

2022 WINKLER/IAM/OSGOODEPD CONFERENCE ON MEDIATION NAVIGATING RISK IN MEDIATION: RISK ANALYSIS & DECISION MAKING

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WINKLER
INSTITUTE
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RESOLUTION



International
Academy of Mediators

Established 1996



Learn from international mediation experts
how to navigate complex and nuanced issues
in today's mediations.

- What are the most effective ways to present your risk assessment to the parties?
- How forthright should a mediator be when assessing risk?
- Does emotional decision making play a part in how we analyze the risk involved in a case?
- How can risk be analyzed in a neutral manner?

PLUS! Don't miss the *Interactive Multi-Party Case Analysis*

You will have the opportunity to analyze a complex dispute and brainstorm strategies for analyzing, presenting and leveraging risk to navigate the mediation

KEYNOTE SPEAKER

Michel Kallipetis, QC on
"Navigating through Risk at Mediation"

PROGRAM CHAIR

J. Jay Rudolph, LLB. C.Med., C.Arb
Rudolph Mediation & Arbitration
Services Inc.

DATE AND TIME

May 12, 2022
9:00 a.m. – 4:00 p.m. ET
Live, Online

Register today at:

[osgoodepd.ca/
mediation2022](https://osgoodepd.ca/mediation2022)

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Mediation & Arbitration Services

Navigating Risk in Mediation: Risk Analysis & Decision Making

Mediation plays a critical role in our justice system. It requires a special skill set and raises unique challenges for both mediators and counsel. Beyond the justice system, mediation approaches and techniques are increasingly used in a wide variety of settings.

Developed as part of a unique partnership of legal, mediation and academic experts, the joint Winkler/IAM/OsgoodePD annual program draws from across North America and internationally, and provides a forum of discussion focused on broadening the skills of counsel and mediators.

This year's program focuses on the best strategies for analyzing, communicating and utilizing the different types and levels of risk in order to effectively facilitate the mediation process, including:

- Assessing litigation risk and its value in the mediation context
- Presenting your risk assessment to the parties in the most effective ways
- Understanding risk preferences and its application to mediation
- Analyzing risk in a neutral manner
- Using risk analysis to resolve high conflict disputes

PLUS! Don't miss your chance to hear from Keynote Speaker **Michel Kallipetis, QC** and to participate in the group **Interactive Case Analysis**.

Who Should Attend

- Mediators
- Arbitrators
- Private Practice Lawyers
- Government Lawyers
- In-house Counsel
- Ombudspersons

Register today at:

osgoodepd.ca/mediation2022

Agenda

8:30 a.m.

Virtual Registration

9:00 a.m.

Welcome and Introduction

J. Jay Rudolph, LLB. C.Med., C.Arb
Rudolph Mediation & Arbitration
Services Inc.

9:15 a.m.

Opening Address – Evaluating Litigation
Risk: A Crucial Variable in Negotiated
and Mediated Settlements

Professor Michaela Keet and
Professor Heather Heavin
College of Law, University of
Saskatchewan

10:00 a.m.

Break

10:10 a.m.

Risk, Conduct and Outcome: Effects on
Mediation

Moderator:

Paul M. Iacono, QC
YorkStreet Dispute Resolution Group Inc.

Panelists:

Earlene Baggett-Hayes
The Law and Mediation Center PLLC.

Todd McCarthy
Flaherty, McCarthy LLP

Adam Wagman
Howie, Sacks & Henry LLP

- Protecting neutrality in risk assessment
- Does the level of risk change the style of the mediation?

- Effective strategies for caucusing depending on the parties' level of risk
- Strategies for managing situations when emotion can potentially interfere with logic

11:00 a.m.

Break

11:10 a.m.

The Psychology of Risk Preferences and Applications to the Mediation Process

Professor Cendri Hutcherson

University of Toronto

12:00 p.m.

Lunch

1:00 p.m.

Keynote Address – In the Footsteps of Nik Wallenda without a Lifeline: Navigating through Risk at Mediation

Michel Kallipetis, QC

President, IAM

1:50 p.m.

Interactive Case Analysis – Risky Business: Working through the Potentially Explosive Dispute

Jon Fidler, JD, C.Med.

M+F Mediation & Arbitration Services

The Hon. Todd Archibald, C.Med, FCI Arb

Archibald Mediation & Arbitration Solutions Inc.

Earlene Baggett-Hayes

The Law and Mediation Center PLLC.

In large and small group interactive discussions, participants will analyze and tackle the complicated issues raised by a complex multi-party dispute. Using

a realistic scenario, challenges will be identified, participants will work together to navigate them, and expert mediators will help participants analyze the risks and find best strategies for utilizing risk assessment to manage the mediation. Issues raised by the scenario will include:

- Should the level of a party's risk determine the nature of pre-mediation caucuses?
- Does the type and level of risk affect whether to conduct joint sessions?
- What are the risks to parties if a deal is not made?
- How does a mediator separate the risk of business negotiations from risk of an emotional nature?
- How should a mediator handle what will be an emotional and highly charged atmosphere?
- How forthright should a mediator be when assessing the risks?
- Does emotional decision making play a part in how we analyze risk?

2:30 p.m.

Break

2:45 p.m.

Interactive Case Analysis – Risky Business: Working through the Potentially Explosive Dispute *(continued)*

3:30 p.m.

Wrapping it all Up – Debrief

Moderator:

J. Jay Rudolph, LLB, C.Med., C.Arb.

Rudolph Mediation & Arbitration Services Inc.

Panelists:

The Hon. Todd Archibald, C.Med, FCI Arb

Archibald Mediation & Arbitration Solutions Inc.

Professor Michaela Keet

College of Law, University of Saskatchewan

The Hon. Warren K. Winkler, OC, O.Ont., QC

Former Chief Justice of Ontario, Mediator & Arbitrator

This panel will discuss and highlight key takeaways from the day and take questions from the participants.

3:50 p.m.

Closing Remarks

4:00 p.m.

Conference Concludes



Chair

J. Jay Rudolph, LL.B. C.Med., C.Arb*
Rudolph Mediation & Arbitration
Services Inc.

Faculty

**The Hon. Todd Archibald,
C.Med, FCI Arb**
Archibald Mediation & Arbitration
Solutions Inc.

Earlene Baggett-Hayes
The Law and Mediation Center PLLC
(Michigan)

Jon Fidler, JD, C.Med.*
M+F Mediation & Arbitration Services

Heather Heavin
College of Law, University of
Saskatchewan

Cendri Hutcherson
University of Toronto

Planning Committee

**The Hon. Todd Archibald,
C.Med, FCI Arb**
Archibald Mediation & Arbitration
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Jon Fidler, JD, C.Med.*
M+F Mediation & Arbitration Services

Paul M. Iacono, QC**
YorkStreet Dispute Resolution Group Inc.

**Alicia Kuin, C.Med, LL.M. (ADR),
M.A., B.A.**
Conflict Analyst & Mediator,
YorkStreet Dispute Resolution Group Inc.

Richard Rejino
International Academy of Mediators

J. Jay Rudolph, LL.B. C.Med., C.Arb*
Rudolph Mediation & Arbitration
Services Inc.

Special Guest Speaker

Michel Kallipetis, QC*
President, IAM

Paul M. Iacono, QC**
YorkStreet Dispute Resolution Group Inc.

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College of Law, University of
Saskatchewan

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Flaherty, McCarthy LLP

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**The Hon. Warren K. Winkler,
OC, O.Ont., QC******
Former Chief Justice of Ontario,
Mediator & Arbitrator

Trevor C.W. Farrow
Osgoode Hall Law School, Chair of
the Canadian Forum on Civil Justice;
Founding Academic Director of the
Winkler Institute for Dispute Resolution

Shelley Kierstead
Osgoode Hall Law School

**The Hon. Warren K. Winkler,
OC, O.Ont., QC******
Former Chief Justice of Ontario,
Mediator & Arbitrator

** Distinguished Fellow, IAM
(International Academy of Mediators)*

*** Member of the IAM Order of the Knights*

**** Honorary Fellow, Lifetime Achievement
Award, IAM*

Registration Details

Fee per Delegate

\$345 + TAX

Fees include attendance, program materials and 120-day access to program archive (program archive will consist of recordings of plenary sessions and large group discussions). 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.

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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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