

PEPPERDINE

School of Law

Straus Institute for Dispute Resolution

MEDIATING THE LITIGATED CASE™

A sophisticated
six-day program

For experienced litigators,
in-house counsel, and
other practitioners

Pepperdine Has Been Ranked
#1 for 11 of the last 12 years in
Dispute Resolution by
U.S. News & World Report

Skills Development Emphasis

Interactive Teaching by
Experienced Attorney Mediators

Irvine – February

Malibu – August

Washington D.C. – September

See straus.pepperdine.edu for other locations

MEDIATING THE LITIGATED CASE

Professionals can study the mediation of litigated cases to either become a mediator or to be a better advocate. The recent surge in mediation's popularity signifies a dramatic shift in the practice of law. Attorneys are now using professional neutrals to facilitate settlement negotiations for litigated cases. In the past, settlement efforts in the litigation arena have been limited to settlement conferences in which the focus is usually on the judge's case evaluation. As increasing numbers of courts are requiring parties to mediate in order to accommodate an overburdened legal system, there is a growing demand for professionals who, in addition to being able to evaluate a case, can also facilitate negotiations between adversarial parties to reach innovative solutions.

Now lawyers and other established professionals can use their expertise to break into a new area of practice with tremendous possibilities. The Mediating the Litigated Case program offers a unique opportunity to learn about the mediation process in

a format geared specifically toward civil litigation cases. Taught by experienced lawyers, who have made the transition from litigation to mediation practice, course participants will learn the essential skills required to serve as mediators.

The program will focus on the various stages of process, identifying and working with different negotiation styles, and facilitating problem solving regardless of whether the case involves contractual, tort, personal injury, employment, partnership, or securities issues.

In addition to providing mediation skills training, the program will deal with issues specific to the adversarial setting including managing attorney advocates, the parameters of confidentiality, and concerns about discovery. It will also focus on issues of particular concern to attorney-mediators including the proscription of dual representation, providing legal advice, conflicts of interest, drafting mediation agreements, and other ethical dilemmas.

PROGRAM TOPICS AND SCHEDULE

day 1

- Dispute Resolution Continuum
- STAR Approach to Mediation
- Mediator's Stylistic Grid
- Mixed-Motive Exchange in Consensus Processes
- The Predictability of Distributive Bargaining
- Opening Offer Strategies
- Facilitating Distributive Bargaining

day 2

- The Integrative Approach to Negotiation
- Focusing on "Interests" Not Issues
- How to Discover Underlying Interests
- Creativity in Negotiation
- Facilitating Integrative Bargaining
- Mediator Timing in Facilitating Negotiation
- Settlement Conference Mediation Model
- Interest-Based Mediation Model

day 3

- The Mediator's Job of Providing Structure
- What to Include in an Opening Statement
- Reframing and Broadening the Issues
- Communication Facilitation Techniques
- Effective Use of Caucus
- Validation

day 4

- Techniques to Facilitate Closing the Deal
- How to Present Risks and Costs
- Ethics and Bullying
- Mediator Timing When Facilitating Closure
- Concluding a Mediation That Doesn't Settle
- Convening
- Agreement to Mediate

day 5

- Fairness and Neutrality
- Attorney Advocates in Mediation
- Emotions in Mediation
- Bias and Cross-Cultural Awareness
- Multi-Party/Multi-Issue Mediation

day 6

- Ethical Standards for Mediators
- Confidentiality
- Med/Arb and Arb/Med
- Power Imbalances
- Malpractice Liability and Insurance
- Licensure and Regulation
- Tips on Building a Mediation Practice

Please visit straus.pepperdine.edu for locations, price, faculty, or to register.
For more information: call Lori Rushford at 310.506.6342 or email lori.rushford@pepperdine.edu