



SECTIONS

# Dispute Resolution

## 3-Day Commercial Mediation Training

### Presented by:

Simeon H. Baum, Esq., litigator, mediator & President,  
Resolve Mediation Services, Inc. ([www.mediators.com](http://www.mediators.com))

Stephen A. Hochman, Esq., mediator & arbitrator

*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.*

 **June 3–5, 2020**

 Virtual Participation

## Section Chair

**Theodore K. Cheng, Esq.**

ADR Office of Theo Cheng LLC

## Program Co-Chairs

**Evan J. Spelfogel, Esq.**

Epstein Becker & Green, P.C., New York City

**Alfreida B. Kenny, Esq.**

Law Office of Alfreida B. Kenny

**CLE INFORMATION:** The New York State Bar Association's Meetings Department has been certified by the NYS Continuing Legal Education Board as an accredited provider of continuing legal education in the State of New York. Under New York's MCLE rule, this program will provide you with a total of 24 credit hours. The breakdown is as follows: 6.0 MCLE Credits in Areas of Professional Practice, 12.5 in Skills, 4.0 in Ethics, and 1.5 in Law Practice Management. this program is transitional and therefore suitable for newly admitted attorneys.

**DISCOUNTS AND SCHOLARSHIPS:** New York State Bar Association members and non – members may receive financial aid to attend this program. Under this policy, anyone who requires financial aid may apply in writing, not later than ten working days prior to the program, explaining the basis of his/her hardship, and if approved, can receive a discount or scholarship, depending on the circumstances. For more details, please contact: Lara Nowicki, New York State Bar Association, One Elk Street, Albany, New York 12207.

**ACCOMMODATIONS FOR PERSONS WITH DISABILITIES:** NYSBA welcomes participation by individuals with disabilities. NYSBA is committed to complying with all applicable laws that prohibit discrimination against individuals on the basis of disability in the full and equal enjoyment of its goods, services, programs, activities, facilities, privileges, advantages, or accommodations. To request auxiliary aids or services or if you have any questions regarding accessibility, please contact Lara Nowicki at 518.487.5669 or [lnowicki@nysba.org](mailto:lnowicki@nysba.org).

## PROGRAM DIRECTORS AND 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 evaluator in nearly 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, Trump's \$1 billion suit over the West Side Hudson River development, and Archie Comics shareholders dispute. 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 over 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 practiced law for over 40 years, specializing in corporate, commercial and securities law. He has mediated over 450 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. For over 20 years Mr. Hochman has trained the mediators in New York County and various other downstate counties. He also served on the investment committees and boards of various non – profit corporations, including several hospitals and a captive insurance company.



# OVERVIEW OF THE COURSE

This three – day course will present a thorough examination of mediation principles and techniques. The program faculty will analyze the structure of a typical mediation, highlight ethical issues that may arise in mediation, and explore solutions for generating movement and overcoming impasse.

The program faculty will explore the differences between facilitative and evaluative or directive approaches in mediation, both from a practical and from an ethical perspective, and will discuss the advantages and disadvantages of these styles. The instructors will focus on experiential learning through role plays and dialogue to help prepare you for the real world of commercial mediation.

## 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

**Registration fee includes program materials.**

**\$795 for Dispute Resolution Section members or Fordham Law alumni**

**\$845 for NYSBA members**

**\$945 for Non – NYSBA members**

**For over 20 years, the program faculty has presented the same training to mediators for the Commercial Division of the New York State Supreme Court fulfilling three days of Commercial Mediation Training approved under Part 146 of the Rules of the Chief Administrative Judge. The trainers have received high accolades for their work**

*"Thanks to you, we are confident that these new mediators bring to their role a strong grasp of mediation techniques and genuine understanding of the diverse issues they may confront. They can achieve the best results for the parties if they have a solid foundation in mediation, and that you have provided them."*

**Hon. Jacqueline W. Silberman**, as Administrative Judge, 1st Judicial District

*"[Y]our work on this project was magnificent."*

**Hon. Stephen G. Crane**, as Administrative Judge, 1st Judicial District

# 3-Day Commercial Mediation Training

## Wednesday, June 3, 2020, Morning Session

**4.5 MCLE Credits** (3.0 Areas of Professional Practice, 0.5 Ethics, 1.0 Skills)

8:30 – 8:45 a.m.	<b>Welcome and Introduction to the Commercial Mediation Training</b>
8:45 – 9:35 a.m.	<b>Commercial Mediation: The Basics (what makes a good mediator)</b> Simeon H. Baum, Esq. with Stephen A. Hochman, Esq. (1.0 MCLE Credit in Areas of Professional Practice)
9:35 – 10:25 a.m.	<b>Theories of Conflict &amp; Dispute Resolution Spectrum</b> Simeon H. Baum, Esq. (1.0 MCLE Credit in Areas of Professional Practice)
10:25 – 10:40 a.m.	<b>BREAK</b>
10:40 – 11:30 a.m.	<b>Defining Mediation</b> Simeon H. Baum, Esq. (1.0 MCLE Credit in Areas of Professional Practice)
11:30 – 11:55 a.m.	<b>Ethics: Mediation Theory and the Role of the Mediator</b> Simeon H. Baum, Esq. with Stephen A. Hochman, Esq. (0.5 MCLE Credit in Ethics)
11:55 a.m. – 12:45 p.m.	<b>Negotiation Skills, Theory, Strategy &amp; Skills</b> Including Mediator Qualities, Tasks & Functions, Tips from the Tao te Ching Simeon H. Baum, Esq. with Stephen A. Hochman, Esq. (1.0 MCLE Credit in Skills)
12:45 – 1:30 p.m.	<b>LUNCH</b>

## Wednesday, June 3, 2020, Afternoon Session

**3.5 MCLE Credits** (1.0 Areas of Professional Practice, 0.5 Ethics, 2.0 Skills)

1:30 – 2:20 p.m.	<b>Negotiation Theory and Communication Skills</b> Simeon H. Baum, Esq. with Stephen A. Hochman, Esq. (1.0 MCLE Credit in Skills)
2:20 – 3:10 p.m.	<b>Listening &amp; Reframing Skills</b> Stephen A. Hochman, Esq. with Simeon H. Baum, Esq. (1.0 MCLE Credit in Skills)
3:10 – 3:35 p.m.	<b>Ethics: Ethical Issues that Arise in Communication</b> Simeon H. Baum, Esq. with Stephen A. Hochman, Esq. (0.5 MCLE Credit in Ethics)
3:35 – 3:45 p.m.	<b>BREAK</b>
3:45 – 4:35 p.m.	<b>Mediator Qualifier &amp; Stages of Mediation</b> Simeon H. Baum, Esq. with Stephen A. Hochman, Esq. (1.0 MCLE Credit in Areas of Professional Practice)
4:35 – 5:00 p.m.	<b>Questions and Answers</b> Simeon H. Baum, Esq. with Stephen A. Hochman, Esq.



## Thursday, June 4, 2020, Morning Session

**4.5 MCLE Credits** (0.5 Areas of Professional Practice, 0.5 Ethics, 3.5 Skills)

- 8:30 – 8:55 a.m. **Review & Mediation Tips from Tao Te Ching**  
Simeon H. Baum, Esq. with Stephen A. Hochman, Esq.  
(0.5 MCLE Credit in Areas of Professional Practice)
- 8:55 – 9:20 a.m. **Preparation for Mediation**  
Stephen A. Hochman, Esq. with Simeon H. Baum, Esq.  
(0.5 MCLE Credit in Skills)
- 9:20 – 11:25 a.m. **Mediation Role Play**  
Small Groups with Facilitators  
(2.5 MCLE Credits in Skills)
- 11:25 – 11:35 a.m. **BREAK**
- 11:35 – 11:55 a.m. **Generating Movement for Joint Session & Caucus: Impasse Breaking Techniques, Logrolling**  
Stephen A. Hochman, Esq. with Simeon H. Baum, Esq.  
(0.5 MCLE Credit in Skills)
- 11:55 a.m. – 12:20 p.m. **Ethical Dilemmas in Joint Session & Caucus**  
Stephen A. Hochman, Esq. with Simeon H. Baum, Esq.  
(0.5 MCLE Credit in Ethics)
- 12:20 – 12:45 p.m. **Q & A, General Discussion**  
Stephen A. Hochman, Esq. with Simeon H. Baum, Esq.
- 12:45 – 1:30 p.m. **LUNCH (Prosando Mediation Video & Discussion – Part 1)**

## Thursday, June 4, 2020, Afternoon Session

**4.0 MCLE Credits** (0.5 Areas of Professional Practice, 3.5 Skills)

- 1:30 – 1:55 p.m. **Ten Mistakes Even Good Mediators May Make; Counterpoint to Ten Mistakes**  
Stephen A. Hochman, Esq.  
(0.5 MCLE Credit in Areas of Professional Practice)
- 1:55 – 4:00 p.m. **Mediation Role Play**  
Small Groups with Facilitators  
(2.5 MCLE Credits in Skills)
- 4:00 – 4:10 p.m. **BREAK**
- 4:10 – 5:00 p.m. **Discussion of Role Play; Questions and Answers**  
Simeon H. Baum, Esq. with Stephen A. Hochman, Esq.  
(1.0 MCLE Credit in Skills)



# 3-Day Commercial Mediation Training

## Friday, June 5 2020, Morning Session

**4.0 MCLE Credits** (0.5 Areas of Professional Practice, 1.0 Ethics, 2.5 Skills)

8:30 – 8:55 a.m.

### **Attorney's Role in Mediation**

Stephen A. Hochman, Esq. with Simeon H. Baum, Esq.  
(0.5 MCLE Credit in Areas of Professional Practice)

8:55 – 9:20 a.m.

### **Ethical Issues Related to the Attorney's Role in Mediation**

Stephen A. Hochman, Esq. with Simeon H. Baum, Esq.  
(0.5 MCLE Credit in Ethics)

9:20 – 11:25 a.m.

### **Mediation Role Play**

Small Groups with Facilitators  
(2.5 MCLE Credits in Skills)

11:25 – 11:35 a.m.

### **BREAK**

11:35 a.m. – 12:00 p.m.

### **Ethics: Advice to Advocates in Mediation**

Simeon H. Baum, Esq. with Stephen A. Hochman, Esq.  
(0.5 MCLE Credit in Ethics)

12:00 – 12:25 p.m.

### **Questions and Answers**

Simeon H. Baum, Esq. with Stephen A. Hochman, Esq.

12:25 – 1:25 p.m.

### **LUNCH (Prosando Mediation Video & Discussion – Part 2)**



## Friday, June 5, 2020, Afternoon Session

**3.5 MCLE Credits** (0.5 in Areas of Professional Practice, 1.5 in Law Practice Management, 1.5 Ethics)

1:25 – 1:50 p.m.

**ADR in the Commercial Division: Description, Rules, and Objectives**

Commercial Division Representatives

*(0.5 MCLE Credit in Areas of Professional Practice)*

1:50 – 3:05 p.m.

**Ethics: The New Rules of Professional Conduct and How they Relate to Mediators**

Simeon H. Baum, Esq. with Stephen A. Hochman, Esq.

*(1.5 MCLE Credits in Ethics)*

3:05 – 3:25 p.m.

**BREAK**

3:20 – 4:35 p.m.

**Tips and Challenges – Building a Mediation Practice**

Simeon H. Baum, Esq. with Stephen A. Hochman, Esq.

*(1.5 MCLE Credits in Law Practice Management)*

4:30 – 5:00 p.m.

**Questions and Answers**

Simeon H. Baum, Esq. with Stephen A. Hochman, Esq.



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