



ADR Institute of Canada

Annual National Conference 2019

“Realizing ADR’s Full Value”

November 20, 2019

9:00 – 17:00 – **Pre-Conference A** workshop
9:00 – 12:30 – **Pre-Conference B** workshop
13:30 – 17:00 – **Pre-Conference C** workshop
19:00 – Legislative Assembly Wine and Cheese Meet and Greet

November 21, 2019

8:00am – Registration and Full Hot Breakfast
8:30 – Annual General Meeting
9:15 – Conference Opening & Welcome
9:30 – Concurrent Sessions
10:30 – Networking Break
10:45 – Concurrent Sessions
12:00 – Luncheon, Awards and Keynote Speaker
14:00 – Concurrent Sessions
15:30 – Networking Break
16:00 – Concurrent Sessions
17:15 – Cocktail and Networking Reception

November 22, 2019

8:00am – Registration and Full Hot Breakfast
8:45 – Concurrent Sessions
10:00 – Networking Break
10:30 – Concurrent Sessions
12:00 – Luncheon and Keynote Speaker
13:30 – Concurrent Sessions
14:45 – Networking Break
15:00 – Concurrent Sessions
16:15 – 16:45 – Closing Plenary and Coffee

Wednesday November 20, 2019

Pre-Conference Workshops

	Pre-Conference A Room: Rattenbury A	Pre-Conference B and C Room: Rattenbury B
8:00	Registration and Full Hot Breakfast	Registration and Full Hot Breakfast
9:00	A – Aboriginal Consultation - a Workshop for Industry, Government, and Indigenous People If you want to better consult with Aboriginal People/Industry or you are in a position that requires that you engage Aboriginal People/Industry (Stakeholder Relations, Consultation Department, Community Relations, Chief and Council, Surface Land, Aboriginal Relations) and have asked these questions, then this workshop is for you. Using a combination of information transference and interactive dialogue, participants will be guided through the many complicated aspects of the fundamentals of why the Duty to Consult exists and how the three major players - Industry, Government, and Aboriginal people - can create relationships to enhance the chances of success. It also provides valuable information on Impact and Benefit Agreements. Learn how to have meaningful consultation and engagement with Aboriginal Groups. Facilitator: Clayton Desjarlais , mawandonanconsulting.com	B – The Good, The Bad, & the Ugly of Parenting Coordination High conflict families often find themselves repeatedly in court, faced with a new judge, the task of recreating new and updated application materials and exploding legal fees. Is Parenting Coordination the answer? Topics explored in this workshop include: <ul style="list-style-type: none"> • What is parenting coordination?; • Choosing a parenting coordinator; • Managing costs of the process; • Which families are best suited to parenting coordination, success stories, and more. Joan Cotie , RSW, C.Med, C.Arb, CFamArb, Joan Cotie Mediation & Consulting Ltd; Kat Bellamano , RSW, C.Med, C.Arb, Ambitus Consulting; Craig Neville , LL.B, Watson Goepel LLP
10:30	Refreshment Break	Refreshment Break
10:45	Workshop resumes	Workshop resumes
		Pre-Conference B Workshop concludes at 12:30
12:30	Hot Buffet Lunch	Registration for Pre-Conference C and Hot Buffet Lunch
13:30	Aboriginal Consultation - a Workshop for Industry, Government, and Indigenous People Workshop resumes	C – Med-Arb: Innovative, Effective and Fair Med-arb can be designed to resolve disputes in family, commercial, partnership, landlord and tenant, condominium, and many other disputes. This workshop is an in-depth look at the knowledge and competencies required to run a fair, effective and efficient med-arb process. Colm Brannigan , ADR LL.M. (ADR), C.Med, Cert Med (IMI), C.Arb, Mediate.ca-Brannigan ADR; Richard Moore , LL.B., C.Arb, C.Med, CFM, Cert. Med. IMI, MDR Associates
15:15	Refreshment Break	Refreshment Break
15:30	Workshop resumes	Workshop resumes
17:00	Pre-Conference A Workshop concludes	Pre-Conference C Workshop concludes
19:00	Members and BC Legislature Wine & Cheese Meet and Greet Room: Library	

Thursday November 21, 2019

ADRIC AGM followed by 4 Concurrent Streams

8:00	Registration and Full Hot Breakfast – Palm Court and Crystal Ballroom		
8:30 - 9:15	ADR Institute of Canada Annual General Meeting – Crystal Ballroom		
9:15 - 9:30	Conference Opening & Welcome		
9:30 - 10:30 Concurrent Sessions:			
Stream 1 Arbitration Room: Library	Stream 2 ADR Processes Room: Shaughnessy Ballroom	Stream 3 Family / Community ADR Room: Rattenbury A	Stream 4 Special Interest Room: Rattenbury B
1A Revision to the Domestic Arbitration Act Session description TBC Jonathan Eades, Legal Counsel, Civil Litigation, Government of BC; Angus Gunn, QC, LL.M, Eyford Partners LLP	2A Confidentiality! Privacy! Conflict of Interest! We ADR practitioners have myriad ethical obligations to those we serve. Confidentiality and freedom from conflicts of interest, already essential, are now complicated by additional responsibilities about collecting, using and disclosing personal information. Understanding these concepts and implementing protections for clients and ourselves is necessary in our current fast-paced milieu. Diane E. Tucker, Q.Arb, CIPP/C, CIPP/US, J.D., DET et al. Dr Eva Malisius, Q.Arb, Royal Roads University	3A The Growing Practice of Elder Mediation Seniors make up more of our population, we are living longer, adult children are the sandwich generation. The need for mediation for elders and the people who support them is growing. Join us to learn about how elder mediation can support clients to have durable outcomes that support relationships, and learn information on what types of issues are best suited. Joan Cotie, RSW, C.Med, C.Arb, CFamArb, Joan Cotie Mediation & Consulting Ltd.; Kat Bellamano, BSW, RSW, C.Med, C.Arb, FMC Cert. CFM, Ambitus Consulting	4A Understanding how Film Contributes to the Pedagogy of Dispute Resolution The purpose of this workshop is to address how film contributes to the pedagogy of dispute resolution. Considering the growing appetite for social media and technology, most students fall into a visual/spatial and divergent learner category. With film in the classroom as a springboard for the pedagogy of dispute resolution concepts, historic influences, the power of love, the impact of culture, and the multi-layered impact of politics provide an opportunity to understand dispute resolution concepts in a unique way. Helen Lightstone, LL.M, C.Med, Lightstone Mediation Services
10:30 – 10:45	Refreshment break – Palm Court		

Thursday November 21, 2019

Concurrent Sessions Continue

10:45 - 12:00 Concurrent Sessions:			
Stream 1 Arbitration <i>Room: Library</i>	Stream 2 ADR Processes <i>Room: Shaughnessy Ballroom</i>	Stream 3 Family / Community ADR <i>Room: Rattenbury A</i>	Stream 4 Special Interest <i>Room: Rattenbury B</i>
1B The Role, if any, of Prehearing Questioning in Arbitration, both International and Non-international <p>The panelists will provide insights on:</p> <ul style="list-style-type: none"> • Why and how to oppose the inclusion of prehearing questioning in arbitration; • If prehearing questioning is to occur, how should that be done?; • Is there a difference between international versus non-international arbitral proceedings? <p>Bryan Duguid, QC, FCI Arb, Jensen Shawa Solomon Duguid Hawkes LLP;</p> <p>Robert Deane, LL.B, Borden Ladner Gervais LLP;</p> <p>Erin Greenan, Legal Counsel, CNOOC International</p>	2B Building Conflict Capacity Through Insight <p>This interactive session provides practical concepts and tools for participants to reorient our practice from “conflict resolution” to “building conflict capacity”. Applying a cognitive model of decision-making that includes knowing, valuing and deciding, the session offers strategies for analyzing ethical dilemmas, managing difficult people, interacting respectfully and balancing work/life priorities.</p> <p>Dr Marnie Jull, Associate Professor and Program Head, Conflict Analysis and Management Program, Royal Roads University</p>	3B Dispute Prevention and Resolution for Family Business <p>Conflict is a natural part of running a business. When business colleagues and employees are also family members, the conflict can be particularly complex because there are three spheres of interests at play: Family issues, business issues and ownership issues. Many, if not most, family firms lack formal processes and strategies to resolve disputes. This session outlines the most common forms of family business conflict and the methodologies and best practices to assist business families to resolve them.</p> <p>Nicole Garton, BA, LL.B, C.Med, TEP, Heritage Law;</p> <p>Alyson Jones, MA, RCC, Alyson Jones & Associates</p>	4B Visual Mediation <i>Session description to follow</i> <p>Lisa Arora, LisaArora.com</p>
12:00	McGowan Awards Luncheon – Crystal Ballroom		
12:20-12:55	Keynote Speaker: Hon. David Eby, QC		
13:15 - 13:30	Presentation of the McGowan Awards of Excellence		

Thursday November 21, 2019

Concurrent Sessions Continue

14:00 - 15:00 Concurrent Sessions:			
Stream 1 Arbitration <i>Room: Library</i>	Stream 2 ADR Processes <i>Room: Shaughnessy Ballroom</i>	Stream 3 Family / Community ADR <i>Room: Rattenbury A</i>	Stream 4 Special Interest <i>Room: Rattenbury B</i>
<i>Peer to Peer Facilitated Conversations</i>			
1C Peer to Peer Facilitated Conversation: Ethics in Arbitration Join an interactive conversation with experienced arbitrators about difficult ethical challenges faced in arbitration practice, presented for discussion by asking “what would you do?”. Your questions and examples for discussion are also highly encouraged. William G. Horton, C.Arb, FCI Arb, William G. Horton Corporation	2C Peer to Peer Facilitated Conversation: Addressing the Causes Rather Than the Symptoms: Working with Leaders to Create Conflict Competent Cultures This presentation engages experienced mediators in a conversation about the practice of expanding their role in order to transform the systems and structures that give rise to destructive conflict in organizations. Such a role, which offers services in addition to mediation, can be called ‘Conflict Consulting’. Julia Menard, M.Ed, Menard & Associates; Jane Morley, QC, LL.B, Restorative Solutions; Gordon C. White, MBA, Gordon White Consulting	3C Peer to Peer Facilitated Conversation: Parent Coordination: Path to a Lasting Peace or an Expensive Road to War? Parenting Coordination (PC) has been used in BC since 2010 and part of the Family Law Act since 2016. Hear seasoned PC panelists provide answers to questions like: <i>Who needs a PC? How do we measure success? Isn't it very expensive? How do I help my clients limit costs if they get a PC? Why not just go to court and get it over with? Is this mediation or arbitration or a hybrid?</i> and any others you want to bring. Audience members will be encouraged to ask their own questions and address these issues from their own perspectives. This session will be of interest to family lawyers, policy makers and family mediators and arbitrators. Chair: Patricia Lane, JD, C.Med, C.Arb, Patricia Lane Settlement; Kat Bellamano, BSW, RSW, C.Med, C.Arb, FMC Cert. CFM, Ambitus Consulting; Jennifer A. Cooper, QC, Cooper Family Law; Joan Cotie, RSW, C.Med, C.Arb, CFamArb, Joan Cotie Mediation & Consulting Ltd.	4C Peer to Peer Facilitated Conversation: Under 40: Barriers and Opportunities Join an interactive session primarily focused on issues faced by ADR practitioners under 40 years of age. This session will include a frank discussion about barriers, challenges and opportunities faced by this age cohort, with perspectives from across the country. Audience questions and topics for discussion are highly encouraged. Michelle T. Maniago, Partner, Borden Ladner Gervais LLP (Vancouver) Dominique Panko, Q.Med, Panko Collaborative Law and Mediation
15:00 – 15:30	Plenary – sessions wrap-up – top two best take-aways from each Peer-to-Peer session		
15:30-16:00	Refreshment break – Palm Court		

Thursday November 21, 2019

Concurrent Sessions Continue

16:00 – 17:15 Concurrent Sessions:			
Stream 1 Arbitration <i>Room: Library</i>	Stream 2 ADR Processes <i>Room: Shaughnessy Ballroom</i>	Stream 3 Family / Community ADR <i>Room: Rattenbury A</i>	Stream 4 Special Interest <i>Room: Rattenbury B</i>
<p>1D Arbitrator Conflicts</p> <p>Arbitrators are often sought out as neutrals based on a particular legal or industry expertise. Arbitrators, or their firms, may well have acted for one or more parties to an arbitration at some previous time. Procedures should be in place to catch potential conflicts at the outset, rather than at some later point in the arbitration. Once caught, arbitrators must make full disclosure of the conflict. Our panel can talk about conflicts at the time of file intake, and what to do if a conflict is discovered at a later stage.</p> <p>Rajit Mittal, JD, Associate, Dentons Canada LLP</p>	<p>2D Mediating High Conflict Disputes: Using a Proposal Focused Process</p> <p>“High-conflict” disputes usually involve individuals who lack self-management skills, who are temporarily overwhelmed or have a high-conflict personality pattern. Mediators can be effective by using a structured process, while maintaining a relationship with the parties, and assisting them to take responsibility for the outcome.</p> <p>Bill Eddy, LCSW, Esq, High Conflict Institute;</p> <p>Michael Lomax, JD, High Conflict Institute</p>	<p>3D Restoring Public Trust Through ADR – Resolving Complaints Against Police</p> <p>Erosion of trust in our police services is highly publicized. Adversarial and investigative processes are not designed to build meaningful resolutions. Using ADR basic principles, we have built an inclusive process to resolve highly emotional public complaints, by restoring trust, achieving resolutions and closure.</p> <p>Mike Lamothe, LL.M (ADR), Ottawa Police Association</p>	<p>4D Embracing Forgiveness & Restoration in ADR Processes</p> <p>This experiential, introductory workshop orients practitioners/facilitators to a multi-module approach to embracing forgiveness and restoration. It covers: Understanding emotional responses to conflict; breaking the cycle of violence; restoring strength; discovering new narratives for healing; and moving forward in a positive direction.</p> <p>Lorna Lemay, CEO & Founding Member of ForGiving ForRestoring Canada</p>
17:15 - 19:00	Cocktail Reception – Palm Court		

Friday November 22, 2019

Concurrent sessions

8:00	Registration and Full Hot Breakfast – Palm Court and Crystal Ballroom		
8:45 – 10:00 Concurrent Sessions:			
Stream 1 Arbitration <i>Room: Library</i>	Stream 2 ADR Processes <i>Room: Shaughnessy Ballroom</i>	Stream 3 Workplace/Labour/HR ADR <i>Room: Rattenbury A</i>	Stream 4 Indigenous ADR <i>Room: Rattenbury B</i>
1E Cybersecurity in ADR <i>Session description to follow</i> Chair: Sarah McEachern , JD, Partner, Borden Ladner Gervais LLP Gerry Bliss , Information Risk Management Advisor and Adjunct Professor at University of Victoria Hilary Palmer , Vice President, Marsh Canada Limited	2E Mediating From a Distance – Tools From the Front Line Hear lessons and best practices from ADR professionals experienced with the use of various online, phone, written, and hybrid remote mediation approaches. How can you adapt to using remote methods successfully? What are the challenges and opportunities of distance mediation? Does it work? Is it for you? Can it expand your practice and improve access to justice? Paul Denis Godin , BA, B.Sc, LL.B, C.Med, Principal and Founder, Katalyst Resolutions; Anne Gottlieb , BA, LL.B, LL.M, Mediation at Work Ltd.; Eugene Raponi , QC, LL.B, Waddell Raponi LLP; Michelle Simpson , C.Med, C.Arb, Simpson Law	3E Workplace Restoration – The Role and Function of a “Transformative” Mediator Post-Investigation The demand for workplace investigators has increased significantly since 2010, when a number of provinces mandated, through various Occupational Health and Safety legislation, that allegations of workplace harassment, discrimination and violence must be investigated. The Federal Labour Code now also includes this mandate. Not all investigations result in any findings of what has been alleged, however, this does not mean that the “root cause” that gave rise to the complaint is resolved. This session will demonstrate how effective a “transformative” mediator’s approach is for resolving conflict in today’s workplace environments. Viki Scott , RC (c), BSc, RRP, CHRM, MBA, ADR(c), President and Principal Consultant, Scott & Associates Inc.	4E Intercultural Competency on the Road to Reconciliation The Truth and Reconciliation Commission’s (TRC) Calls to Action #27 and #28 inspired the topic of this panel. Panelists will discuss their perspectives on intercultural competency and exchange ideas about different culturally appropriate approaches to negotiation and mediation within and among indigenous groups and larger society. Obstacles experienced in DR processes and possible ways forward will be discussed. Participants will be invited to recognize, reflect on, and respect different perspectives (world views) that inform our understandings and actions as DR practitioners. Chair: Emilia Pech , Legal Counsel, Department of Justice Canada, PT Professor, UOttawa Faculty of Law and Saint Paul University Conflict Studies Program; Jereme Brooks , Child Protection Mediator from the Okanagan, focusing on youth and indigenous issues; Sheridan Barnett , a mediator for the Nunavut Human Rights Commission and in the private sector
10:00 – 10:30	Refreshment break – Palm Court		

Friday November 22, 2019

Concurrent Sessions Continue

10:30 – 12:00 Concurrent Sessions:

Stream 1 Arbitration <i>Room: Library</i>	Stream 2 ADR Processes <i>Room: Shaughnessy Ballroom</i>	Stream 3 Workplace/Labour/HR ADR <i>Room: Rattenbury A</i>	Stream 4 Indigenous ADR <i>Room: Rattenbury B</i>
1F Clause Drafting and Jurisdictional Issues <p>A review of the limits of the jurisdiction of an arbitral tribunal, whether contractual or statutory (in the case of oppression, winding up, etc.), with a review of key cases and issues regarding the assumption and declining of jurisdiction by arbitral tribunals and challenges to jurisdiction in the courts and before arbitral panels.</p> <p>Matti Lemens, LL.B, Borden Ladner Gervais LLP;</p> <p>Norm Emblem, B. Comm, LL.B, Partner, Dentons Canada LLP</p>	2F Med-Arb Best Practices <p>The launch of the ADRIC Med-Arb Rules provides ADR practitioners with a rare opportunity to offer this clearly defined innovative process to our clients from a well thought out best practices perspective. This will be a practical, focused interactive discussion about increasing the use of med-arb in our practices.</p> <p>Colm Brannigan, ADR LL.M. (ADR), C.Med, Cert Med (IMI), C.Arb, Mediate.ca-Brannigan ADR;</p> <p>Arlene H. Henry, QC, C.Med, Lawyer, Arbitrator, Instructor, and Coach, Arlene H. Henry Law Corporation;</p> <p>Allan P. Seckel, QC, CEO, Doctors of BC;</p> <p>Elton Simoes, MBA, MADR, IDP-C, C.Med, Q.Arb</p>	3F National Defence - Integrated Conflict & Complaint Management Services <p>In 2018, the Canadian Armed Forces (CAF) and Department of National Defence (DND) launched an integrated method of dispute resolution for members that has simplified access and management of conflict and complaints. The program brings together former recourse structures of Harassment Prevention, Human Rights and Diversity complaints, CAF Grievance Authority and Alternative Dispute Resolution Services into a single access point for users. With 17 Conflict and Complaint Management Services (CCMS) centres across the country, teams of Agents, Practitioners and Educators work to support both members and chain of command. Early, local and informal resolution is at the heart of service delivery together with supportive procedural guidance for rights-based processes. This presentation explores the fundamental aspects of this innovative new model of conflict management and its implications.</p> <p><i>Speakers TBA</i></p>	4F ADR and Indigenous Legal Orders <p><i>Session description to follow</i></p> <p>Bruce McIvor, PhD, First Peoples Law;</p>
12:00	Plated Luncheon – Crystal Ballroom		
12:20 - 13:00	Keynote Speaker: Hon. Sheilah Martin		

Friday November 22, 2019

Concurrent Sessions Continue

13:30 - 14:45 Concurrent Sessions:

Stream 1 Arbitration <i>Room: Library</i>	Stream 2 ADR Processes <i>Room: Shaughnessy Ballroom</i>	Stream 3 Workplace/Labour/HR ADR <i>Room: Rattenbury A</i>	Stream 4 Indigenous ADR <i>Room: Rattenbury B</i>
<p>1G Judicial Deference to Arbitration</p> <p>An important reason to choose binding arbitration, rather than resolving disputes in the courts, is to avoid lengthy appeals. In 2014, the Supreme Court of Canada held in <i>Sattva Capital Corp v Creston Moly Corp</i> 2014 SCC 53 that commercial arbitral awards should be afforded deference. The panel will review the deference afforded to arbitral awards by tracing how <i>Sattva</i> has been interpreted and applied in subsequent decisions in Canada, and discuss what this means for parties to arbitration.</p> <p>David Wotherspoon, MA, LL.B, Dentons Canada LLP</p>	<p>2G Court-annexed Mediation: Deconstructing Justice</p> <p>This session is intended to situate mediation in the current access to justice crisis in Canada. Court annexed mediation now has institutional standing in many jurisdictions. The session will review the manner in which mediation is conducted in the court system and raise the question whether court annexed mediation sufficiently satisfies justice criteria. It posits that this new form of justice is not only what is required but is becoming the norm of dispute resolution.</p> <p>L. Leslie Dizgun, C.Med, D. Jur., LL.M., Adjunct Professor, Counsel, Brauti Thorning LLP</p>	<p>3G Transference / Compassion Fatigue</p> <p>As mediators we hear and resolve issues arising from, at times, highly charged, conflict. How do we as mediators manage issues arising from transference? What are the signs and symptoms etc.</p> <p>Viki Scott, RC (c), BSc, RRP, CHRM, MBA, ADR(c), President and Principal Consultant, Scott & Associates Inc.</p>	<p>4G Quwutsun Mustimuwh Restorative Justice</p> <p>Mr. Swustus will share his Restorative Justice duties: he works closely with Cowichan Valley Law agencies (incl BC Conservation, Dept of Fisheries & Oceans and the RCMP). He also works closely with the Native Court Workers Association of BC and other agencies in that realm. He will share how he delivers Cowichan cultural /traditional values, along with contemporary values in Restorative Justice practises which are supported by the Cowichan elders to reduce the recidivism rate of Aboriginal Offenders. Mr. Swustus will also discuss his part in the beginning of the Duncan First Nations court, which delivers the same cultural and traditional practises, assisting in the healing of First Nations people in conflict with the law.</p> <p>Calvin Swustus, Cst Ret, Community Justice Coordinator</p>
14:45 – 15:00	Refreshment Break - Palm Court		

Friday November 22, 2019

Concurrent Sessions Continue

15:00 - 16:15 Concurrent Sessions:

Stream 1 Arbitration <i>Room: Library</i>	Stream 2 ADR Processes <i>Room: Shaughnessy Ballroom</i>	Stream 3 Workplace/Labour/HR ADR <i>Room: Rattenbury A</i>	Stream 4 Indigenous ADR <i>Room: Rattenbury B</i>
1H <i>To be confirmed shortly</i>	2H Online Dispute Resolution <i>Session description TBC</i> Chair: Andrew Eckart, BA, LL.B, Eckart Mediation; Candice Lee, PMP, Digital Delivery, Legal Services Society; Kandis McCall, Director of Case Management, Civil Resolution Tribunal; Darin Thompson, Legal Counsel, BC Ministry of Justice	3H Towards Collaborative Return-to-Work/Disability Management Programs and Practices Within the context that more than 60% of all Human Rights complaints across Canada have a mental/physical health impairment component, that about 50% of all poverty cases across Canada (currently well in excess of 1.2 M) have a disability relationship (either the individual themselves or a member of their family) and that about 80% of impairments occur during someone's working life, then effective policy and program standards in this area have the greatest potential for positive socio-economic impact for the individual, workplace and society. Mediators will learn how to assist workplaces in developing policies and standards. Wolfgang Zimmermann, OBC, President, Pacific Coast University for Workplace Health Sciences and Executive Director, National Institute of Disability Management and Research	4H ADR in the Indian Residential Schools (and Other More Recent Class Action Settlements) <i>Session description to follow</i> Kathleen Keating, Adjudicatrice, Secrétariat d'adjudication des pensionnats indiens
16:15 - 16:45	Closing Plenary and Coffee		