



ASSOCIATION OF ATTORNEY- MEDIATORS

Presents its

Advanced Attorney-Mediator Training and CLE Seminar

"Mediators On the Front Line: Tools to Disrupt Disruption"

Originally Presented on Friday, November 12, 2021

Recorded Sessions Available for Viewing:

- Session 1:** **How To Say No Without Creating A Dispute And Damaging Your Relationship With The Other Person**
Bud Silverberg, Dallas, TX

There will be numerous occasions during a person's lifetime when he or she will have to say NO. In this session Bud Silverberg presents a technique that will give a person the courage to say NO (if that person is hesitant) and to do so without damaging the relationship with the other person. This is another tool that the Mediator can put into his or her tool box and use when appropriate. This technique was gleaned from William Uri's book, "The Power of a Positive No." (1.0 hour)

- Session 2:** **Holding the Calm: The Secret to Resolving Conflict and Diffusing Tension (in Really Tough Situations)**
Hesha Abrams, Dallas, TX

There are seven billion people on the planet, each with their own unique fingerprint. Yet we are taught to treat everyone the same. Doesn't that sound ridiculous? Treating everyone the same ignores our unique humanity. Personalized medicine is the new trend in healing our bodies. We need a personalized approach to heal human conflict as well. The trick is how to know what people want, what they will resonate with, and the right approach to take. You Hold the Calm.

(1.00 hour, including .50 ethics)

- Session 3:** **Claims Against Mediators: A Survey**
Robert Badgley, Chicago, IL

Mr. Badgley will recount a number of claims made or lawsuits filed against mediators in recent years which he has seen in his capacity as claims and coverage counsel for Lloyd's of London. This survey of claims should provide some insight into the types of pitfalls a mediator may face and the types of liability exposure a mediator may face. This survey should also underscore the need for professional liability insurance.

(1.0 hour)

Session 4:**Covid Protocol Considerations in Mediation:
The Return to In-Person Mediations - Pivoting in light of the Delta Variant
*Aric Garza, San Antonio, TX***

Aric J. Garza will facilitate a discussion concerning the diverse perspectives and protocols of mediators and arbitrators concerning the development and implementation of protocols for mediations. This session is for those interested in considering whether a "COVID protocol" is beneficial or detrimental to their practice. When and how do you broach the subject to counsel? These protocols include the use of masks among participants, inquiries regarding vaccination status, how to deal with objections to proposed COVID protocols, conventions and mandates, and a brief discussion of laws pertaining to such matters. Mr. Garza will provide a template outline of protocols for potential use by participants.

(1.0 hour)

Session 5:**Closing Techniques: Avoiding and Breaking Impasse, Bracketing, and Mediator Proposals**

Lee Jay Berman, Marina Del Rey, CA

Danielle L. Hargrove, San Antonio, TX, Moderator

Laura Kass-Moreno, San Diego, CA

A. Martin Wickliff, Jr., Houston, TX

Join our rock star panelists for an interactive discussion on best practices for mediation closing techniques. Are you actively including these techniques in your tool chest? If not, what reservations do you have in utilizing these and other closing techniques?

(1.25 hours)

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Advanced Attorney-Mediator Training

November 12, 2021

Speakers and Panelists



Hesha Abrams, Esq., author of: *Holding the Calm, The Secret to Resolving Conflict and Diffusing Tension* is a nationally acclaimed attorney mediator who is known for crafting highly creative settlements and resolutions in very difficult matters. She has the unique talent to work with big egos and strong personalities with the keen ability to create synergy amongst the most diverse personality types driving to agreement. She has created settlements worth billions of dollars and has saved companies billions more using her innovative approaches to deal making. She specializes in crafting innovative solutions for complex or difficult matters in Intellectual Property, Commercial, Pharmaceuticals, Securities and “Deal Mediation”, which is driving a complex business deal to a successful signing. Hesha has successfully mediated for thousands of parties and was an innovator in the mediation field serving on the legislative task force that drafted landmark ADR laws. She mediates, consults, and negotiates on behalf of private parties throughout the country and internationally with 30 years of in the trenches experience. She has worked in London, Hong Kong, Mexico, Germany, Thailand and India and with parties from all over the globe in complex commercial, business and patent licensing deals. She taught mediation and negotiation at the 2001 International Symposium on Negotiation and Conflict Resolution in The Hague. She was on the national panel for Dow Corning Implant cases and was the Chair of the Texas Bar Intellectual Property ADR Committee. She has been appointed Delegate to the Fifth Circuit Judicial Conference, 1988, 1990, 2002, speaker 2005, elected as a fellow of the Texas Bar Foundation in 2006 and received the Brutsché Award for Excellence in Mediation from the Association of Attorney Mediators. She is AV rated by Martindale Hubbell. For further information, see www.HeshaAbramsMediation.com.

Robert A. Badgley graduated from the University of Chicago Law School in 1991 and is a member of Karbal Cohen Economou Silk Dunne LLC in Chicago. Among other things, he represents Underwriters at Lloyd's, London in insurance coverage matters involving professional malpractice claims (including claims against ADR providers). He has also served as counsel in more than a hundred arbitrations and mediations, and, under the auspices of the World Intellectual Property Organization, has served as arbitrator in nearly 500 disputes between trademark owners and Internet domain name owners.



Lee Jay Berman began as a full-time mediator 27 years ago, and has successfully mediated over 2,600 matters, many of which were high profile cases. He is an American Arbitration Association Master Mediator for employment matters, a national panelist on their commercial and construction panels, and a select mediator on their International Center for Dispute Resolution mediation panel. He is a Distinguished Fellow with the International Academy of Mediators, a Charter Diplomat with the National Academy of Distinguished Neutrals (NADN), certified by the International Mediation Institute (one of the first 5 mediators in the U.S.), and a Dispute Resolution Expert with the United Nations Development Programme. NADN named him their inaugural “Distinguished Neutral of the Year” in 2017. California’s Daily Journal twice named him “Top

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Neutral", he has been voted by his colleagues into the Who's Who of International Commercial Mediation from 2012-2021, and ranked by Chambers USA as one of the top 40 commercial mediators in the U.S. from 2018-2021. Also a respected trainer, Mr. Berman founded the American Institute of Mediation after seven years as Director of Pepperdine Law School's Mediating the Litigated Case program (ranked #1 nationally). The Southern California Mediation Association gave him their Randolph Lowry Award for his success in educating others. He has trained mediators, judges, attorneys, and business leaders across the U.S., Canada, and Mexico, and Europe, as well as in India, Dubai, Uzbekistan, Australia, and New Zealand. Lee Jay has been interviewed on dozens of podcasts, published numerous articles on mediation, and the American Bar Association will be publishing two of his books in 2021 and 2022.

Since 2002, **Aric J. Garza** has represented hundreds of individuals, businesses and non-profits in commercial law, consumer law, probate/estate law and real property law (both litigation and transactional matters). Aric has been a credentialed mediator in Texas since 1999. He is also an arbitrator serving on the American Arbitration Association's Commercial, Consumer and Employment Panels. Aric is an active member of the American Bar Association - DR Section, the State Bar of Texas ADR Section Council and the San Antonio Bar Association - ADR section. In his spare time, he plays and sings guitar and is known locally as The Blues Lawyer (@theblueslawyer on Twitter and Facebook).



Danielle L. Hargrove is a USAF veteran with 30 years of experience as an attorney advising in all aspects of labor and employment law, corporate compliance, and business disputes. She has a full-time neutral practice as a mediator and arbitrator. She is also retained to facilitate workplace investigations and provide professional coaching and consultation, particularly involving matters of diversity, leadership and matters of public policy. She is on the neutral rosters of the American Arbitration Association ("AAA"), Federal Mediation and Conciliation Service ("FMCS"), FINRA (securities matters), and the National Mediation Board ("NMB"). She serves on several Regular and Expedited USPS and APWU panels; on the Regional Texas and Oklahoma Arbitration panels for the Internal Revenue Service and the NTEU; and between the NTEU and US Customs and Border Protection. Ms. Hargrove also serves on the Dallas Area Rapid Transit Trial Board as a Hearing Examiner. She is also adjunct faculty with the Texas A&M School of Law. Danielle most recently served as AAM Board Secretary. She received her B.S. in Engineering Mechanics from the US Air Force Academy and J.D. from the University of Texas School of Law.

Laura Kass-Moreno has been practicing law since 1982. Her vast experience includes civil litigation, representing both plaintiffs and defendants in complex business, employment and real estate matters, as well as handling a variety of insurance matters and claims. Laura was also in-house counsel for interactive, entertainment companies including negotiating contracts with the National Football League, Major League Baseball, Home Box Office, vendors and hospitality venues. Laura has been a credentialed mediator since 1999 with expertise in contract disputes, employment/workplace issues, personal injury/insurance claims, real estate and homeowner's association matters and has conducted numerous, multi-party facilitations involving a wide range of challenging issues. Laura has facilitated conflicts across diverse industries, including the City and



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County of San Diego, many colleges and universities and the military. She is also a mediation/conflict management and diversity and equity trainer for the National Conflict Resolution Center (NCRC) and the mentor for NCRC's Credential Program. She has trained and/or provided customized workshops for many reputable mediators currently practicing in San Diego. Laura's years of experience provide her with the creative, strategic bandwidth to successfully mediate cases to resolution.

Laura believes that, as long as the parties are talking, there is hope for resolution and she has built a reputation for being persevering yet patient, insightful and creative. Clients appreciate the fact that she uses every effort to settle a dispute.

Bud Silverberg is an attorney, full-time mediator and arbitrator with a BBA degree from the University of Texas at Austin, a JD from the University of Texas School of Law, and an MBA (Accounting and Finance) from Southern Methodist University. He was a senior attorney with the United States Treasury Department; Vice President-Tax Counsel of TCO Industries (formerly the parent company of Trailways, Delta Steamship Lines and other domestic and foreign corporations); and in the private practice of law. He is a past President of the Association of Attorney-Mediators; an Adjunct Professor at Southern

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Methodist University's Dedman School of Law, teaching Dispute Resolution, and has mediated more than 4,000 cases. Bud is the Recipient of the American Arbitration Association's "Steve Brutsche Award" for professional excellence in dispute resolution. He was a joint recipient with his wife, Rena, of the "Justice Frank G. Evans Award" presented by the Alternative Dispute Resolution Section of the State Bar of Texas. He was named by *Texas Monthly* as one of the Texas Super Lawyers for every year since 2003; selected by *Best Lawyers in America* as a best lawyer for every year since 2008; and selected by *Best Lawyers in America* as 2021 Lawyer of the Year in Mediation in Dallas and Fort Worth.



A. Martin Wickliff, Jr. is a full-time arbitrator and mediator neutral; he specializes in Employment Law, and also handles investigations. Marty is a member of AAM, and has been trained by the American Arbitration Association ("AAA"). He is also listed on the Panel of Neutral Employment Arbitrators with AAA and the panel of mediators with Mediation.org. Marty is a member of the Panel of Distinguished Neutrals of CPR (International Institute for Conflict Prevention and Resolution). Marty, who is board certified in Labor and Employment Law by the Texas Board of Legal Specialization, and is also a veteran trial lawyer. In 2021, Best Lawyers named Marty "Lawyer of the Year" for the Houston area in Labor and Employment Law; and was named one of "The 25 Greatest Texas Lawyers of the Past Quarter-Century" by Texas Lawyer, 2010. Marty is a Fellow, College of Labor and Employment Lawyers (ABA); and former Chair of the Board of Regents, Texas Southern University. Prior to joining Cozen O'Connor, Marty had been a partner with Fulbright & Jaworski, Mayor Day & Caldwell, Wickliff & Hall, and Epstein Becker & Green.