



NEW YORK STATE BAR ASSOCIATION DISPUTE RESOLUTION SECTION



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2018 Mediation and Arbitration Clinic for Advocates and New Lawyers

16.0 Total MCLE Credits

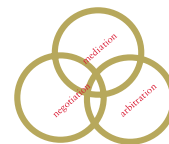
May 18-19, 2018

St. Johns University – Manhattan Campus
101 Astor Place, New York, NY 10003

The New York State Bar Association's Meetings Department has been certified by the NYS Continuing Legal Education Board as an accredited provider of continuing legal education in the State of New York. Under New York's MCLE rule, this program will provide you with a total of **16.0 MCLE Credits**. **This program is transitional and therefore suitable for newly admitted attorneys.**



**ST. JOHN'S
UNIVERSITY**
SCHOOL OF LAW



The Hugh L. Carey Center
for Dispute Resolution

NEW YORK STATE BAR ASSOCIATION

An overview of the course:

The NYSBA's Dispute Resolution Section is proud to offer its inaugural Mediation and Arbitration Training Clinic for Advocates. The purpose of this 2-day clinic is to train attorneys and law students who are interested in pursuing a career as advocates in commercial mediation and arbitration. While this program is being presented by the New Lawyers and Law Students committee, it is open to all New York licensed attorneys who have an interest in ADR.

The course will provide participants the fundamental skills needed to become an advocate in commercial mediation and arbitration disputes. Upon completing the program, participants will serve as pro bono advocates in commercial mediations and arbitrations by representing parties who otherwise would be pro se litigants. During the process, participants will be supervised and mentored by an experienced ADR practitioner.

For additional information about the program, please contact Alexander Bachuwa at alex@nomadresolutions.com

Registration Fees:

Dispute Resolution Section Member: \$100.00

Newly Admitted Attorneys & Sponsoring Organization: \$100.00

NYSBA Member: \$125.00

Non-NYSBA Member: \$250.00

Student: \$50.00

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Discounts And Scholarships: New York State Bar Association members and non-members may receive financial aid to attend this program. Under this policy, anyone who requires financial aid may apply in writing, not later than ten working days prior to the program, explaining the basis of his/her hardship, and if approved, can receive a discount or scholarship, depending on the circumstances. For more details, please contact: Sydney Joy, New York State Bar Association, One Elk Street, Albany, New York 12207.

Accommodations For Persons With Disabilities: NYSBA welcomes participation by individuals with disabilities. NYSBA is committed to complying with all applicable laws that prohibit discrimination against individuals on the basis of disability in the full and equal enjoyment of its goods, services, programs, activities, facilities, privileges, advantages, or accommodations. To request auxiliary aids or services or if you have any questions regarding accessibility, please contact Sydney Joy at 518.487.5630 or sjoy@nysba.org.

Day 1: Mediation Training

Friday, May 18, 2018 Morning Session

8.0 MCLE Credits (6.0 Skills, 1.5 Areas of Professional Practice, .5 Ethics)

8:00 – 8:30 a.m. – Registration and Breakfast

8:30 – 8:45 a.m. – Introduction

**8:45 – 10:00 a.m. – Presented by: Simeon H. Baum, Esq.,
Resolve Mediation Services, Inc. (1.5 Areas of Professional
Practice)**

I. What is Mediation?

- Advantages of Mediation, even is mandatory
- Voluntary vs. Mandatory
- Confidentiality
- Impartiality
- Distinction from Arbitration/Litigation
- Distinction from negotiation

II. Knowing your mediator

- Choosing a mediator
- Philosophies of mediation

10:00 – 10:25 a.m. – Role Playing/Friend Exercise (.5 Skills)

- Brief role playing exercise based on a short fact pattern in which participants will "adjudicate" disputes from varying perspectives

**10:25 – 11:15 a.m. – Presented by: Lewis F. Tesser, Esq., Tesser,
Ryan & Rochman LLP (1.0 Skills)**

Pre-mediation Considerations

- Objective
- Alternatives
- Client perspective
- Strategy
- Participants
- Draft agreement

11:15 a.m. – 12:15 p.m. – Lunch

Friday, May 18, 2018 Afternoon Session

**12:15 – 1:05 p.m. – Presented by: Elayne E. Greenburg, Esq.,
Professor of Legal Practice,
St. John's University School of Law (1.0 Skills)**

The Mediation Process Part 1

- Pre-conference
- Mediator's opening statements
- Parties opening statements

AGENDA

1:05 – 2:00 p.m. – Opening Statement Exercise (1.0 Skills)

Participants write and recite opening statements based on a fact pattern handout

2:00 – 2:25 p.m. – Presented by: Robyn Weinstein, Esq., U.S. District Court, Eastern District of New York (.5 Skills)

I. The Mediation Process Part 2

- Discussion
- Closing

II. After the mediation

- Debrief
- Follow-up process

2:25 – 2:50 p.m. – Presented by: Robyn Weinstein, Esq., U.S. District Court, Eastern District of New York (.5 Ethics)

Ethics

- Payment
- Referrals to/from mediators
- Confidentiality

2:50 – 3:00 p.m. – Break

3:00 – 4:15 p.m. – Breakout Practice Mediations (1.5 Skills)

Participants split into groups of 5

4:15 – 5:00 p.m. – Practice Mediation Debriefs (.5 Skills)

Day 2: Arbitration Training

Saturday, May 19, 2018 Morning Session

8.0 MCLE Credits (6.5 Skills, 1.5 Areas of Professional Practice)

8:00 – 8:30 a.m. – Breakfast

8:30 – 8:45 a.m. – Introduction

8:45 – 10:00 a.m. – Presented by: Alexander Bachuwa, Esq., Bachuwa Law PLLC (1.5 Skills)

Arbitration Selection

- Strike & Rank
- Number of Arbitrators
- Factors in Selection
- Screening Process
- Objections after Appointment

10:00 – 10:10 – Break

10:10 – 11:25 a.m. – Presented by: Charlie Moxley, Esq., MoxleyADR LLC (1.5 Areas of Professional Practice)

I. Selection of Law

- Specified in Arbitration Agreement
- Not Specified in Arbitration Agreement
- New York Arbitration

II. Arbitrability

- Gateway Prong
- Who Decides Prong

III. Mediation

- As a required step
- Voluntary
- Mediation vs. Arbitration

IV. Pleadings

- Demand for Arbitration
- Responsive Pleadings
- Amendments to Pleadings

V. Interim Emergency Relief

- Preliminary Injunction
- Orders of Attachment

11:25 a.m. – 12:25 p.m. – Lunch

Saturday, May 19, 2018 Afternoon Session

12:25 – 1:40 p.m. – Presented by: Ross J. Kartez, Esq., Ruskin Moscou Faltischek P.C.; M. Salman Ravala, Esq., Criscione Ravala, LLP (1.5 Skills)

I. Preliminary Conference

- Arbitration vs. Litigation
- Prior to the Call
- On the Call

II. Discovery

- Arbitration vs. Litigation
- Confidentiality

III. Third Party Discovery

1:40 – 2:55 p.m. – Presented by: Erica Garay, Esq., Garay ADR Services (1.5 Skills)

I. The Evidentiary Hearing

- Arbitration vs. Litigation
- Format

II. Post – Award Issues

3:05 – 5:00 p.m. – Presented by: David J. Abeshouse, Esq., Law Office of David J. Abeshouse; Erica Garay, Esq., Garay ADR Services (2.0 skills)

ADR vs. Litigation Discussion

- Arbitrator Selection
- Applicable Law (procedural and substantive)
- Interplay between mediation and arbitration
- Effective use of Arbitral Pleadings
- Strategies for the Preliminary Conference
- Court Intervention
- Party and Third-Party Discovery
- Preparing for the Evidentiary Hearing
- Post-Award Actions and Deadlines



NEW YORK STATE BAR ASSOCIATION
SECTION AND MEETING SERVICES DEPARTMENT

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Albany, NY 12207