

ABA Annual Meeting San Francisco
Section of Dispute Resolution
August 10-11, 2007
Headquarter Hotel: Hilton San Francisco
Presidential CLE Center: Moscone West Convention Center*

Schedule

Thursday, August 9, 2007

1:30pm – 4:30pm

San Francisco Marriott
Pacific Suite H, 4th Floor

Dispute Resolution Principles & Techniques for the Bench

This program offers three 1-hour presentations focusing on differences between mediation and settlement conferences, psychological principles in negotiation & mediation, and risk analysis.

Presented by: The Judicial Division and Dispute Resolution Section Joint Committee on Mediation and ADR

Sponsors: Lawyers Conference, National Conference of the Administrative Law Judiciary, National Conference of Federal Trial Judges and, California Judges Association

Cosponsors: Business Law Section, Tort Trial and Insurance Practice Section, Young Lawyers Division, Administrative Law and Regulatory Practice Section, Section of Labor and Employment Law, Section of Dispute Resolution

Speakers: Mary Alexander, Esq., San Francisco, CA; Professor Richard Birke, Salem, OR; Hon. Wayne Brazil, Oakland, CA; Hon. Bruce T. Cooper, Marina del Rey (former ALJ), CA; Hon. David Horowitz (ret.), Studio City, CA; Professor Yolanda Jackson, Vallejo, CA; Hon. Harry W. Low (ret.), San Francisco, CA; Hon. Ellen Sickles James (ret.), Walnut Creek, CA; Professor Melissa Nelken, San Francisco, CA

Friday, August 10, 2007

7:30am – 9:30am

International Committee Meeting

San Francisco Hilton

8:30am – 10:00am

Moscone West Convention Center

Title: *The U.S. Air Force's Negotiation Center of Excellence: Establishing Interest-based, Cross-cultural, and Multi-party Negotiation Skills as a Core Competency Among Military and Government Personnel

Program Description: Effective negotiation skills are critical to successful conflict resolution across all subject matter areas. Interest-based negotiation is one tool that can be used to reach agreements that maximize your interests in a variety of negotiation contexts.

The Air Force's Negotiation Center of Excellence (NCE) offers interest-based, cross-cultural, and multi-party negotiation training to military, government, and other interested organizations. The Air Force's interest-based negotiation model has been employed to train over 20,000 Air Force civilian supervisors as part of the recently deployed National Security Personal System (NSPS). The NCE is the only organization in the U.S. military aiming to establish negotiation skills as a core competency among all its personnel.

This program will discuss how to achieve your desired outcome in negotiations using a collaborative approach and how to apply this tool in negotiations with individuals from different national, organizational, and socioeconomic cultures. This session will include demonstration of an effective cross-cultural negotiation. It will conclude by offering techniques to overcome challenges in dynamic multi-party settings.

Panelists: Stefan Eisen, Director, Negotiation Center of Excellence, USAF, Arlington, VA; Kenneth Lechter, Associate General Counsel for Dispute Resolution, USAF, Arlington, VA; Gary Weaver, Executive Director, Intercultural Management Institute, American University, Washington, DC

2:00pm – 3:30pm

Moscone West Convention Center

Title: *Ins and Outs of Party Arbitrator Practice

Program Description: Requirements of Code of Ethics for Arbitrators in Commercial Disputes (2004) for appointment of party-appointed arbitrators; ethical issues; practical issues in administering and managing

tripartite arbitrations; how to select effective party arbitrators; ethics of non-neutral arbitrators; deliberative process of tripartite panel with neutral or non neutral party arbitrators.

Panelists: Richard Chernick, JAMS, Los Angeles, CA and David Heilbron, San Francisco, CA

2:00pm – 3:30pm

Moscone West Convention Center

Title: *Live Simulated Mediation – Resolving Key Disputed Issues in an Offshore Outsourcing and Copyright Case and Enforcing the Outcome

Program Description: Have you ever observed a live, unrehearsed mediation of complicated intellectual property and contract issues? If not, this session will instruct you in many ADR tactics and techniques when applied to the very “hot” area of information technology disputes. The session will be a live, unrehearsed mediation before a [retired Federal jurist] together with ongoing sidebar analysis and commentary from a skilled mediator of the dispute resolution techniques being employed. The carefully crafted hypothetical will bring to the fore key disputed issues in an offshore outsourcing and contracts case culminating with “out of the box” techniques for enforcing a mediation settlement where that process is not even recognized by local law.

After attending this session, you will gain a far more in depth understanding of the information and tools needed to advise business clients who might otherwise be skeptical using ADR either because of the nature of the contractual undertaking in dispute and/or ensuring that the process will be undertaken in good faith.

Panelists: Chairperson: Bruce Meyerson, Miller, LaSota & Peters PLC, Phoenix, AZ; Moderator: John Bickerman, Bickerman Dispute Resolution, Washington, DC; Fern Smith, JAMS, San Francisco, CA; and Stephen N. Hollman, Business & Technology Law Group, San Jose, CA

3:45pm – 5:15pm

Moscone West Convention Center

Title: *ARE LARGE SCALE CLASS ARBITRATIONS REALISTIC: A Look into the Future?

Program Description:

This program will explore: the (recent) historical use of arbitration in large scale class actions; the concerns and conflicts with judicial rules and procedures; possibilities for addressing these concerns; and a comparison with the enormous successes that lawyers, courts and mediators have had in mediating such cases.

Panelists: Lester J. Levy, JAMS, San Francisco, CA; Jeff Richardson, Mitchell Silverberg, Los Angeles, CA; Kristen Law, Loeff Cabraser Heimann & Bernstein, San Francisco, CA; Mike Ram, Levy, Ram & Olson, San Francisco, CA

3:45pm – 5:15pm

Moscone West Convention Center

Title: *Appellate Mediation: What Makes It Different and Why Does It Work?

Program Description: Appellate mediation works differently than mediation referred by a trial court. The panel will discuss what you should know about how it works and you can make the most effective use of it.

Panelists: Hon. Dorothy Nelson, U.S. Court of Appeal, Pasadena, CA; Claudia Bernard, Chief, 9th Circuit Mediator, San Francisco, CA; Ignazio Ruvolo, Presiding Justice, Div. 4, California State Court of Appeal, San Francisco, CA; John A. Toker, Mediation Program Administrator, California State Court of Appeal, First District, San Francisco, CA; Jon Eisenberg, Eisenberg and Hancock, Appellate attorney, San Francisco, CA; Pamela Dunn, Esq. Dunn and Koes, Pasadena, CA

3:00 – 6:00 pm

Collaborative Law Committee Meeting

San Francisco Hilton

6:00 – 8:00 pm

Awards Reception

San Francisco Hilton

Saturday, August 11, 2007

7:30-9:00am

San Francisco Hilton

Construction Program Breakfast Meeting

8:00 – 8:30 am

Advisory Committee Meeting

San Francisco Hilton

8:30-9:00 am

Membership Meeting

San Francisco Hilton

9:00am – 2:00pm

Council Meeting

San Francisco Hilton

2:00pm – 3:30pm

Moscone West Convention Center

Title: *Client Satisfaction in Arbitration

Program Description: All too often, clients complain that arbitration failed to meet expectations. They are dissatisfied with the result, frustrated with the length and cost of procedures, and/or concerned about the protection of proprietary information. The premise of this program is that a primary reason for disappointed expectations is the failure of decision makers to set priorities, be more deliberate about tailoring procedures to their needs, and finding the right arbitrators. We will examine key decision points and aspects of the arbitration process that are most critical to client satisfaction.

Panelist: Thomas Stipanowich, Pepperdine School of Law, Malibu, CA

3:45pm – 5:15pm

Moscone West Convention Center

Title: *Ethics in Advertising: Blogs, Websites and "Super" Claims - Implications for Interstate Mediation, Arbitration and Litigation Practices

Co-Sponsors: ABA Law Practice Management Section and ABA Litigation Section

Program Description: In this timely CLE program, the speakers will analyze First Amendment/commercial speech jurisprudence over the past 30 years, beginning with the Supreme Court's opinion on attorney advertising in *Bates v. Arizona*; examine key provisions on attorney, arbitrator, and mediator advertising in ethics codes across the United States; and present practical applications of ethics rules in the area of marketing by law firms and mediation firms. The panel of speakers will cover relevant ethics rules on advertising including Section VII of the Model Standards of Conduct for Mediators (2005), the ABA Model Rules for attorney advertising, California and other states' ethics rules on attorney advertising, and the New York Advertising Ethics Rule changes that went into effect on 2-1-07. The panel will discuss how the First Amendment and ethics rules impact issues on dignified and effective marketing, including applications to web sites, blogs, e-mail, public relations, "super" lawyer and mediator listings, "best" lawyer or mediator self-designations, lawyers who have arbitration or mediation practices, and multi-state practice issues.

Moderators: Margaret M. Huff, Margaret Huff Mediation, Nashville, TN; Sheila Brooks-Tahir, Housing Authority of Baltimore City, Baltimore, MD

Panelists: Rodney A. Smolla, Dean and Professor of Law, Washington & Lee University School of Law, Richmond, VA; Micah Buchdahl, President of HTMLawyers, Inc., Moorestown, NJ; Susan Kay, Associate Dean for Clinical Affairs and Clinical Professor of Law, Vanderbilt University Law School, Nashville, TN

3:45pm – 5:15pm

Moscone West Convention Center

Title: *Arbitration and Mediation of Intellectual Property Disputes Today

Co-Sponsor: The Intellectual Property Section

Program Description: Against the background of the rising cost and increasingly international scope of intellectual property (IP) litigation, more owners of IP rights now look at arbitration, mediation and other forms of ADR. This program aims to explore the circumstances in which IP owners are prepared to use, and have used, ADR; where they did, whether it has lived up to their expectations by comparison to other options; what have been some of the practical do's and don'ts of the processes; and what place arbitration and mediation take in IP dispute clauses and policies. The program includes discussion of the experience of the WIPO Arbitration and Mediation Center.

Panelists: M. Scott Donahey, Palo Alto, CA; Peter Michaelson, Michaelson & Associates, Red Bank, NJ; Mark Partridge, Pattishall, McAuliffe, Chicago, IL; Erik Wilbers, World Intellectual Property Organization (WIPO) Arbitration and Mediation Center, Geneva, Switzerland

Sunday, August 12, 2007

8:00am-9:30am

Moscone West Convention Center

Title: * The Ultimate Arbitration Update

Sponsor: Section of Labor and Employment

Co-Sponsor: Section of Dispute Resolution

Program Description: This program will examine key issues including the Due Process Protocol Conference, ethical hot spots, pre-dispute mandatory clauses and discovery. The presentation also will include an update from arbitration service providers.

Moderator: Homer C. La Rue, Columbia, MD **Panelists:** Linda D. Fienberg, New York, NY; June Lehrman, Los Angeles, CA; Alan Symonette, Philadelphia, PA; David Weinberg, Oakland, CA