employers believe that conflict resolution can be handed internally—and for “free”—and only when conflicts reach a crisis point are external experts brought in. Mediators need to be recognized as the experts in conflict risk management.

The point was also made that determining the needs of stakeholders is key. Aligning our services with other independent professionals—such as lawyers, public relations and human resources consultants—would help create opportunities for growth through referrals.

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- being a keynote speaker at a conference
- authoring book reviews and articles

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ADRIO is thrilled to announce a new Roster for arbitrators with experience in construction arbitration. The first call just completed in the spring and a second call is expected for the summer or fall 2016. Keep an eye out for details in our weekly bulletin.

If you would like to be considered for this roster, you must have a complete member profile on ADR Connect. It is the tool the Institute uses to shortlist arbitrators for work under ADRIC’s Arbitration Rules, and to provide mediator rosters to callers. Referring professionals, government, members of the private and public sector, also regularly search ADR Connect to locate mediators, arbitrators and other ADR professionals, under specific specialty areas.

Members must have a complete profile to be considered for any ADR Institute Roster opportunities. Allow us to find you and your specialties so we can select you for Rules cases, rosters, etc., and allow ADR users to find you. Update your Member Profile with key information about yourself and your practice, including: Services Provided, Cities Serviced, Areas of Expertise, Designations, and your Bio and/ or Resume.

ADR CONNECT IS CANADA’S LARGEST SEARCHABLE DATABASE OF ADR PROFESSIONALS.
A Model of Interest
I realized recently that it was the 15th anniversary of our book (Sy, Barbara and Daryl Landau), From Conflict To Creativity (Wiley, 2001). To mark this, I want to write about a little model buried in the middle of the book (pps 122-124) for which I have a fondness.

The idea is that there are often three levels of interests (including values and other motivators), especially in organizational or community conflicts:

1. Personal interests: those that mainly meet the speaker’s own interests.
2. Constituent interests: those that meet the needs of the people represented by the speaker’s group or team.
3. Organizational (or Community) interests: those that meet the needs of the organization or community at large.

For example, the star of a sports team might want to do all the scoring rather than pass to teammates, but might be given pause by the desire to help the team. Then again, hearing the fans cheer may tempt that player to seek the applause from that scoring. What should (s)he do? What’s more important?

A similar model is described by John Adair (1987) for the managing of teams in organizations. The success of the team depends on reconciling the individual interests with the group dynamics, and the task required by the organization. Adair uses a Venn diagram with these three circles – Individual, Group, and Task – to demonstrate that all three are essential to success.

Let’s apply this to conflict resolution. Imagine we have a conflict between the CEO (and founder) of a company and a venture capitalist (VC) who is a board director. As often occurs, the CEO wants the board to be patient with the slow profit growth, and keep investing for long-term payoffs. The VC has a short-term investment horizon and is inclined to replace the CEO if she won’t act accordingly.

When we look at their interests, it’s hard to see much alignment, even on the wider area of the company (organizational). Still, there are a few areas of mutual interest and shared perception:

• They both want to generate wealth.
• Initially the VC did believe in the CEO’s vision and creation.
• They both have duties larger than their own self-interest.
• Neither will want a power struggle to undermine their venture, and neither like conflict to disrupt the board’s teamwork.

Nevertheless, they have divergent positions, and competing interests.

<table>
<thead>
<tr>
<th></th>
<th>CEO of ABC, Ltd</th>
<th>VC Director</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individual</td>
<td>My pride is in my creation. I must succeed, and that will take time.</td>
<td>I have to show a high ROI soon. I may feel badly about replacing this CEO (assuming I have the votes) who I believed in, but this is just one of my many investments.</td>
</tr>
<tr>
<td>Constituent (or Team)</td>
<td>Management Team: I feel a duty to my managers and staff to lead for the interests of all. The Board: We need unity and a supportive CEO-Board relationship. I dislike seeing it in conflict.</td>
<td>My VC Investment Group: These others depend on me to do my job. The Board: I don’t want to be seen as acting improperly or creating conflict. I want them to see this will benefit us all.</td>
</tr>
<tr>
<td>Organizational</td>
<td>We need to stay afloat long enough to penetrate the market. That way, we can grow profits and preserve jobs. I have a duty to the Company, not just myself.</td>
<td>Shareholders want return on investment (ROI). If that means being ‘more commercial’ or even getting bought out by a competitor, so be it. As a director, I have a duty to the best interests of shareholders, not just myself.</td>
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at all levels. How can this be resolved?
One way is already built into the structure of the corporate and legal process: voting. They can

A way can be found to align the personal, team and organizational interests within individuals so hidden agendas don’t emerge.

use majority rule to decide if the CEO remains to set the future course. This is a mechanism at the constituent level to prevent dysfunction.

Before it gets to that, they will likely use objective criteria of sales and profit projections to assess the CEO’s vision. Much will also depend on the availability of a likely successor to the CEO, and the degree of shared vision among the other directors and shareholders. These are remedies that lie within the organizational realm.

Mediators, whether that be other directors or an outside professional, might urge the disputants to consider all their interests, but especially their duties as shareholder representatives. Still, human nature is such that personal interests may be paramount or at least cannot be ignored. Ideally, and creatively, a way can be found to align the personal, team and organizational interests within individuals so hidden agendas don’t emerge.

Years ago, I tried to mediate a dispute on a community board where a board member was accused of representing his personal interests rather than his membership’s (principal-agent divergence). I asked if he would invite me to their next membership meeting, but he refused and the process petered out thereafter. I believe he was soon removed from the board. In hindsight, I could have tried more to focus him on the member and community interests, while also probing for how his personal values and other interests could be satisfied. However, many people are great rationalizers and self-deceivers.

A final application of the model: who wants peace? In many world conflicts, the players have little personal or constituent interest in peace. Terrorists or tribal leaders, the military-industrial complex, and bellicose politicians are not likely to give way to the community, and can often sway those communities to adopt a misguided idea of their interests. Such is the ‘Tragedy of the Commons’. War crimes prosecutions and other force may grab their individual interest. And a sustained, strong, persuasive global voice can move communities toward a superordinate goal of co-existence.

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“Multi-Party Public Conflicts Workshop Series”

Moderators: Bob Waldon and Larry Sherman

By Mary Korica

Over the fall of 2015 and winter of 2016, the Public Conflict Special Interest Section of the ADR Institute of Ontario (“ADRIO”) held a series of four live program and webinar sessions titled “Multi-Party Public Conflicts Workshop Series”. The events were organized and hosted by Bob Waldon, chair of the Public Conflict Section, and facilitated by Larry Sherman, a public disputes mediator, architect, planner with the consulting firm IBI Group, and a lecturer on public conflict at Carleton University. Robert Davis, former Manager of Public Consultation for the City of Toronto, also contributed expertise. The workshop series was envisioned as a starting point toward developing more training in multi-party public conflicts, in response to a need highlighted by the Public Conflict Section’s membership. The series benefited from the participation of over 25 on-line and in-person attendees province-wide.

The “Multi-Party Public Conflicts Workshop Series” began on Tuesday, 3 November, 2015 at ADRIO with an initial session to outline the purpose of the series and determine a program for following sessions. Bob Waldon described the series as a group learning exercise using real-world multi-party public conflict examples to explore Alternative Dispute Resolution (ADR) process design, including through a case study. A key theme to consider would be “intervention by neutrals”: how can dispute resolution practitioners constructively intervene in a complex public conflict when the various parties involved have not invited the intervention, the conflict is highly resistant to resolution, and there is no process available to move things forward? Larry Sherman provided examples where this has been creatively done. Mr. Sherman and Mr. Waldon introduced relevant concepts, techniques, conflict analyses and process design issues relevant to multi-party conflicts. Five topics were put forward by session participants as potential case studies: conflicts between condominium or regulatory boards and condominium owners, smoking in multi-unit buildings, inter-municipal planning disputes, a workplace conflict scenario, and a neighbourhood parking dispute.

On Tuesday 24 November, workshop participants reconvened at ADRIO to choose among the proposed case study topics. Those who had put forward ideas outlined each topic’s conflict scenario. Audience members on-site and online gave comments and asked questions to help the group assess the barriers to a collaborative, mutual gains resolution and determine the viability of each option for further study. The neighbourhood parking dispute and the scenario about smoking in multi-unit buildings were chosen as case studies to be used in two separate follow-up sessions.

The first case study workshop took place at ADRIO on Tuesday, 15 December 2015 to discuss the neighbourhood parking dispute scenario: a subdivision where street parking is prohibited has seen demographic changes over the years so that today households often include adult children and tenants. As a result, cars per home in many cases outnumber the driveway and garage parking available. Vehicles are regularly parked illegally on driveway skirts and on the street, and are also regularly ticketed because of at least one neighbour who is motivated to uphold the letter of the law and therefore calls police.

Mr. Sherman reminded partici-
pants of three fundamental principles of ADR. Firstly, he encouraged participants to begin their process design by considering ways to improve the relationships between parties. Secondly, once a positive relationship is present, the parties must communicate their perspectives and interests to each other. As a result, one of the intervenor’s tasks is to create an environment where that is possible. And finally, the parties must generate their own solutions, so a brainstorming session where they can jointly develop options is desirable.

The group’s first step towards developing an intervention process for the parking dispute was to map out the parties involved and their relationships. The list of parties quickly grew to almost a dozen, including not only the group of residents who see themselves as forced to park illegally and the person(s) who insist on complaining to police about it, but also pedestrians, city services staff, through traffic, municipal government officials and the police. Workshop participants labelled the relationships between the various parties like-minded, conflictual or non-existent.

Discussion turned to identifying a “neutral” or champion who could intervene, whether they are a party to the conflict nonetheless able to bring the sides together, a representative from a local community mediation office or, potentially most promising, the city counselor. The champion’s initial role would be to speak with the parties and get a thorough sense of the positions and interests of everyone involved. The group agreed that the champion’s next step would be to summarize those findings, without attribution, potentially in a statement or letter to all concerned. This summary would ideally include all perspectives, create a common definition of the problem, give all involved a sense that their voices had been heard, and garner their buy-in for further steps in the process.

As Mr. Sherman noted, what more could be done by the champion might depend on the specifics of the situation, and discussion brought up several possibilities: the champion might follow up on the summary statement by again speaking to the parties to get their opinion on next steps, or might propose a neighbourhood meeting. It would be important for the champion to assess the willingness of the parties to participate, and address reluctance to do so by facilitating a safe meeting environment. The meeting could be an opportunity for the parties to brainstorm together solutions to their conflict. Mr. Sherman followed up later with another idea—that the neighbourhood could also initiate a joint dialogue with the various city departments relevant to the issue.
The second case study, second-hand smoke in multi-unit buildings, was discussed at ADPIO on Thursday, 14 January 2016. It is not uncommon for non-smokers to encounter cigarette smoke in their apartments or condos coming from residents who smoke in the privacy of their own units. This is an emerging public issue and the predictable conflicts are increasingly making headlines. Again, workshop participants started by mapping out the parties and relationships. Discussion shifted to the rights (health, safety and “reasonable enjoyment”), interests (change or no change to the status quo) and power of the various parties (does one party outnumber another, is there a strong or weak condo board or tenants’ association, are those in the building unaffected by the problem inclined to support one or other party, are external interest groups lined up on either side?). It quickly became apparent that process design would depend on which level of the conflict was being addressed: the tenant-to-tenant issue, the situation within a building as a whole, or the systemic issue at city-level or higher. Participants noted that the context and range of options are totally different at each level.

The group chose to focus on a single multi-unit building for the case study, and Mr. Davis noted that situations at that level can have wider impact, potentially becoming catalysts for change at higher levels. The group suggested the right starting place for process design of an ADR intervention would be a conversation between the intervener and one party to the dispute. The intervener could then have conversations with additional parties until a thorough assessment of the situation was possible. The assessment would define the scope of the problem within the building, including how severe and widespread it is. It would take note of the building’s governance (whether condo, co-op, tenancy or non-profit), demographics (are there different languages or cultures which could mean, for example, preferences for in-person or online interaction), and whether there are key people or groups with potential to derail or fast-track the process or sway others.

Mr. Sherman highlighted that non-smokers and smokers would likely see each other as “the problem” so efforts to build a relationship between them might pay off. Mr. Davis agreed, and said that as a public consultation professional he would begin by identifying a common interest among the parties. One participant suggested introducing people from outside the building who have successfully managed a similar problem and could model collaborative outcomes. Another participant reminded the group of the virtue of starting small, noting that participants in a successful Alternative Dispute Resolution (ADR) process can become evangelists for the process, with their enthusiasm convincing others to apply it in their own situations or to bigger conflicts, potentially creating a habit of ADR within the community.

It was agreed that, once parties gave their buy-in for an ADR process, the intervener should develop a “mutual gains statement”, “request for action” or “collective future statement” that defined a common goal. One example was: “We are trying to create a situation where smokers and non-smokers can co-exist in a mutually satisfying way.” While time precluded a fuller process design, the workshop raised a host of useful insights. One attendee mentioned the need to decide whether to give equal representation to all parties in the process or weight it according to the numbers on each side. Another suggested the intervener should be careful not to use binary language to define the problem. And a participant recommended emphasizing early on in the process the need for parties to consider the issue from other perspectives.

The four-session workshop proved to be a vigorous discussion that pushed the topic of process design for multi-party public conflict resolution further with each installment. By Mr. Sherman reliably steering workshop participants away from problem-solving with reminders that their role is to “process solve” and Mr. Waldon drawing attention to the steady stream of constructive comments, questions and suggestions displaying onscreen from the offsite audience, sessions remained on-course and inclusive. The workshop series demonstrated that there is great potential to spin off additional learning opportunities on this important niche topic within ADR. The Public Conflict Section invites interested parties to put forward suggestions of topics for future workshops, and to refer to the Public Conflict Section’s online page under the ADPIO Member’s Portal for workshop notes from the Multi-Party Public Conflicts Workshop Series.
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WORKPLACE SECTION
Roundtable on Workplace Mediation: Where have all the opportunities gone.
Date Recorded: January 19, 2016
Many mediators are finding it difficult to secure mediation work within workplaces. We’re wondering why. Guest Speakers: Lyn Adamson, Barbara Benoliel, Angela Bradley, Glenn French, Bernard Morrow, Bill Smith with Suzanne Sherkin as facilitator.
URL: http://momentum.adobeconnect.com/p2q6kglhwd/

Roundtable on Workplace Mediation: An Employers’ Perspective
Date Recorded: March 30, 2016
This is the second in our series of Roundtables on workplace mediation. The first one, on January 19, was very successful with over 50 people attending both online and on-site. Guest Speakers: Mary Ann McConkey, Denise Peltier and facilitators: Suzanne Sherkin and Angela Bradley
URL: http://momentum.adobeconnect.com/p9se173qwsj/

PUBLIC CONFLICT SECTION
“Process Design, Case 2”
Date Recorded: January 14, 2016
At each session, the group will examine the chosen conflict including perceived issues, concerns, barriers to resolution, identification of parties, ideal outcomes and brainstorm potential approaches to designing a process that could satisfy those outcomes. Results will be summarized and potential next steps considered.
URL: http://momentum.adobeconnect.com/p2gnvi16odc/

INSURANCE SECTION
The Mediation Introduction
Date Recorded: March 16, 2016
Off to a good start, onto a good settlement: This is a detailed discussion on tried and true methodologies and a Q & A period to address all issues raised.
Guest speakers: Mr. Peter Braund and Mr. Fred Sampliner
URL: http://momentum.adobeconnect.com/p2jhzbe2d2g/

COMMERCIAL/BUSINESS SECTION
Navigating Confidentiality in Family Business Disputes
Date Recorded: April 19, 2016
Is there something different about mediating family enterprise disputes? Do the usual rules of confidentiality apply? Guest Speaker: Robin Dodokin
URL: http://momentum.adobeconnect.com/p682kw06dqw/

CONFLICT MANAGEMENT
COACHING SECTION
You First: Building Personal Accountability to End Team Dysfunction
Date Recorded: January 27, 2016
Team dysfunction is typically blamed on those whose behavior is wicked; the yeller, the gossip, or the backstabbler. But in reality, the wounded (with the entrenched victim mentality) and the witness (who stands idly by) must also take ownership of their role in dysfunction and the resulting conflicts. Changing teams for the better requires personal accountability from the wicked, the wounded, and the witness.
Speaker: Liane Davey, Ph.D. and Section Chair Cinnie Noble, C.Med and Vice-Chair Shelley Stirling-Boyes
URL: http://momentum.adobeconnect.com/p5i709uhna1/

Coaching for High-Conflict Situations
Date Recorded: April 20, 2016
In today’s workplace, dealing with high-conflict people (HCPs) can be one of the most frustrating, costly and morale-impacting problems. Yet conflict coaches can have a very positive impact by coaching individuals viewed as high-conflict employees and coaching individuals who have to deal with them, including managers, colleagues and subordinates. Guest Speaker: Bill Eddy
URL: http://momentum.adobeconnect.com/p80i2qg2gy/
The Conflict Management Coaching section of the ADR Institute of Ontario (“ADRIO”) presented a live program and webinar on “You First: Building Accountability to End Team Dysfunction” 

By Ms. Liane Davey at the ADRIO office in Toronto on January 27, 2016.

Ms. Davey works primarily with executives, and her goal is to make conflict understood as a healthy part of relationships. She enjoys studying how team dynamics affect innovation, and does significant research and writing.

How do we address team conflicts systematically? How can we structure teams to create a mindset for productive conflict? Conflict is normally below the surface, eroding trust and productivity. Sometimes there can be too much conflict, but it is more common to see cases of too little.

Ms. Davey sees two main business arguments for conflict being a positive factor. First, it is the friction point that creates spark and innovation. Second, conflict is where risk management comes from—good risk identification comes from people who see things differently, not the same way. If you don’t have conflict, then you are probably not spotting risk effectively.

For practitioners, Ms. Davey suggests avoiding any situations where a client expects you to resolve their conflicts in one session. This usually suggests they just expect you to be the referee for what’s going on, but it later becomes clear there have never been any ground rules established. Rather, Ms. Davey spends the first day of her process asking “why are you a team?”, and “what is the unique value of your team?” No team has yet been able to answer these questions.

Ms. Davey begins by inquiring about the group’s external environment—questions like “what’s happening in your world? How are they affecting your organization? How does this change what you and your team do? How would you have to behave to achieve that?” Participants like this discussion, and usually have a lot of interesting things to say and begin feeling safe. It also leads to a discussion of behaviours, and what will and won’t work. Ms. Davey tries to avoid any negative comments (i.e., dirty laundry) in the first day, and in fact usually doesn’t allow them until Day 3—participants normally aren’t ready to have that discussion effectively so quickly, so it would usually lead to more harm than good.

On Day 2 Ms. Davey introduces an assessment tool that helps people understand who they are and how they “show up” and interact with teammates. It is a powerful day. The behaviour tool is complex—it addresses factors like where you get energy from, how you learned to behave, what you need from your environment to succeed, and what the ugly side of you is if you don’t get it. Some people instinctively resort to behaviours that are the opposite of what will achieve what they are seeking—and they are then treated as they behave, which leads to more stressful behaviour in turn.

By the start of Day 3, participants now realize that when they do action ‘A’, it creates negative reactions in others. They also now realize they need conflict, and want to know how to do it. The goal is for people to be against the problem, not each other—that is, to have conflict as allies rather than adversaries. Conflict as allies feels very different, and doesn’t have to feel terrible.

Ms. Davey then switched gears. Language plays a big part in shaping our thought. A commonly-used metaphor around ‘teams’ is the rower analogy—i.e., the idea that all members of the rowing team are in the same boat, and are all pulling in the
same direction. Ms. Davey really dislikes this analogy—it inadvertently creates the sense that if you aren’t pulling in the same direction then you aren’t a team player—which is wrong and counter-productive. She suggested a new metaphor that works better. Suppose you and some friends have gone camping. As you drove to the site, a rainstorm developed, and unfortunately your tent is not big enough for everyone. You need to lay a tarp over the tent—but to do so it needs very exact placement over the tent to cover the maximum area. Everyone will need to spread out around the tent and grab a portion of the tarp to help spread it over the tent evenly. After the fact, could you analyze if you were a good team? Yes—you had a common goal and were interdependent. But you were not all pulling in the same direction—and this was necessary to achieve the goal. It is clearly OK in this context for everybody to pull in different directions. Where things go wrong is if anyone pulls too hard in one direction—or doesn’t pull strongly enough. It’s bad when one member of the team overpowers others, but also bad when a member of the team gives up or walks away. A great team pulls in different directions, and each person understands their role towards achieving the objective. There needs to be tension—but the right amount of tension. Introverts in the group can’t let go of their rope, because the others are counting on them. The job of the team leader is to ensure the team is balanced, and also look over the tent to confirm if the tarp is centred. Tension is part of a healthy team—without it, you don’t optimize. Ms. Davey’s role is to improve the mindset about conflict, creating clarity about each person’s role in the conflict. The rope metaphor works well in many contexts—a great question to ask everyone is “what rope are you pulling on?”

The final part of the session addressed personal accountability in conflict. A ‘wicked’, a ‘wounded’, and a ‘witness’ are each typically present in conflicts. The ‘wicked’ is the aggressor—overtly destructive to the team’s functioning. The ‘wounded’ is the ‘victim’—often feeling hard done by. Ms. Davey’s experience is you’re actually more likely to turn around a wicked person than a wounded person—the victim mentality is very strong. The ‘witness’ exhibits a passive tolerance of what’s going on in teams that allows it to continue. A bully almost always requires a bystander, because their actions are about social status. Research suggests bystanders may also get some personal enjoyment out of watching the bullying. But common experience suggests that if even one person says “don’t do that”, then the behaviour stops nearly immediately. There has to be a dynamic—if people don’t tolerate bullying, it doesn’t happen. Many people would like to intervene, but don’t know how. The wicked and the wounded also ultimately need advice on how to have conflict nicely. In general, you are trying to dial down directness/authoritiveness (make a conflict less adversarial), and make it possible for someone who doesn’t like conflict to address it in a way that they can be productive, rather than running from it. Ms. Davey’s Harvard Business Review article “Conflict Strategies for Nice People” is recommended reading.

1 https://hbr.org/2013/12/conflict-strategies-for-nice-people/
Congratulations to the following Members on receipt of their designations:

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- Joshua Lam, Q.Med (ON)
- Megan Mitchell, Q.Med (SK)
- Rhonda Campbell Moon, Q.Med (ON)
- Gunathilakarani Pirapakaran, Q.Med (ON)
- Joy Vascotto, Q.Med (ON)

**NEW C.MEDS**
- Clive Tolley, C.Med (SK)
- Andrew Wychnenka, C.Med (MB)

**NEW Q.ARBs**
- Dave Anderson, Q.Arb (SK)
- Marion Hill, Q.Arb (Atlantic)
- Chaowu Jin (Horace King), Q.Arb (ON)
- Lynne Poirier, Q.Arb (Atlantic)
- Myer Rabin, Q.Arb (Atlantic)
- Clive Tolley, Q.Arb (SK)

Do you have your designation yet?

The Chartered Mediator (C.Med) and Chartered Arbitrator (C.Arb) are senior designations. These, as well as the Qualified Mediator (Q.Med) and Qualified Arbitrator (Q.Arb) are Canada’s only generalist designations for practicing mediators and arbitrators. They demonstrate the member’s specific credentials, education and expertise. Recognized and respected across Canada and internationally, they allow the holder to convey their superior level of experience and skill. Clients and referring professionals can feel confident knowing that ADR practitioners holding an ADR Institute of Canada designation have had their education and performance reviewed, assessed and verified by a team of senior and highly respected practitioners.

For more information and application criteria, visit [http://adrcanada.ca/resources/designation.cfm](http://adrcanada.ca/resources/designation.cfm)

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**NATIONAL MEDIATION RULES PROVIDE RESOLUTIONS**

ADR Institute of Canada National Mediation Rules provide simple guidelines for initiating mediations including appointment of a mediator should the parties be unable to come to an agreement.

**USE THE MODEL DISPUTE RESOLUTION CLAUSE SET OUT BELOW WHEN DRAFTING CONTRACTS:**

All disputes arising out of or in connection with this agreement, or in respect of any legal relationship associated with or derived from this agreement, shall be mediated pursuant to the National Mediation Rules of the ADR Institute of Canada, Inc. The place of mediation shall be [specify City and Province of Canada]. The language of the mediation shall be [specify language].

**TO OBTAIN A COPY OF OUR NATIONAL MEDIATION RULES, VISIT:**

## Benefits of Membership

We value your membership! Take advantage of the many benefits of membership with the **ADR Institute of Ontario**.

<table>
<thead>
<tr>
<th>Membership Level</th>
<th>Full</th>
<th>Associate</th>
<th>Student</th>
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<tr>
<td><strong>FREE Special Interest Section Meetings, Webinars and access to Video Recordings</strong> featuring topics and speakers of interest</td>
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<td><strong>Special discounts on a wide range of Professional Development opportunities</strong></td>
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<td><strong>Roster calls, RFPs and work opportunities</strong></td>
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<td><strong>Access to the ADRIO Members logo</strong> for use on your business cards, letterhead, website and other marketing materials to boost your credibility by showing that you are a member of an established, credible organization**</td>
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<td><strong>Use of a polished, customizable PowerPoint presentation explaining what ADR is, who you are and what you do as an ADR professional that will allow you to make a great impression while saving you hours of time!</strong></td>
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<td><strong>2% Discount on 2-year Membership</strong></td>
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<td><strong>Electronic delivery of our newsletter: <em>ADR Update</em></strong></td>
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<tr>
<td><strong>Public listing on ADR CONNECT so clients can find and contact you</strong></td>
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<td><strong>Your own Member Portal</strong> register for events at a discount, access special products, documents and information</td>
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<td><strong>Important notices and Member News Bulletins</strong></td>
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<td><strong>Automatic membership with ADR Institute of Canada which offers further benefits, such as:</strong></td>
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<td><strong>Extremely competitive insurance rates</strong> (this alone is worth the price of membership!)</td>
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<td><strong>Complimentary listing on ADR CONNECT, the online database that allows Clients to find and contact you. Make the most of this by ensuring your profile is complete and current!</strong></td>
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<td><strong>Important up-to-date information including electronic delivery of the <em>Canadian Arbitration and Mediation Journal</em></strong> twice annually and <strong>ADR Perspectives</strong> six times annually</td>
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**For More Information**


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