



EFFECTIVE ARBITRATION

Strategies for Success

Keynote Address:

“The Flexibility of Arbitration and the Possibilities of User-Designed Approaches”

The Honourable Thomas Albert Cromwell, C.C.
Senior Counsel, Borden Ladner Gervais LLP;
Former Justice, Supreme Court of Canada

Learn from a distinguished group of practitioners how arbitration is an increasingly used method of dispute resolution across practice areas.

You will learn:

- What types of cases are or are not suitable for arbitration?
- What are the ethical and practical issues that arise in the arbitration process?
- The latest creative uses of the arbitration process: going beyond the do’s and don’ts
- How to properly and effectively draft an arbitration agreement
- Why using your litigation techniques won’t work in an arbitration
- How do you decide which rules will govern the arbitration?

Register today at:

osgoodepd.ca/arbitration2019

Program Chairs

Lorne H. Wolfson, FDRP Arb.,
Torkin Manes LLP; Past FDRIO Chair

Marvin J. Huberman,
LL.B., LL.M., FCIArb, FAIADR
President of ADRIO

Date and Time

April 17, 2019
9:00 a.m. – 4:00 p.m. EDT
In Person or Webcast

Online Replay: May 22, 2019

Location

Osgoode Professional
Development
1 Dundas St. West, 26th Floor
Toronto, ON



Effective Arbitration

Strategies for Success

Arbitration is not a new method of dispute resolution. But its use in various areas continues to expand and tactics for success are continually changing. *Do you have the unique skill set you need to effectively deal with arbitration's distinctive challenges?*

Developed as part of a unique partnership, this joint **ADRIO/FDRIO/OsgoodePD** program provides a forum for discussion focusing on broadening the skill set for anyone currently acting as an arbitrator or representing clients at arbitration. This **one-day national symposium** will also give those contemplating a career in arbitration, or who simply work in dispute resolution, a grounding of critical concepts along with strategies to ensure success.

This is a **unique** gathering of experienced practitioners who will discuss the role that arbitration plays in our dispute resolution system, how it differs from litigation and what you need to know to always be prepared. **Ensure you are equipped and don't miss this event.**

Who Should Attend

- Mediators
- Arbitrators
- Dispute Resolution Professionals
- Anyone dealing with dispute resolution issues
- Human Resources Professionals
- Lawyers who practice in: family, civil litigation, labour/employment, bankruptcy/insolvency, commercial, wills/estates
- Financial Professionals, including: valuers, actuaries, forensic accountants
- Government Employees
- Business Leaders
- Union Representatives
- Counselors

Space is limited. Register today at:

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Agenda

8:30 a.m. Registration

9:00 a.m.

Welcome and Introduction from the Chairs

Lorne H. Wolfson, FDRP Arb.,
Torkin Manes LLP, Past FDRIO Chair

Marvin J. Huberman,
LL.B., LL.M., FCI Arb, FAIADR
President of ADRIO

9:10 a.m.

Morning Keynote Address

"The Flexibility of Arbitration and the Possibilities of User-Designed Approaches"

The Honourable
Thomas Albert Cromwell, C.C.
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9:45 a.m.

Creative Use of the Arbitration Process

Moderator:

Richard W. Shields, LLB, MA, LLM, PhD,
FDRP Arb.
Family Dispute Resolution

Panelists:

Stephen Grant, LSM, Cert. F. Arb., FDRP Arb.
Grant Crawford Watson LLP

Megan Keenberg
Van Kralingen & Keenberg LLP

Paul Michell
Lax O'Sullivan Lissus Gottlieb

Jennifer Webster
Mediator, Arbitrator, Facilitator

- Going beyond the do's/don'ts and best practices

- A look at creative ways to use the arbitration process
- Issue-by-issue process – different ways to structure the arbitration
 - Case management arbitration
 - Alternatives to the norm of oral evidence with right of cross examination
 - Evidence in chief by affidavit with or without addition
 - Time-limited submissions
 - The use and benefit of Final Offer Selection

10:45 a.m. Refreshment Break

11:00 a.m.

Drafting Arbitration Agreements

Moderator:

Michael Erdle, FCI Arb., C. Arb., C. Med.
Practical Resolutions

Panelists:

Hershel Fogelman
Fogelman Law

Chloe A. Snider
Dentons Canada LLP

- Scope of the agreement: What types of disputes will be the subject of the agreement?
- Prerequisites to arbitration: Negotiation? Mediation?
- How does one party refer the dispute to arbitration?
- What law will govern: the law of contract; the seat of the arbitration?
- International vs. domestic arbitration
- What is involved in selecting an arbitrator?
- What timing and procedural issues should be considered?
- What interim and final remedies can be awarded?
- Can the arbitrator award costs?

- How is the arbitral award enforced?
- Will the award be final and binding or will an appeal be allowed? On what grounds?

12:00 p.m. Luncheon

12:45 p.m.

Advocating Effectively

Moderator:

David McCutcheon
Counsel, Dentons Canada LLP

Panelists:

Larry Banack
Banack Resolutions Inc.

Cheryl Goldhart
Goldhart & Associates

- The differences between litigation and arbitration
- Why using your litigation techniques won't work in an arbitration
- Educating counsel in moving from litigation to arbitration
- How do you prepare yourself? Your client?
- Setting the expectations at the outset – what do we want to achieve?

1:45 p.m.

Procedural Issues in Arbitration

Moderator:

Lorne H. Wolfson, FDRP Arb.,
Torkin Manes LLP, Past FDRIO Chair

Panelists:

William G. Horton
Independent Commercial Arbitrator

Megan Keenberg
Van Kralingen & Keenberg LLP

Pamela Pengelley
Cozen O'Connor

- Arbitration vs. Court: How is the decision to arbitrate made and why?
- Understanding the pros and cons of

each process, and explaining the process to clients

- What are the different formats?
- How do you choose between using the Rules of Civil Procedure or the rules of a particular arbitrator?
- What those rules include: Rules of evidence? Do you allow hearsay?

2:45 p.m. Break

3:00 p.m.

Ethical Issues in the Professional Practice of Arbitration

Moderator:

Richard W. Shields, LLB, MA, LLM, PhD,
FDRP Arb.
Family Dispute Resolution

Panelists:

Marcel Mongeon
Ross, Mongeon, Covello & Co.

Verlyn Francis, JD, LLM (ADR)
Isiko Dispute Resolution Consultants

Brahm D. Siegel, FDRP Arb.,
Nathens, Siegel LLP; Co-Chair, FDRIO
Arbitration Section

This session will use a series of case studies and audience polling to hone in on potential ethical challenges in the practice of arbitration, highlighting:

- What to look for in selecting an arbitrator
- Procedural interests and obligations of the parties
- Recognizing potential biases and conflicts amongst the parties & the arbitrator
- Inherent difficulties with the process of med-arb
 - Same person doing the arbitration who conducted the mediation
- Why does this process work in family law cases when other practices areas view it as offside?

4:00 p.m. Conference Concludes

Chairs

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Torkin Manes LLP;
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Keynote

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*"The Flexibility of Arbitration and the Possibilities of
User-Designed Approaches"*

Faculty

Larry Banack Banack Resolutions Inc.	David McCutcheon Counsel, Dentons Canada LLP
Michael Erdle, FCI Arb., C. Arb., C. Med. Practical Resolutions	Paul Michell Lax O'Sullivan Lissus Gottlieb
Verlyn Francis, JD, LLM (ADR) Isiko Dispute Resolution Consultants	Marcel Mongeon Ross, Mongeon, Covello & Co.
Hershel Fogelman Fogelman Law	Pamela Pengelley Cozen O'Connor
Cheryl Goldhart Goldhart & Associates	Richard W. Shields, LLB, MA, LM, PhD, FDRP Arb. Family Dispute Resolution
Stephen Grant, LSM, Cert. F. Arb., FDRP Arb., Grant Crawford Watson LLP	Brahm D. Siegel, FDRP Arb., Nathens, Siegel LLP; Co-Chair, FDRIO Arbitration Section
William G. Horton Independent Commercial Arbitrator	Chloe A. Snider Dentons Canada LLP
Megan Keenberg Van Kralingen & Keenberg LLP	Jennifer Webster Mediator, Arbitrator, Facilitator

Registration Details

Fee per Delegate

\$495 plus HST

Fees include attendance, program materials, lunch and break refreshments. Group discounts are available. Visit www.osgoodepd.ca/group-discounts for details. Please inquire about financial assistance.

Program Changes

We will make every effort to present the program as advertised, but it may be necessary to change the date, location, speakers or content with little or no notice. In the event of program cancellation, York University's and Osgoode Hall Law School's liability is limited to reimbursement of paid fees.

Cancellations and Substitutions

Substitution of registrants is permitted at any time. If you are unable to find a substitute, a full refund is available if a cancellation request is received in writing 14 days prior to the program date. If a cancellation request is made with less than 14 days notice, a \$75 administration fee will apply. No other refund is available.



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Effective Arbitration Strategies for Success

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