



# Dispute Resolution

## Advanced Commercial Mediation Training

Co-Sponsored by the Dispute Resolution Section of the New York State Bar Association, Fordham University School of Law, and the Fordham University ADR & Conflict Resolution Program.

 **April 21-22, 2021**

 Virtual Participation



[NYSBA.ORG/ADV MEDIATION20](https://NYSBA.ORG/ADV MEDIATION20)

**16.0**  
MCLE Credits

10.0 Skills  
4.0 Areas of  
Professional Practice  
2.0 Ethics

# Advanced Commercial Mediation Training

## Program Description

This program is designed for mediators who have completed — or plan to complete — a minimum of three days of basic mediation training and who desire to enhance their commercial mediation skills. It will focus on identifying the barriers to settlement and the ways to overcome them. In addition to refining and deepening facilitative skills and orientation, the program will address ways of facilitating evaluative analyses or offering evaluative feedback to help the parties reach a resolution. This can include refining the handling of risk and transaction cost analysis, including the use of decision trees, as well as utilizing a variety of impasse breakers. The program will offer approaches to problems that arise when there are multiple parties or when one or more of the defendants has, or may have, insurance coverage with one or more insurance companies as well as ways to overcome impasse. Finally, the program will discuss the ethical issues that arise under various scenarios and how to deal with them.

This 2-day Advanced Commercial Mediation Training is approved under Part 146 of the Rules of the Chief Administrative Judge.

## Topics & Skills

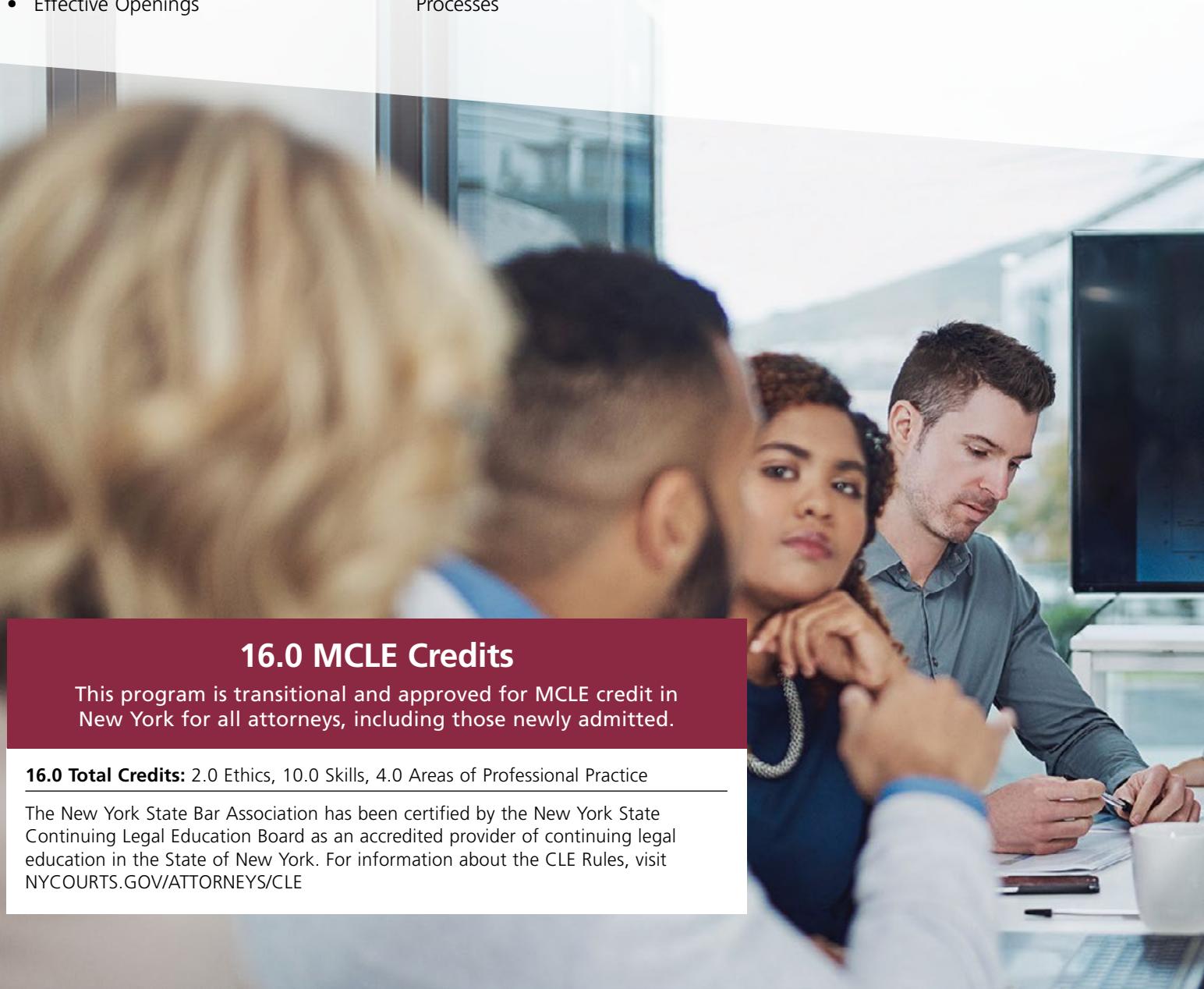
- Cultivating Ideal Mediator Orientation, Attitude & Awareness
- Effective Preparation
- Effective Communication
- Deep Listening Skills
- Effective Openings
- Maximizing Opportunities in Joint Session
- Wise Caucusing
- Power Risk Analysis – Art, Timing & Tact in Engaging in Evaluative Processes
- Impasse Breaking
- Coming to Closure
- Theoretical Tools to Grasp the Underlying Negotiation
- Mediation Ethics

## 16.0 MCLE Credits

This program is transitional and approved for MCLE credit in New York for all attorneys, including those newly admitted.

**16.0 Total Credits:** 2.0 Ethics, 10.0 Skills, 4.0 Areas of Professional Practice

The New York State Bar Association has been certified by the New York State Continuing Legal Education Board as an accredited provider of continuing legal education in the State of New York. For information about the CLE Rules, visit [NYCOURTS.GOV/ATTORNEYS/CLE](http://NYCOURTS.GOV/ATTORNEYS/CLE)



# AGENDA

## Section Chair

Laura A. Kaster, Esq.

## Program Chairs

Evan J. Spelfogel, Esq.  
Alfreida B. Kenny, Esq.

## Program Presenters

### **Simeon H. Baum, Esq.**

Mr. Baum is a 30+ year litigator and President of Resolve Mediation Services, Inc. ([www.mediators.com](http://www.mediators.com)); serving as mediator, arbitrator and neutral evaluator in over 2,000 disputes since 1992. His mediations include the highly publicized Studio Daniel Libeskind-Silverstein Properties dispute over architectural fees for redevelopment of the World Trade Center site, and Trump's \$ 1 billion suit over the West Side Hudson River development. He served as founding Chair of NYSBA's Dispute Resolution Section. He was Chair of the Federal Bar Association's ADR Section, past President of the FBA's SDNY Chapter, and on the FBA's national Board of Directors. He has served on ADR Advisory Groups to the New York Court system and trained their Commercial Division mediators for the last 20 years. In 2011, 2014, 2018 and 2020, Best Lawyers selected Mr. Baum as New York's ADR "Lawyer of the Year." He teaches on the ADR faculty at Benjamin N. Cardozo School of Law and is a frequent speaker and trainer on ADR.

### **Stephen A. Hochman, Esq.**

Mr. Hochman, a founding partner in the firm now known as Kramer, Levin, Naftalis & Frankel, practiced law for over 40 years, specializing in corporate, commercial and securities law. He has successfully mediated over 400 commercial and other types of disputes, including class actions and financial, employment, insurance, real estate, partnership and bankruptcy disputes, approximately 98% of which have settled. Mr. Hochman now practices exclusively as a mediator and arbitrator and writes, consults and lectures frequently on ADR subjects. Over the last 20 years, Mr. Hochman, together with Mr. Baum, has trained the mediators in New York County and various other downstate counties. He also served on the boards and investment committees of various non-profit corporations, including several hospitals and a captive insurance company.



# Advanced Commercial Mediation Training

**Wednesday April 21, 2021**

## MORNING SESSION

**4.5 MCLE Credits (4.5 Skills)**

8:30 a.m. – 8:45 a.m.	<b>Welcome and Introduction to the Commercial Mediation Training</b>
8:45 a.m. – 10:00 a.m.	<b>Convening &amp; Contracting a Commercial Mediation Choosing Processes, Setting Tone, Disclosing style, Expectations</b> Simeon H. Baum, Esq. with Stephen A. Hochman, Esq. <i>(1.5 MCLE Credit in Skills)</i>
10:00 a.m. – 10:10 a.m.	<b>Break</b>
10:10 a.m. – 11:00 a.m.	<b>Teaching and Training   Core Attributes and Skills of the Commercial Mediator</b> Simeon H. Baum, Esq. <i>(1.0 MCLE Credit in Skills)</i>
11:00 a.m. – 12:40 p.m.	<b>Role Play: Focusing on a Commercial Scenario</b> Small Groups with Facilitators <i>(2.0 MCLE Credit in Skills)</i>
12:40 p.m. – 1:20 p.m.	<b>Lunch</b>

## AFTERNOON SESSION

**3.5 MCLE Credits (2.5 Areas of Professional Practice, 1.0 Ethics)**

1:20 p.m. – 2:35 p.m.	<b>Evaluation: (Whether, When &amp; How)</b> Simeon H. Baum, Esq. and Stephen A. Hochman, Esq. <i>(1.5 MCLE in Areas of Professional Practice)</i>
2:35 p.m. – 3:25 p.m.	<b>Forum: Unique Commercial Matters, Joint Sessions, Caucuses, and Risk Analysis</b> Simeon H. Baum, Esq. and Stephen A. Hochman, Esq. <i>(1.0 MCLE in Areas of Professional Practice)</i>
3:25 p.m. – 3:40 p.m.	<b>Break</b>
3:40 p.m. – 4:30 p.m.	<b>Ethics: Mediation Theory and the Role of the Mediator</b> Simeon H. Baum, Esq. and Stephen A. Hochman, Esq. <i>(1.0 MCLE Credit in Ethics)</i>
4:30 p.m. – 5:00 p.m.	<b>Q &amp; A</b>

## Thursday April 22, 2021

### MORNING SESSION

#### 3.5 MCLE Credits (3.5 Skills)

8:30 a.m. – 8:45 a.m.	<b>Introductory Remarks; Summary and Overview</b>
8:45 a.m. – 9:15 a.m.	<b>Decision Tree Analysis in Mediation and Use of Risk Management Software</b> Simeon H. Baum, Esq. and Stephen A. Hochman, Esq. <i>(0.5 MCLE in Skills)</i>
9:15 a.m. – 9:40 a.m.	<b>Risk Analysis Exercise</b> Simeon H. Baum, Esq. and Stephen A. Hochman, Esq. <i>(0.5 MCLE in Skills)</i>
9:40 a.m. – 10:05 a.m.	<b>Lawyers Advocacy - Coaching Counsel</b> Simeon H. Baum, Esq. and Stephen A. Hochman, Esq. <i>(0.5 MCLE in Skills)</i>
10:05 a.m. – 10:20 a.m.	<b>Break</b>
10:20 a.m. – 12:00 p.m.	<b>Role Play: Focusing on a Commercial Scenario</b> Small Groups with Facilitators <i>(2.0 MCLE in Skills)</i>
12:00 p.m. – 12:45 p.m.	<b>Lunch</b>

### AFTERNOON SESSION

#### 4.5 MCLE Credits (1.5 Areas of Professional Practice, 2.0 Skills, 1.0 Ethics)

12:45 p.m. – 2:00 p.m.	<b>Mediator's Proposal   Whether, When &amp; How</b> Simeon H. Baum, Esq. and Stephen A. Hochman, Esq. <i>(1.5 MCLE in Areas of Professional Practice)</i>
2:00 p.m. – 2:10 p.m.	<b>Break</b>
2:10 p.m. – 3:25 p.m.	<b>Forum – Impasse Breaking: The Art of Diplomacy – Handling Challenges in Personalities, Bargaining Style, Strategies, Commitment Level, Inter- Party Dynamics, and Messages</b> Simeon H. Baum, Esq. and Stephen A. Hochman, Esq. <i>(1.5 MCLE in Skills)</i>
3:25 p.m. – 3:50 p.m.	<b>Mediator Self Care</b> Simeon H. Baum, Esq. and Stephen A. Hochman, Esq. <i>(0.5 MCLE in Skills)</i>
3:50 p.m. – 4:00 p.m.	<b>Break</b>
4:00 p.m. – 5:00 p.m.	<b>Ethics: Remaining Ethical Issues</b> Simeon H. Baum, Esq. and Stephen A. Hochman, Esq. <i>(1.0 MCLE in Ethics)</i>



FORDHAM UNIVERSITY SCHOOL OF LAW

MCKEON HALL

ONE HUNDRED FIFTY WEST SIXTY SECOND STREET

# REGISTRATION FORM



New York State Bar Association

**Dispute Resolution Section & Fordham University School of Law**

Advanced Commercial Mediation Training

 **April 21–22, 2021**

Wednesday April 21, 2021 8:30 a.m. - 5:00 p.m.

Thursday April 22, 2021 8:30 a.m. - 5:00 p.m.

 **Virtual Participation**

## Personal Information

Name \_\_\_\_\_

Firm \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone ( \_\_\_\_ ) \_\_\_\_\_ Fax ( \_\_\_\_ ) \_\_\_\_\_

Email \_\_\_\_\_

## Payment Information

Check or money order enclosed in the amount of \$ \_\_\_\_\_  
(Make checks payable to New York State Bar Association.)

Charge \$ \_\_\_\_\_ to  
 American Express  Discover  MasterCard  Visa  
Expiration \_\_\_\_\_

Card Number \_\_\_\_\_

Authorized Signature \_\_\_\_\_

• A New York attorney who has a genuine financial hardship may apply for tuition assistance

NYSBA.ORG/TUITIONASSISTANCE

• Accommodations for Persons with Disabilities NYSBA.ORG/ADA

• CLE Policies | NYSBA.ORG/CLEPROGRAMPOLICIES

## Pricing

**Dispute Resolution Section Member or Fordham Alumni: \$480.00**  
 **NYSBA Member: \$530.00**  
 **Non-NYSBA Member: \$630.00**

### Registration fee includes:

Program materials for the conference.

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## Cancellation Notice

Notice of cancellation must be received by April 1, 2021 in order to obtain a refund for registration fees.

## 4 Ways to Register

**Online** [NYSBA.ORG/ADMEDIATION20](http://NYSBA.ORG/ADMEDIATION20)

**Call** **1.800.582.2452** (U.S. and Canada) or **518.463.3724** in Albany & surrounding area

**Mail** New York State Bar Association Member Resource Center One Elk Street Albany, NY 12207

**Fax** **518.463.5993**



NEW YORK STATE  
BAR ASSOCIATION  
**Dispute Resolution Section**  
One Elk Street, Albany, New York 12207  
518.463.3200/800.582.2452  
NYSBA.ORG