

**23<sup>RD</sup> ANNUAL NORTHWEST DISPUTE RESOLUTION CONFERENCE  
SESSION DESCRIPTIONS**

**Session Series 1 – Thursday, March 23, 2017, 1:00 p.m. – 2:30 p.m.**

***1.1 The Conflict of Politics and the Politics of Conflict: How to Think about Political Conflicts and Design Political Dialogues***

*Presenter: Kenneth Cloke, Center for Dispute Resolution, Santa Monica, CA*

We just experienced an exhausting election, filled with hostility, hatred, and personal attacks. Half the county is upset and disappointed that they lost. The other half understands that things could easily have gone the other way, and that they might now be the ones feeling upset and disappointed. The problem is that we have not yet figured out how to talk to each other about our political ideas and beliefs or how to discuss our disagreements in ways that might lead to learning, win-win outcomes, increased empathy, mutual understanding, and joint problem solving. Yet we are all citizens of the same country and we all care about its future. How, then, do we begin to talk to each other about difficult and dangerous issues, the ones that we all feel strongly about and argue passionately over? The answer is through open, honest, skillfully designed, capably facilitated, and openly political, dialogues.

*(1.50 Professional Development CLE Credits Approved)*

***1.2 Decision Making: Process, Pitfalls, and Prevention***

*Presenter: Kimberlee Kovach, Dispute Resolution Services and Trainings, Austin, TX*

Everyone involved in a dispute resolution process is engaged in making decisions, whether as a neutral, a lawyer representative, or a party. Most of the time, we are not even aware that we are deliberately engaged in a decision-making process. We also believe that we make good (correct) decisions, yet spend little or no time contemplating the process. Research demonstrates that on a subconscious level, we (our decisions) are impacted by a number of factors, which often lead to sub-optimal decisions. We will explore the how, the why – and perhaps most importantly – what steps we can take to minimize these current, and for the most part unknown, influences.

*(1.50 Professional Development CLE Credits Approved)*

***1.3 Narcissists in Mediation***

*Presenter: John Medina, Affiliate Professor, University of Washington School of Medicine, Seattle, WA*

Working with difficult personalities is hard on anyone, and mediating with narcissists often seems impossible. This is troubling because narcissism is on the rise – a fact likely to affect the American workplace, families, and the body politic for years to come. This three-part presentation

describes the science behind narcissism, what it is, how to detect it, and how to deal with it. The presentation ends by describing some remarkably practical and surprisingly hopeful intervention research.

*(1.50 Law & Legal Procedure CLE Credits Pending)*

## **Session Series 2 – Thursday, March 23, 2017, 2:45 p.m. – 4:00 p.m.**

### **2.1 Arbitration Primer: Tips and Best Practices for Advocates**

*Presenters: Hon. Terrence Carroll, Distinguished Jurist in Residence, Seattle University School of Law, Seattle, WA; Steve Koh, Perkins Coie LLP, Seattle, WA; Serena Lee, American Arbitration Association, San Francisco, CA*

This presentation will address effective lawyering both under the Superior Court Mandatory Arbitration Rules (MAR) and private arbitrations, and will offer tips on preparation for and efficient client representation in arbitration. We will engage in active role plays and provide practice pointers to foster success in all arbitration settings. This presentation is intended for law students, newer lawyers, and practicing lawyers who want to go beyond the “basics” of ADR, bridge the gap between law school and law practice, or improve their effectiveness in arbitration advocacy.

*(1.25 Law & Legal Procedure CLE Credits Approved)*

### **2.2 Differences: Highlight Opposition on the Road to Resolution**

*Presenter: Gordon White, Gordon White Consulting, Victoria, BC*

Most people's responses to conflict and most mediation methods seek compatibilities. Counter to common practices, mediators can also assist parties in clarifying and exploring differences, which are a potential source of creativity and a medium of transformation. Learn how parties can benefit from differences in mediation, view a demonstration, and participate in small group discussions.

*(1.25 Law & Legal Procedure CLE Credits Approved)*

### **2.3 Mediation Advocacy: How to Effectively Represent Clients and Negotiate Good Settlements**

*Presenter: Lee Jay Berman, American Institute of Mediation, Los Angeles, CA*

Representing clients in mediation is different than representing them in any other venue. The techniques for effective advocacy are different, the negotiation is different, and the breadth of your clients' needs that you work with is different. Learn specific practices that attorneys have discovered when representing clients in 50 to 100 to 200 mediations – learn to negotiate like a pro!

*(1.25 Law & Legal Procedure CLE Credits Approved)*

~~**[CANCELLED] 2.4 Using “Yes, and” to Build Your Team’s Ability to Stay Agile in a Changing World**~~

~~*Presenter: Andrew McMasters, Jet City Improv, Seattle, WA*~~

~~What if you had the ability to change how your team communicated? Improvisation brings awareness to communication styles, provides tools for building consensus, and creates a growth mindset for your organization. Experience fun and insightful exercises that will provide you with tools that you can replicate for your team. Each of us relies on default habits. These habits block innovation and prevent teams from being responsive to new opportunities. What if you had the ability to change how members of your team communicate? Using exercises designed for business professionals, you will gain awareness of these challenges, and leave with tools for building consensus and creating a growth mindset for your organization.~~

~~*(1.25 Professional Development CLE Credits Approved)*~~

**2.5 Mediating with Emotional Intelligence – When “IQ” Just Isn’t Enough**

*Presenters: Harold Coleman, American Arbitration Association, San Diego, CA; Matthew Argue, Lawyer, Mediator, San Diego CA*

Studies show that emotional intelligence (“EQ”) is more predictive of career success than cognitive intelligence (“IQ”). This workshop provides an overview of EQ essentials to negotiated/mediated problem solving, and will provide tools that can be utilized by practicing negotiators, mediators, and others seeking emotional self-awareness, self-management, and relationship management.

*(1.25 Law & Legal Procedure CLE Credits Pending)*

**2.6 Deeper into Heart-Intelligent Mediation**

*Presenters: Dr. Franca Baroni, JD, LLM, Public Heart, Seattle, WA; Beth Bryant, JD, Bainbridge Island, WA; Jane Faulkner JD, PCC, CPCC, The Heart Matters, Seattle, WA*

In this 75 minute experiential program, we will dive deeper into the power of the heart in mediation. We will teach simple tools and engage in interactive exercises to harness and embody a heart-conscious approach. Through the lens of the heart, we will explore the following relationships: to ourselves, with the parties, among the parties, and to the essence of mediation. Through our beginner’s mind we will learn how to allow our creative and curious selves to take the lead.

*(1.25 Professional Development CLE Credits Pending)*

**2.7 How to Mediate a Step-Family Plan: Helping Expanding Families Succeed**

*Presenter: Joseph Shaub, Counselor, Mediator, Bellevue, WA*

As parents transition to co-parents, they rely on a skillful and child-centered parenting plan. Many co-parents will one day step into another level of family complexity – a stepfamily. Understanding the bonds, boundaries, and architecture of family systems gives mediators insight into stepfamily mediation and the value of mediating a stepfamily plan. We will explore the stepfamily plan worksheet. This session will help participants find their way through all the “anecdotal” information about the stepfamily (much of which is well-intended but inaccurate). We will learn about research-based understanding of what does and does not work in stepfamily conflict resolution and how to apply that information to the whole family system.

*(1.25 Law & Legal Procedure CLE Credits Approved)*

### **Session Series 3 – Thursday, March 23, 2017, 4:15 p.m. – 5:15 p.m.**

#### **3.1 *Mediation Primer for New Lawyers***

*Presenters: Sasha S. Philip, Philip Mediation, Kenmore, WA; Adrienne Keith Wills, Attorney, Mediator, Seattle, WA; Melvyn Simburg, Simburg, Ketter, Sheppard & Purdy, LLP, Seattle, WA*

This program will help young lawyers and law students move from ADR theory to practice. Active participation in real-life scenarios will give participants first-hand dispute resolution experience to help them perform as legal counsel and advocates for their clients. The presenters bring a range of experiences and perspectives in terms of their role in ADR, their practice areas, and their years of experience. Participants will gain an increased understanding of using of mediation as a dispute resolution tool in litigated cases, and will learn practical tools (including skills and forms) to enhance their work with clients in a mediation process.

*(1.00 Law & Legal Procedure CLE Credit Approved)*

#### **3.2 *Biased Communication: How to Recover and Learn***

*Presenter: K. Joy Williams, Diversity and Public Service Programs Manager, Washington State Bar Association, Seattle, WA*

What do you do if you have said something that has been perceived as biased? Using hypotheticals drawn from legal practice, WSBA Diversity and Public Service Program Manager Joy Williams will teach four basic strategies for recovery using: self acknowledgement, community acknowledgment, affirmations, and openness to learning.

*(1.00 Ethics CLE Credit Approved)*

#### **3.3 *Narrative Psychology and Mediation – “That’s My Story and I’m Stickin to It”***

*Presenter: Craig Beles, Arbitrator & Mediator, Fulbright Specialist in Peace & International Conflict Resolution, Seattle, WA*

How many times have you heard someone react to a negative circumstance by saying, “That’s the story of my life?” In the 1970s, psychologists developed a theory of human behavior based on the concept that adults picture their lives as a series of stories and roles connected by overarching themes, *i.e.*, “Narrative Psychology.” Our subjective view of our life directly influences what we consider true and fair. Conflicts can be resolved when disputants recognize and alter their personal narratives. Hear the story of how narrative psychology evolved into narrative mediation, and find out why you should add this approach to your mediation toolbox.

*(1.00 Law & Legal Procedure CLE Credits Approved)*

### **3.4 Decisions and Processes for Early Resolution**

*Presenters: Teresa Wakeen, Wakeen & Associates Mediation Services, LLC, Seattle, WA; John (Jack) Connelly, Connelly Law Offices, Tacoma, WA; Gary Andrews, Assistant Attorney General, Early Resolution Program, Washington State Attorney General’s Office, Olympia, WA*

The Washington State Attorney General’s Office has settled thousands of cases through its early resolution process. This presentation brings critical insights regarding decisions and processes for successful early resolution. The distinguished panel includes a leading defense counsel for the state, a top plaintiff’s lawyer, and a seasoned mediator, each with 30+ years of experience.

*(1.00 Law & Legal Procedure CLE Credit Approved)*

### **3.5 Survive and Thrive: Stress Management for Conflict Professionals**

*Presenter: Darrell Puls, MA, PhD, Founder and Principal of Peacebridge, Kennewick, WA*

Every mediator will experience internal stress that triggers negative and even toxic reactions during conflict interventions. In the longer term, these stresses can cause physical, emotional, and relational damage. This highly interactive – and hilarious – workshop will engage your intellect and your heart at the same time, producing a life-changing experience by promoting better emotional, physical, and relational health.

*(1.00 Professional Development CLE Credit Pending)*

### **3.6 Deception in Mediation and Negotiation: Where’s the Line?**

*Presenter: Jeff Merrick, Merrick Mediation, Lake Oswego, OR*

What fibs are okay? What lies get lawyers disbarred, sued or sent to jail, or result in voided settlements and judgments? Mediators and adverse parties should understand the boundaries to evaluate representations. Mr. Merrick will lead a discussion of the boundaries and practical implications of truth and consequences in mediation and negotiation.

*(1.0 Ethics CLE Credit Approved)*

### **3.7 Perspectives of the Cross-Cultural Conflict Resolution by High-Context Communicator**

*Presenter: Makoto Kurokawa, University of Oregon School of Law, Eugene, OR*

This presentation will first introduce participants to high and low context communication styles. Participants will then engage in role-plays, which will feed a discussion of how to approach conflicts that arise from differences between high and low context communication styles.

*(1.00 Professional Development CLE Credits Pending)*

## **Session Series 4 – Friday, March 24, 2017, 8:30 a.m. – 9:30 a.m.**

### **4.1 Into the Woods: Drafting the “Perfect” ADR Clause**

*Presenters: Govinda Jayasinghe, RealNetworks, Seattle, WA; Mark S. Davidson, Williams Kastner LLC, Seattle, WA; Warren Rheume, Davis Wright Tremaine LLP, Seattle, WA; Serena Lee, American Arbitration Association, San Francisco, CA*

Like Goldilocks, attorneys can draft a dispute resolution clause that is too much, not enough, or just right for their clients. Learn from experienced transactional attorneys and arbitrators what to avoid, what are the “must haves,” and how to best understand the art and power of a well-drafted ADR clause. This highly interactive program will teach you best practices and provide guidelines on how to steer clear of potential pitfalls.

*(1.00 Law & Legal Procedure CLE Credit Approved)*

### **4.2 Top Dog: Deciding on the Appropriate Decision-Maker and Making Sure S/he is Present**

*Presenters: Carolyn Cairns, Mediator, Arbitrator, Investigator, Seattle, WA; Cliff Freed, Mediator, Arbitrator, Seattle, WA*

Some mediations fail simply because one or more of the parties has not brought the right person as a representative and decision maker, or because it is unclear who is truly making the settlement decision and why. This presentation will focus not only on different scenarios in which the critical decision of whom to bring to the mediation determines the outcome of the mediation, but also on considerations for the parties when choosing their “Top Dog.” The presenters will also discuss what the mediator can or should do when the “Top Dog” does not attend the mediation.

*(1.00 Law & Legal Procedure CLE Credit Approved)*

### **4.3 Evaluating Our Work: Different Approaches for Different Sectors**

*Presenters: Michael Kern, Director, UW/WSU William D. Ruckelshaus Center, Seattle, WA; Trevor Robinson, UW/WSU William D. Ruckelshaus Center, Seattle WA; Ann McBroom, Director, King County Office of Alternative Dispute Resolution, Seattle, WA; Tom Melançon, Commissioner, Federal Mediation and Conciliation Service, Seattle, WA*

As dispute resolution practitioners, we must evaluate our work to answer basic questions about outcomes, impacts, best practices, process improvements, etc. Less evaluation occurs than you might expect, for a number of reasons. This session will present compare and contrast evaluation approaches by practitioners of workplace and public policy mediation/dispute resolution.

*(1.00 Law & Legal Procedure CLE Credit Approved)*

### **4.4 How a Specialized Mediation Program Works – The Thomas T. Glover Bankruptcy Mediation Program**

*Presenter: Jerry Stehlik, Panel Mediator, Thomas T. Glover Bankruptcy Mediation Program, US Bankruptcy Court, Seattle, WA*

This presentation will explore the Thomas T. Glover Bankruptcy Mediation Program in the US Bankruptcy Court in Seattle. We will discuss the mediation program, what it does, how it is administered, and how esoteric issues arising in bankruptcy cases can best be handled by specialized mediation panel members with subject matter expertise.

*(1.00 Law & Legal Procedure CLE Credit Approved)*

### **4.5 Improvisational Thinking: How It Works, How It Helps**

*Presenter: Matt Smith, Improvisation and Communications Specialist, Facilitator, Trainer, Seattle, WA*

Matt will lead an interactive workshop in the basics of improvisational theatre training, and how it can apply to conflict resolution. Matt will use several exercises to help participants learn: (1) how to accept the present situation for what it is; (2) how to listen; and (3) how to respond. The exercises are based on tried and true training techniques for improvisational theatre. Matt has a unique talent for intellectualizing the process and for facilitating it experientially. This workshop will be fun, interactive, safe (enough – if it's too safe it's boring), informative, and practical.

*(1.00 Professional Development CLE Credit Pending)*

### **~~[CANCELLED] 4.6 The Power of Active Listening and What "Listening" Means to People of Color~~**

*Presenter: Alyson Palmer, Miller Nash Graham & Dunn LLP, Seattle, WA*

~~This program will confront traditional teachings about how we listen, and how we express we are listening, during a conflict resolution process with people of color. Participants will engage in an interactive discussion and simulation of the skills addressed.~~

~~(1.00 Professional Development CLE Credit Pending)~~

#### ***4.7 Why Wait? A Case for Early Mediation and How to Prepare your Case Successfully from Both Sides of the Dispute***

*Presenters: Alex Higgins, Law Office of Alex Higgins, Seattle, WA; Katie Rosen, Davis Wright Tremaine LLP, Seattle, WA*

Both parties in employment litigation should strongly consider early mediation, even when they seem far apart. Too often, parties interpret the suggestion to pursue mediation as a sign of weakness, when in fact it can be presented with a strong positive message: “We want a mediation to show you that this case is different than how you might perceive it.” This session will address: (1) how to gather information without formal discovery to prepare for mediation; (2) how to formulate an agreement with counsel about an informal exchange of information; (3) whether to allow opposing counsel to meet your client as part of the informal exchange; and (4) why and how to let go of your “Perry Mason” notion that you will win the case with a surprise piece of evidence at the eleventh hour.

*(1.00 Law & Legal Procedure CLE Credit Approved)*

### **Session Series 5 – Friday, March 24, 2017, 9:45 a.m. – 11:00 a.m.**

#### ***5.1 Setting the Stage: Preparing for the Preliminary Hearing in Arbitration***

*Presenters: Philip E. Cutler, Cutler, Nylander and Hayton, P.S., Seattle, WA; Karl F. Oles, Stoel Rives, LLP, Seattle, WA; Peggy Williams Rasmussen, Harrigan Leyh Farmer & Thomsen LLP, Seattle, WA*

Countless lawyers miss an invaluable opportunity to collaborate and save their clients time and money by inadequately preparing for the preliminary hearing of an arbitration. Don't be that advocate! Learn from experienced arbitrators and litigators what to discuss with your client and opposing counsel before the hearing, and understand how to best capitalize on the flexibility of arbitration (as compared to litigation). This session is a must for any attorney representing clients in arbitration.

*(1.25 Law & Legal Procedure CLE Credits Approved)*

#### ***5.2 Transformational Conflict Coaching and the Art of Waking People Up***

*Presenter: Kenneth Cloke, Center for Dispute Resolution, Santa Monica, CA*



Everyone in conflict needs advice and coaching, yet few mediators are proficient in innovative methods of coaching that encourage personal and systemic transformation. In addition to helping people become more skillful and successful, transformational coaching encourages disputants to be more authentic and more able to gain profound insights from their conflicts. Transformational coaching is an intimate, interactive, mutually supportive process for building relationships and improving our ability to learn from conflicts in transformational ways. This session will identify ways people can use their conflicts as opportunities to promote personal, relational, and organizational learning and transformation. This session will explore the subtle art of “waking people up” by transforming the internal attitudes and external systems within which they interact. This session will help people in conflict build relationships, grow, evolve, and learn better ways to resolve their disputes.

*(1.25 Law & Legal Procedure CLE Credits Approved)*

### **5.3     *Discernment Counseling – a Path to Clarity in Divorce Decision-Making***

*Presenter: Joseph Shaub, Counselor, Mediator, Bellevue, WA*

What do you do with the divorcing couple who *may not be done with their marriage*? Research shows that continued ambivalence exists with both divorcing partners in a significant percentage of divorces. Discernment Counseling helps couples explore and resolve their ambivalence – leading to renewed commitment to their marriage or to a cleaner divorce.

*(1.25 Law & Legal Procedure CLE Credits Approved)*

### **5.4     *Negotiating the Contractual and Bad Faith Insurance Dispute***

*Presenters: Lisa Jaye, Jaye & Associates, Inc, Dispute Resolution Services, San Francisco, CA; Stevan Phillips, Stoel Rives, LLP, Seattle, WA; Christopher R. Carroll, Carroll, McNulty & Kull LLC, Basking Ridge, NJ*

While only a small number of Washington attorneys and insurance professionals specialize in insurance matters, many lawyers and businesses must address and resolve insurance problems. This program organizes and analyzes the various statutes, regulations, and judicial precedents that govern insurance practice in Washington State and at the federal level. Ms. Jaye will direct their joint presentation to both insurance professionals and non-specialists.

*(1.25 Law & Legal Procedure CLE Credits Approved)*

### **5.5     *Use Your Joint Session Skills to Guide the Conversation in Caucus***

*Presenter: Tamara Lange, Program Attorney and Mediator, US District Court, San Francisco, CA*

This session aims to break down established notions about the respective strengths and limitations of joint session and caucus. Starting with the premise that the parties own the process, we will

discuss and practice ways to help parties and counsel meaningfully understand their process options. We will explore how to craft and describe a highly structured joint session and how to use caucus to foster transformative opportunities for the parties and their lawyers. The session will include exercises designed to enhance the mediator's ability to move away from the idea that caucus is simply shuttle diplomacy. Participants will leave with the ability and confidence to explore new ways of working in caucus to support both mutual understanding and individual readiness to release the conflict.

*(1.25 Law & Legal Procedure CLE Credits Approved)*

### **5.6 What Bullies Don't Want You To Know**

*Presenter: Doug Nathan, King County Office of Alternative Dispute Resolution, Seattle, WA*

How you perceive and respond to bully behaviors will determine your success in mediation and group conflict work. In this 75-minute interactive session, we will discuss why people bully, and we will explore a process that helps individuals and groups identify and discuss bully behaviors so they can activate positive social pressure for the well-being of the group.

*(1.25 Law & Legal Procedure CLE Credits Approved)*

### **5.7 Research on How Experienced Mediators Help Clients Cooperate: From Blamescaping to Hope**

*Presenter: Beckey Sukovaty, King County DRC, Seattle, WA*

Enrich your conflict resolution practice with insights from new qualitative research on the powerful yet subtle ways experienced mediators assist disputing parties in avoiding the futility of blaming and scapegoating, while fostering hope and cooperation for mutual resolution. This session includes interactive discussion about maximizing the effectiveness of mediation, and related ethical considerations.

*(1.25 Law & Legal Procedure CLE Credits Approved)*

## **Session Series 6 – Friday, March 24, 2017, 11:15 a.m. – 12:30 p.m.**

### **6.1 All the Things You Think You Know About ADR – But Don't**

*Presenters: Hon. Sharon Armstrong, JAMS, Seattle, WA; Kathleen Wareham, WAMS, Seattle, WA; Jeffrey Garcia, American Arbitration Association, Fresno, CA*

So you think you know mediation and arbitration? Mediators and arbitrators often see attorneys miss opportunities to truncate the process, settle matters more quickly, or understand the various rules governing the applicable ADR process. Representatives from local dispute resolution

providers will offer insights for attorneys interested in maximizing their effectiveness in an ADR process and answer audience questions.

*(1.25 Law & Legal Procedure CLE Credits Approved)*

## **6.2 What's Unique About Mediating the Litigated Case?**

*Presenter: Lee Jay Berman, American Institute of Mediation, Los Angeles, CA*

To be most effective, mediators in commercial and litigated cases must be confident in their understanding and management of the interests of each person around the mediation table. Mediators must be aware that each person, including attorneys, insurance adjusters, and risk managers, has his or her own underlying interests that require the same understanding, attention, and focus as those of the real parties in interest.

*(1.25 Law & Legal Procedure CLE Credits Approved)*

## **6.3 Changing the Juvenile Court System by using Restorative Practices**

*Presenters: Polly Davis, King County Office of Alternative Dispute Resolution, Seattle, WA; Cheyenne Brashear, Intern, King County Office of Alternative Dispute Resolution, Seattle, WA; Dominique Davis, Community Passageways, Seattle, WA; Marcus Stubblefield, King County Office of Performance, Strategy and Budget, Seattle, WA*

In 2014, King County Juvenile Court Services began several restorative practices to address the school to prison pipeline and the disproportionate numbers of cases involving youth of color. Our interactive presentation will include stories and results from the field results by Community Passageways, the Restorative Mediation Program, and the Youth Action Plan.

*(1.25 Law & Legal Procedure CLE Credits Approved)*

## **6.4 How Your Negotiation Style Can Affect the Outcome of Your Mediation**

*Presenters: Monte Bersante, WAMS, Davies Pearson, Tacoma, WA; Michelle Corsi, WAMS, Lee Smart, PS Inc, Seattle, WA*

Whether you are the party, attorney, or mediator, your negotiation “style” can impact the overall success of your mediation. This session will identify and explore four styles of negotiation – competing, accommodating, compromising, and collaborating – and the effectiveness of each style in a variety of situations. In this program, we will examine how your style can be adapted to fit the situation, what style may be best suited to your case, and how style can help or hinder a mediation. Learn how to identify and adapt your negotiation style for optimum success as you examine the situation, the players in the room, and identify and prioritize mediation goals.

*(1.25 Law & Legal Procedure CLE Credits Approved)*

## **6.5 When Good Mediators Make Bad Decisions: A Look at Ethical Fading in Mediation**

*Presenters: Stephanie Bell Blondell, Assistant Director, Straus Institute for Dispute Resolution, Pepperdine University, Malibu, CA; Kimberlee Kovach, Mediator, Arbitrator, Trainer, Austin, TX*

An important, foundational approach to mediation ethics is, of course, thorough knowledge of the relevant codes, statutes, and rules in your jurisdiction. This session takes an alternate psychological approach to ethics and asks the question: How do good ethical mediators make bad ethical decisions? We will examine the range of psychological processes that lead people to engage in ethically questionable behaviors that are often inconsistent with their preferred moral code. We will explore how this ethical fading happens in the mediation profession and how to prevent it.

*(1.25 Ethics CLE Credits Approved)*

### **6.6 *The Art and Science of the Question: Using the Brain to Expand Opportunities and Create Options***

*Presenter: Jennifer Kresge, Mediation, Training & Counseling Services, St. Helena, CA*

The heart of mediation lies in the constructive and proactive use of a question, which provides us with the opportunity to gather information and to assist our clients in understanding “valued” information differently. To negotiate and mediate effectively, we need to explore the meaningful moments with our clients, and often their most passionate concerns. The best way to do so is to use our most accessible tool: our brain. Through artful and science-based questioning, we discover new possibilities. Using research-based neuroscience, we have the ability to develop constructive ways to stimulate interest, to explore change, and to create investment in solutions. In this interactive and skill based workshop, we will explore concepts, the science behind reactivity and constructive thought, as well as the concerns and assumptions that drive our clients, while we discover how to gain trust, and organically develop sustainable agreements.

*(1.25 Law & Legal Procedure CLE Credits Approved)*

### **6.7 *Mission Abort: Avoiding or Stopping a Hopeless Workplace Mediation***

*Presenter: Chris Sheesley, In-Accord Inc, Portland, OR*

Disastrous workplace mediations are frustrating and discouraging. These difficult cases can leave the parties in worse shape than when you met them. You also put yourself at risk of becoming demoralized while self-inflicting damage to your reputation. This workshop will help you avoid train wreck cases before leaving the station. This workshop will also help you develop well-considered techniques to extricate yourself from a case that is heading down a dead-end.

*(1.25 Law & Legal Procedure CLE Credits Approved)*

### **Lunch Session**

**Friday, March 24, 2017, 12:45 p.m. – 2 p.m.**

***Option 1: Video Replays (75 mins)***

Selected morning conference sessions will be video-taped and offered as video replays during the lunch break.

*(No CLE Credits)*

***Option 2: Workshop: A Life-Long Learner: The Self-Reflective Practice of Mediation (60 minutes)***

*Presenter: Tamara Lange, Program Attorney and Mediator, US District Court, San Francisco, CA*

Creativity, self-awareness, personal authority, empathic understanding, and technical skill are sought-after qualities in a mediator. These skills are best developed through a combination of practice, mentoring, and frequent debriefing, yet the vast majority of mediators work in isolation. This session will provide a brief overview of the concept of reflective practice and a description of the group model used in the Northern District of California's ADR Program. We will spend the bulk of our time in small groups with a structured exercise designed to provide you with a taste of the benefits of joining or starting a reflective practice group for mediators in your area.

*(1.00 Law & Legal Procedure CLE Credit Approved)*

***Option 3: Alternative Tools for Dispute Resolution: Exploring Collaborative Games (75 minutes)***

*Presenters: Emily Martin, Founder & Game Designer, PigNPotato Games, Shoreline, WA; Amanda Semenoff, Mediator, Facilitator, Conflict Resolution Consultant, Mindful Resolution, New Westminster, BC*

Join Emily and Amanda to explore the role games can play in the dispute resolution process. Emily and Amanda will share their experience creating a game specifically for this context and discuss how and when to use games. Experience their new collaborative game "Zombie Fight or Flight", and explore the possibilities for its use in dispute resolution.

*(No CLE Credits)*

**Session Series 7 – Friday, March 24, 2017, 2:00 p.m. – 3:30 p.m.**

***7.1 Ethical Dilemmas in ADR***

*Presenters: Gregg Bertram, Pacific ADR Consulting, Seattle, WA; Jeanne Marie Clavere, Washington State Bar Association Office of General Counsel, Seattle, WA*

How do the Rules of Professional Conduct apply in mediation? Where is the line between bluffing and lying? Do arbitrators have to disclose their LinkedIn connection to opposing counsel as part of the appointment process? Join WSBA Chief Disciplinary Counsel, Doug Ende, an experienced

mediator and arbitrator, to discuss various real-life scenarios that may create ethical issues for attorneys representing clients in ADR proceedings.

*(1.50 Ethics CLE Credits Approved)*

## **7.2 *Scorched Earth Clients: Understanding and Working with High Conflict People***

*Presenter: Darrell Puls, MA, PhD, Founder and Principal of Peacebridge, Kennewick, WA*

Every mediator will experience nonsensical, combative, self-defeating behaviors from clients. When normal interventions do not work, this can be frustrating and discouraging. This highly interactive workshop will open your eyes to the role of Personality Disorders in mediation and litigation, and will help you devise workable strategies to break through the barriers erected by high-conflict people.

*(1.50 Law & Legal Procedure CLE Credits Approved)*

## **7.3 *Manipulation in Mediation: Where's The Thin and Wavering Line?***

*Presenters: Sam Imperati, Institute for Conflict Management Inc, Portland, OR; Chris Goelz, Mediator, US Ninth Circuit Court of Appeals, Seattle, WA*

Effective mediators “nudge” the negotiation with so-called impasse-breaking tools, in order to achieve settlement. Which interventions are ethical and expected, and which are unethical even if expected? We will use survey results and audience polling to explore how mediators and advocates view manipulation in mediation.

*(1.50 Ethics CLE Credits Approved)*

## **7.4 *Negotiation and Gender Intelligence: Tips and Techniques for Everyone***

*Presenter: Stephanie Bell Blondell, Assistant Director, Straus Institute for Dispute Resolution, Pepperdine University, Malibu, CA*

This session we will explore recent research regarding gender and brain development. While scientists have asserted that no "male" or "female" brain exists, we will examine patterns and trends that may serve to inform our practice as mediators and mediation advocates. This session challenges participants to consider the gender biases that may impact both male and female negotiators and mediators, and identifies techniques to overcome or use these biases or trends to our advantage.

*(1.25 Law & Legal Procedure CLE Credits Approved)*

## **7.5 *Bridging the Gap between Workplace Mediation Research and Practice: Finding Better Ways of Promoting Ongoing Dialogue Between Researchers, Practitioners, and Policy Makers***

*(Please note that this workshop will be presented via A/V technology, with a live Q&A session)*

*Presenter: Deirdre Curran, National University of Ireland, Galway, Ireland; Treasa Kenny, University College Dublin, Dublin, Ireland*

This workshop will present the findings of a comprehensive research project analyzing the field of workplace mediation in Ireland. The research project was commissioned by the Mediators' Institute of Ireland (MII), the professional body of mediators in Ireland. The research project was conducted by the Kennedy Institute Workplace Mediation Research Group ([www.kiwmrg.ie](http://www.kiwmrg.ie)), which is comprised of academics and practitioners, and operates under the auspices of the Kennedy Institute for Conflict Intervention at Maynooth University in Maynooth, Ireland.

*(1.50 Law & Legal Procedure CLE Credits Approved)*

### **7.6 Expanding the Mediator's Toolkit Through an Introduction to Decision Theory**

*Presenter: Rick Gautschi, Gautschi Mediation Services, LLC, Seattle, WA*

This session will educate participants about a tool from decision theory that can assist efforts to address distributive issues in mediations. The presentation will help participants become comfortable with ways of assigning subjective probabilities and values to future events that could occur if mediation fails.

*(1.50 Law & Legal Procedure CLE Credits Approved)*

### **7.7 Saving Face During Negotiations**

*Presenter: Tamia Pervez, JD, Training Coordinator, King County DRC, Seattle, WA*

This workshop introduces participants to "Face Negotiation Theory" and its implications in conflict resolution settings. We will discuss concepts such as culture, intercultural conflict, and intercultural communication as well as cultural values that may factor into strategies for managing the need to save face during conflict-based negotiations.

*(1.50 Law & Legal Procedure CLE Credits Approved)*

## **Session Series 8 – Friday, March 24, 2017, 3:45 p.m. – 5:15 p.m.**

### **8.1 How Reality is Experienced, Shaped, and Changed: Working with Diverse Perspectives That Impact Effective Communication**

*Presenter: Nina Meierding, MS, JD, Negotiation and Training Services, Bainbridge Island, WA*

Whether urban or rural, rich or poor, young or old – people from different cultures, ethnicities, backgrounds, and genders experience reality differently. Because deeply held voluntary beliefs are

difficult to change, this closing plenary session will address how dispute resolution professionals can work effectively with conflict in the ever changing, charged culture of today.

*(1.50 Law & Legal Procedure CLE Credits Approved)*