



Winkler Institute for Dispute Resolution **ANNUAL REPORT** 2021-2022



**WINKLER
INSTITUTE
FOR DISPUTE
RESOLUTION**

Based at Osgoode Hall Law School (“Osgoode”) in Toronto, Ontario and named for the former Chief Justice of Ontario Warren Winkler, the Winkler Institute for Dispute Resolution is a vibrant centre for research on innovation in dispute resolution, access to justice, and the future of the legal profession and justice system. Our projects are wide-ranging but always rooted in this mandate.

Whether it is exploring the potential for human-centered design and legal technology to transform justice services, innovating in dispute resolution and prevention, discovering new ways of thinking about the profession, or legal education and empowerment, we are consistently striving to find out how to do things better and more inclusively.

Additionally, we are closely tied in both mission and operation with the Osgoode Mediation Clinic, supporting the work of its three primary divisions (and their community partners) and facilitating its Small Claims Court Mediation Program. We also support the work of the student led Osgoode Advocacy Society, aiding in the facilitation of a number of internal and external ADR competitions.

Since opening our doors in 2014, the Winkler Institute has become a leading voice in Canadian justice innovation and reform and a partner on many research projects and initiatives with similarly minded organizations and institutions across the world.

We are always looking for more ways to work on pressing issues and to advance causes within our mandate.

Please do not hesitate to reach out by emailing us at WinklerInstitute@osgoode.yorku.ca



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A Word from the Academic Co-Directors



This past year, we witnessed all law school members, the Winkler Institute, and the justice system continue to respond and adapt during a period of change.

This report aims to capture the wide-ranging work, competitions, projects, and activities that took place during the 2021-2022 academic year. We hope that you will see the impactful ways our students, faculty, and institutional partners have come together to carry out our mandate rooted in accessible justice and innovation in dispute resolution.

We are truly proud of what has been achieved and invite you to learn more about our journey over the past year in the pages that follow.

As always, please do not hesitate to contact us at WinklerInstitute@osgoode.yorku.ca with your thoughts and questions. We thank you for your continued support.

Take good care, and we look forward to seeing you in-person.

Professors Shelley Kierstead and Trevor C.W. Farrow
Academic Co-Directors, Winkler Institute for Dispute Resolution

Staffing Changes and Mentions

2022-2023 Academic Co-Directors:

Professors Trevor C.W. Farrow and Patricia (Trish) McMahon.

We are pleased to welcome Professor McMahon as the new Academic Co-Director of the Winkler Institute. We are also delighted that 2021-2022 Co-Director Professor Kierstead, who is taking a sabbatical during the 2022-2023 academic year, will stay involved in several Winkler Institute projects and initiatives.

In May 2022, we said goodbye to our Assistant Director, Professor Jean-Paul Bevilacqua, who joined the Winkler Institute in the spring of 2017. We are grateful for his many years of service to the Winkler Institute and the Osgoode community. He has played a massive hand in guiding our centre to where it is today. His extensive involvement, leadership experience, and commitment to the Winkler Institute and Osgoode Mediation Clinic both sustained and grew the areas of dispute resolution, justice innovation, and access to justice.

Our 2022 Summer Research students, Methura Sinnadurai and Benjamin VanderWindt, held integral roles within the Winkler Institute, including ensuring the continuation and growth of the Ontario Family Law Limited Scope Services Project, Osgoode Mediation Clinic, and Winkler Institute website services. Their dedication and pursuit of excellence have furthered the Winkler Institute mandate and the field of dispute resolution. We acknowledge and are very grateful to our Research Assistants over the past year for their commitment to continuing the work we have been doing since 2014 and striving to find innovative ways to advance causes within our mandate.

First Day of Class



The 2021-2022 academic year required much flexibility and was rich with new experiences and learning. With remote classes in the fall and in-person classes in the spring, students at the Osgoode Mediation Clinic showed immense curiosity and perseverance as they leaned into the shifting learning environment. Jean-Paul Bevilacqua, the previous Assistant Director of the Institute and co-director of the Mediation Clinic, welcomed the students to the first day of classes for a new and hopeful year.

Advocacy Competitions

The Osgoode Advocacy Society (OAS) is a student-run club established in 2016. It aims to advance the negotiation, mediation, and general oral advocacy skills of Osgoode students through training boot camps and advocacy-based competitions.

Dentons Negotiation Cup

The Dentons Negotiation Cup is Osgoode's flagship advocacy-based competition designed to provide participants with an opportunity to demonstrate their ability to craft creative approaches to dispute resolution, think on their feet in a constantly evolving fact scenario, and demonstrate their ability to remain calm in a for-stakes negotiation.

Students compete in teams of two, hoping to advance through three rounds of simulated negotiation scenarios. Teams advance based on their scores, which are determined by a team's planning, flexibility, partnership, ability to deal with ethical issues, and ultimately the ability to obtain the best possible outcome for their client.

In November 2021, the fourth-annual Denton's Cup was hosted via Zoom. While the OAS was responsible for the organization, facilitation, and logistical aspects of the new competition format, the willingness of the participants and judges to try something new was equally important. In total, it took an OAS executive, judges, and over 120 participants to pull off one very successful virtual competition.

This year, Ishaan Kapur & Joshua Sloan won the competition in an impressive performance, with Jaime Rivera-Campos & Amrit Toor coming in second. Both teams that made it to the final round of the Dentons Cup qualified to represent Osgoode at the National Negotiation Competition, which was held virtually in February 2021

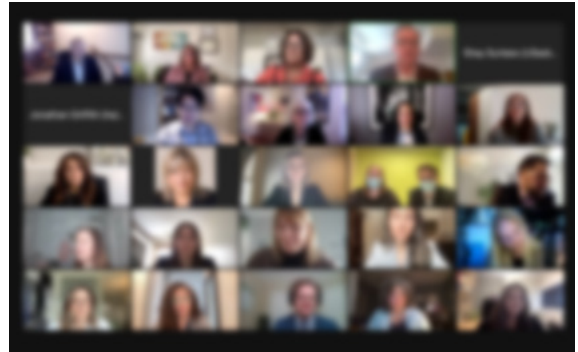


National Family Law Negotiation Competition

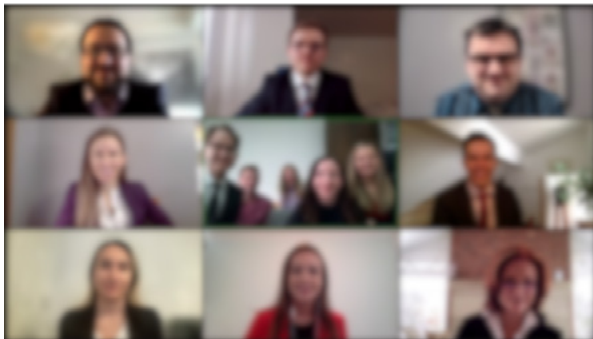
The National Family Law Negotiation Competition (NFLNC) happened in March 2022. The competition is organized by a planning committee of lawyers, judges, and academics to create and design a negotiation based on a realistic family law fact pattern.

We were proud to have such a strong turnout from the Osgoode Teams. Kaliopi Dimitrakoudis and Valentina Galvis won first place. Keith Davis and Valerie Sedlezky won third place. Finally, Kaliopi also won second place for individual performance.

Osgoode thanks the organizers who made this opportunity possible for law students across Canada to practice family law negotiation.



Walsh Family Law Negotiation and Moot



The Walsh Family Law Negotiation and Moot were held virtually, for schools across Ontario, in early March 2022. Osgoode Hall had several teams in both the Negotiation and Moot categories, and all performed well. The competition is hosted by the Association of Family and Conciliation Courts and sponsored by many law groups across Ontario.

On March 4th, 2022, participants, and judges, from across Ontario gathered remotely from across Ontario Law Schools for a virtual social and networking

event. Students enjoyed connecting with peers from different law schools and speaking to practicing family lawyers. The competitions kicked off early on March 5th. Moot participants were judged on both their factums and oral arguments. Negotiation students were judged on the quality and outcome of their negotiation styles and strategies.

We were proud of all of the Osgoode teams; they represented our school well. Specifically, Catherine O'Connor received the second top Moot oralist award and Jeremy Nason, Catherine O'Connor, Reilly Everitt-Cunningham, Alexandra Maddeaux, and Jina Aryaan won second in the Team Moot.

Osgoode Hall student, Benjamin VanderWindt (23'), expressed his appreciation specifically for the feedback and comments of judges after each round.

"It was evident that the judges were interested in both the content of the negotiations and the student participants' advocacy skills. After each round, they gave personal and detailed advice on students' communication styles and decision-making. Real-time feedback was helpful to prepare for the next round and become a better negotiator."

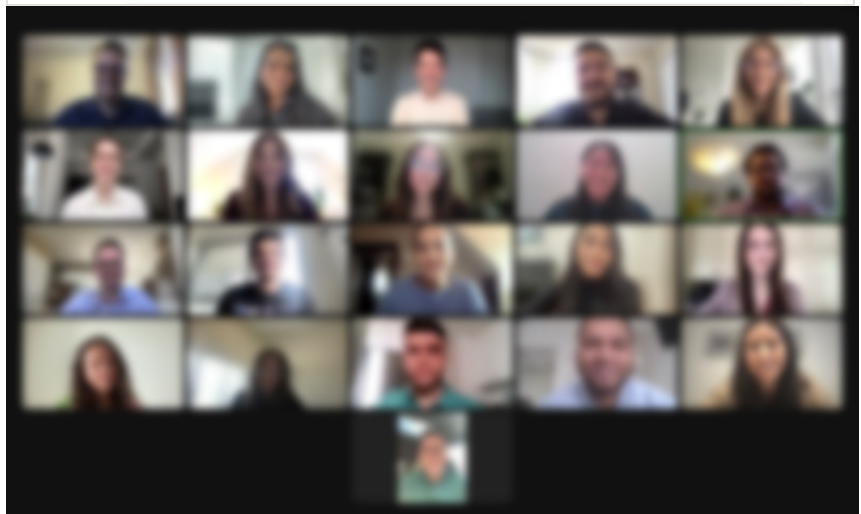
Winkler Institute's Partnership with Osgoode Mediation Clinic

The Winkler Institute is proud to continue working with, supporting, and learning alongside the Osgoode Mediation Clinic (OMC). Approximately 20 Osgoode students participate yearly in the OMC clinic, which includes academic and experiential learning components. At the beginning of each year, OMC students receive mediation training. During the rest of the year, students serve in various community organizations, including the publicly available mediation clinic at Osgoode, helping community members navigate conflict through mediation.



Jean-Paul Bevilacqua @jpbevi · Apr 5

Stellar last class with the students in @OsgoodeNews' mediation program. The amount of impressive, impactful work that this cohort did in the face of this year's near-constant hurdles and ever-shifting circumstances blew me away. I hope they are as proud of themselves as I am.



OSGOODE MEDIATION CLINIC

OMIC



INTRODUCTION

The Osgoode Mediation Clinical Intensive program offered at Osgoode Hall Law School provides students with theoretical and practical mediation training.

Students run the OMC and provide free community and court-related mediation services under the supervision of the program Director and other mediation professionals.

The OMC is made up of 3 divisions: Youth & Family; St. Stephen's; and Clinic & Campus.

As a member of the Clinic & Campus division, I provided mediation and other dispute resolution services to students, staff, & wider community.

TRAINING

Theoretical

- Conflict Styles
 - Competing, Accommodating, Avoiding, Compromising, and Collaborating
- Positions vs Interests
 - Ex: "I want the orange"
- Mediation Styles
 - Facilitative, Evaluative, and Transformative
- Mediators control the process; Parties control the problem

Practical:

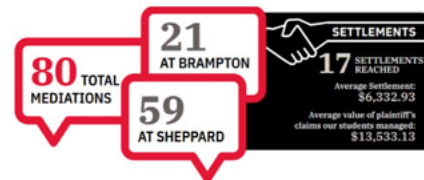
- Mediation Certification Training Program
- Mediation Process
 - Case Preparation and Assessment
 - Intake, Case Development, Scheduling of Session
 - Mediation Session
 - Opening, Phase 1, Phase 2, Phase 3, Closing
 - Follow-up



MEDIATIONS

Small Claims Court (Toronto & Brampton)

- Cases
 - Dispute between employer and employee re: wages owed
 - Dispute between corporation and contractor re: invoice amount
 - Dispute between vendor and consumer re: quality of goods
- Coaches
- Insight: Impersonal, Power Imbalances & Language Barriers



Community Mediations

- Cases
 - Dispute between professional business partners re: ownership
 - Dispute between professor and student re: academic credit
- Insight: Personal & Emotionally-Charged

* The Small Claims Court Mediation Program was put on pause from 2020-2022 due to COVID-19. The statistics above reflect mediations conducted during 2019-2020.

WORKSHOPS

The OMC team created content and delivered training as follows:

- "Mediation Basics" training for INADR Competition
- "Negotiation Basics" training for Seneca College Leadership Summit
- "Conflict Resolution" for York University Club Peer Mentors
- "Understanding Negotiations" for Women's Mental Health Talks



SKILLS

- Client Interviewing
- Active Listening
- Information Gathering
- Effective Communicating
- Handling complex circumstances and emotions
- Balancing between preparation and adaptability
- Public Speaking

IMPORTANCE

- I am more aware of my role in dispute resolution, as both a facilitator and as a participant, in all professional and personal settings.
- I discovered a passion for helping others and a spirit of collaboration.
- I will use the mediation process in my legal practice to resolve disputes outside of the court system, thereby addressing the access to justice crisis and providing an option for parties with disputes that do not meet the legal threshold.

ADVICE

The OMC was the most impactful and rewarding law school experience. Helping parties, who would not have otherwise been able to do so, move beyond their disputes was lifechanging for the parties and myself. I would highly recommend taking any EE opportunity that interests you - the skills developed cannot be matched with in-class learning. You will gain self-confidence, self-awareness, and a better understanding of the world around you.

Ontario's Family Law Limited Scope Services Project



Ontario's Family Law Limited Scope Services (FLLSS) Project

In October 2021, Ontario's Family Law Limited Scope Services Project (the "Project") found [its new home at Osgoode Hall Law School](#) under the combined care of the Winkler Institute for Dispute Resolution and the Osgoode Mediation Clinic. The Project's mandate is to improve access to family justice for middle-income Ontarians by establishing an online, province-wide directory of trained lawyers willing to

provide unbundled legal services. These services, which include limited-scope retainers, legal coaching, and summary legal counsel in family law matters, allow clients to maintain general control over the case while also receiving legal assistance from a lawyer on discrete tasks. Prospective clients can search the online directory by the lawyer's name, the location of the lawyer, the services offered, and the languages in which the services can be provided.

Students in the Family/Youth Division of the Mediation Clinic, as well as our current summer students, worked alongside Jean-Paul Bevilacqua, Shelley Kierstead and Trevor Farrow to take on this significant initiative toward enhancing access to justice for unrepresented and self-represented litigants ("SRLs") in family law. Our team is grateful for the great work and dedication of the Project's originating Steering Committee and Investigators.

Legal Coaching Workshop

In partnership with the Osgoode Mediation Clinic, the Winkler Institute also presented a workshop by Lisa Eisen on legal coaching in the family-law realm. This event was part of the recent transition of the Project to its new home at Osgoode.



Interview with Helena Birt

The students in the Mediation Clinic interviewed Helena Birt, the Project's previous Senior Program Director, who has helped guide and transition the Project to Osgoode. To learn more about the history of the Project and Helena's role, access the article [here](#).

Practices for Providing Independent Legal Advice within Limited Scope Services

In association with the Project, the Winkler Institute and the [Ontario Association of Family Mediators \(OAFM\)](#) are collaborating to develop a resource outlining suggested practices for lawyers providing independent legal advice (ILA) and mediators facilitating the ILA process. The objective of the collaboration is to ensure both lawyers and mediators understand the roles and challenges of the other in the family law context so that families can better receive appropriate, settlement-minded, cost-effective, and timely assistance from such professionals.

Advocacy Week

Advocacy Week, formerly known as ADR Week, is a week-long program of events that provides Osgoode students with an opportunity to learn about and engage with the dispute resolution

practice. It is organized and facilitated in partnership between the Osgoode Mediation Clinic (OMC), the Osgoode Advocacy Society (OAS) and the Winkler Institute. We had a successful virtual edition of Advocacy Week that took place between February 7 and February 11, 2022.

An overview of each event that took place over the course of the week-long program follows:

Monday Event: Mediation 101

Advocacy Week kicked-off on February 7, 2022. Upper-year students Arielle Masur and Stefania Mariani, from the OMC, started the week with a Mediation 101 presentation to a great turnout of approximately 60 students. After providing an overview of alternative dispute resolution (“ADR”), they discussed the mediation process, its benefits, and specific instances for which it would be ideal to consider mediation. To elaborate on mandatory and voluntary mediation in Ontario, their presentation also highlighted the relevant legal rules and used a decision tree to illustrate a summary of mediatable cases. Afterwards, Arielle and Stefania turned to what effective advocacy would look like, as a lawyer on behalf of your client, within the mediation process. For this, they discussed topics including preparing a client for mediation, caucusing, settlement offers and working with the mediator.

To conclude the presentation, Arielle and Stefania prepared a game to test the participant’s knowledge of the content presented. They used the highly interactive platform called Quizizz, and had the participants answer questions on their individual devices for a chance to win a small prize.



Jean-Paul Bevilacqua @jpbevi · Feb 16

Thanks to all those who participated in fantastic numbers and to our wonderful @OsgoodeNews mediation students who organized this week. It's great to see this level of interest and engagement in conflict resolution and advocacy from our community. twitter.com/OsgoodeMC/stat...

Tuesday Event: Mediation Workshop

The second Advocacy Week event was the “Mediation Workshop”, hosted by Phoebe Goldig and Kathleen Gregus on February 8, 2022. This event was designed to put theory into practice, draw upon material that participants had been exposed to on Day One of Advocacy week, and provide students with an opportunity to test their knowledge in a simulated mediation setting.

At the start of the event, Phoebe and Kathleen gave a presentation on the four stages of community mediation. Their discussion focused largely on the tips and tools mediators might use when conducting a mediation, including caucusing; reminding the parties of the BATNA/WATNA; flexibility with process design and execution; navigating cultural and communication barriers among the parties; and intervening when the parties are not following the “ground rules” that were set out at the start of the mediation.

Following the introductory presentation, participants were sent into breakout rooms to conduct the simulated mediation where each group member was preassigned the role of either Mediator/Co-Mediator, Party 1, or Party 2. The conflict at issue was between two neighbours who could not get along due to their cultural differences.

Importantly, participants were informed that the goal of the exercise was not necessarily to come to a full resolution, especially given the tight time constraint. Rather, the goal was to enable students to test out the mediation techniques in a low-pressure, supportive environment. After the simulation, all participants re-entered the main Zoom room and engaged in a meaningful discussion about their experience in the simulation, challenges that arose throughout the process, and techniques they found particularly effective.

Wednesday Event: ADR Panel—Real-World Solutions

Advocacy Week resumed on February 9, 2022, with the ADR Panel: Real-World Solutions led by OMC students Melissa Paglialunga and Josiah Schaafsma. Osgoode students were privileged to have a panel of experienced practitioners who spoke about their experiences in ADR. The 46 attendees who joined the virtual event via Zoom were able to hear from the panelists below about the 96% of cases that do not end up going to court:

- Adam Keeping - Family Lawyer at Niman Mamo LLP
- Jacob Klugsberg - Litigation Associate at McCarthy Tétrault
- Anisha Visvanatha - Litigation Associate at Norton Rose Fulbright
- Deanna Webb - Director, Legal Counsel for Labour & Employment at University Health Network (UHN)

The panelists provided insights into topics such as preparing for court versus mediation, reflecting on times when they represented clients in a mediation, as well as advice for students interested in ADR. This event allowed attendees to gain deeper insights into the ways in which mediation is integrated into the practice of many lawyers, from family law to labour and employment law to litigation in both the firm and in-house environments.

Thursday Event: 1L Winkler Negotiation Competition

The inaugural 1L Winkler Negotiation Competition was led by the Osgoode Advocacy Society and sponsored by the Winkler Institute for Dispute Resolution.

This competition was designed to promote greater interest among first-year law students in legal negotiation and to provide a means for them to practice and improve their advocacy skills in a fun, low-pressure manner. The competition was similar in nature to the Dentons Cup, except that it was one-round only, and the selected dispute fact-pattern was multi-party (4 teams of 2 in each room).

24 first-year students were faced with a conflict involving a professional services contract. Once the negotiating portion of the competition concluded, each team was provided feedback from the team of student judges, comprised of OAS executive members.

The participants were extremely grateful for the opportunity, and the judges were impressed by the young talent. The competition was a success and will be part of Advocacy Week in the future. The winners, James Papaeliou and Herman Wong the opportunity to compete as a ghost team at the Canadian National Negotiation Competition (CNNC) later in the month, adding another fantastic learning experience to their 1L experience.

Friday Event: Osgoode Mediation Clinic Open House

The final event of an incredibly successful virtual Advocacy Week was the Osgoode Mediation Clinic Open House. OMC students Mario Lofranco and Behnam Nadimfard were joined by the Clinic Co-Director Jean-Paul Bevilacqua. This event was 1-hour and split into a 30-minute presentation and a 30-minute Q&A session. The event had speakers from all three of the Osgoode Mediation Clinic's divisions: Campus Clinic, Neighbourhood, and Family & Youth.

The goal of this Open House was twofold. First, it was meant to provide Osgoode students who were interested in the clinic an opportunity to learn more about what we do, who we are, and how to get involved. The presentation broke down the roles and responsibilities of clinic members and had examples of clinic files that students might encounter, depending on which division they choose to participate in. The second goal of the Open House was to allow both existing clients and potential clients to see what services the Osgoode Mediation Clinic offers. This was done to increase the clinic's presence in both the local North York community and the broader Ontario community. Since mediations can now be done online, the clinic is able to expand to clients outside of Osgoode and the North York area. There was a great turnout at this event with 70 participants.

We hope that those in attendance will join the OMC in subsequent years to continue the amazing work being done here.

PBSC Partnership

In the fall of 2018, the Winkler Institute hosted three roundtables on dispute resolution with the Conciliation and Arbitration Board of Canada. The roundtables were hosted in Toronto, Calgary, and Montreal to improve the dispute-resolution capacity of our communities. Participants in the roundtables expressed the need for deliverables such as instructional documents, resource databases, and catalogues of the work being done by each organization and their dispute-resolution processes to share best practices.

Stemming from these findings, the Winkler Institute partnered with the Osgoode Chapter of Pro Bono Students of Canada (PBSC) during the 2019–2020, 2020–2021, and 2021–2022 academic years to create resources meant to inform and empower both ADR professionals, as well as the public.

The first of these resources is a [database](#) of Canadian-focused tools and published works spanning various categories and areas of practice in the field. PBSC students focused on Canadian research and articles with an emphasis on recent work from the past five years. They compiled a list of 120 resources that ADR professionals could use to help their practice. Resources ranged from papers on Indigenous dispute resolution to consumer contract dispute resolution, and included a blend of academic articles, practical papers, and encyclopedia entries. The database can be accessed [here](#).

The second phase of this partnership was to create [PLE \(Public Legal Education\) documents](#) based upon the resources contained in the database, that succinctly summarizes ADR from multiple perspectives so that potential litigants and parties to a conflict can quickly and efficiently get a sense of the options that are available to them outside of the formal litigation system. These graphics can be found on the following pages of this report and downloaded as a set [here](#).

This past year, the Winkler Institute continued its partnership with the Osgoode Chapter of Pro Bono Students Canada (PBSC). We are grateful to PBSC students, Christina Piccinin and Sophie Sklar for their fantastic work on exploring court adaptations in Canada, Australia, and the United Kingdom in the wake of the COVID-19 pandemic. While outlining the impact of COVID-19 on access to justice and procedural fairness, their research advocates for the continuation and growth of identified beneficial practices. Below are graphics from the report, which will be released shortly.



Canadian Innovations

To Promote Access to Justice During the Pandemic

Virtual Court Proceedings

The Canadian judicial system as a whole rapidly digitised in an effort to continue its operations in the wake of COVID-19.



Mandatory Pre-Trial Conferences

British Columbia instituted mandatory pre-trial conferences for the entirety of the pandemic in an attempt to make more efficient use of court resources.

Electronic Court Documents

In Ontario, the Court of Appeal currently requires parties to file electronic versions of all court documents in a text-searchable format.



Differing Modes of Hearings

In Prince Edward Island, the mode of hearing is guided by the wishes of the parties and directions of the court to ensure the best format for all parties involved is used.

Increasing Trial Efficiency

The Ontario Superior Court of Justice has encouraged the use of the Small Claims Court E-Filing Service portal or the Small Claims Court Submissions Online portal to file forms and documents online without going to court, where possible.



Five Steps Forward

Learnings from other Jurisdictions



Digitizing Case Management

The United Kingdom has taken the digital administration of justice a step further by creating digitised common case management systems to be used across jurisdictions.

Increased Technological Competency

Judges and judicial staff members in Australia rapidly became adept at documents-only, telephonic, and audio-visual procedures, using a variety of online platforms.



Legislative Action

The Australian COVID-19 Legislation Amendment (Emergency Measures) Act 2020 created a new section, 22C, which explicitly permits remote proceedings in some types of matters and adopts a presumption that certain types of proceedings will take place remotely.

Create Further Digital Developments

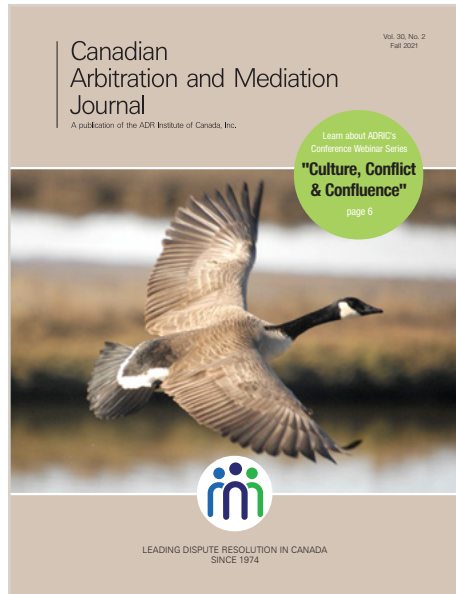
With countries such as the United Kingdom implementing many digital developments, Canada may take inspiration and adopt some of these practices to integrate into the existing court systems and their operations.



Maintain Existing Best Practices

Some of the practices that have been adopted by the court system during COVID-19 have created positive changes and increased access to justice, and should remain as permanent fixtures of the judicial system.

Additional Publications



The Effectiveness of Community Mediation—Narrowing the Literature Gap with Research¹



RACHELLE PAQUET, JD
Rachelle obtained her law degree from Osgoode Hall where she completed her Mediation Intensive program. She received conflict resolution training and conducted mediations in the community and Small Claims Court. She was a Research Assistant for the Winkler Institute for Dispute Resolution and spread her enthusiasm for ADR as President of the Osgoode Advocacy Society.



KIANA BLAKE, JD, BA HONS
Kiana will be entering her third year at Osgoode Hall Law School. Prior to law school, she obtained an Honours Bachelor of Arts from University of Toronto. She graduated at the top of her class with the Cum Laude Distinction and Silver Medal. She completed her clerkship in 2020 and was a member of the Osgoode Advocacy Society.

Background

Community mediation aims to help community members resolve current conflicts, build conflict resolution competency among participants and, ultimately, contribute to more peaceful communities. To what extent is it achieving those aims? Recent Canadian research offers some answers.

Community mediation and conflict coaching services are delivered in North America through community mediation centres (CMCs). At twelve such centres in Ontario, volunteer mediators support individuals to resolve conflict through constructive dialogue. How effective are they? To date, there is no clear picture of the effectiveness of volunteer-led community mediation, and few studies have focused on measuring outcomes.

The literature that does exist tends to focus on the development of CMCs in various communities, the personalities behind their founding and operation, funding sources and administrative structures, mediator training, quality control, best practices in mediation and the philosophies that guide them, and the various challenges faced by CMCs such as evaluation. But there is scant literature on whether community mediation leads to more peaceful communities.

Between September 2019 and March 2020, however, with support from The Law Foundation of Ontario and expert guidance from the Winkler Institute for Dispute Resolution, a research project was conducted to assess the effectiveness of community mediation in improving the future capacity for communications and conflict resolution between and among clients who have used these services.² The survey included only clients who attended mediation, conflict coaching, or both voluntarily and for free, in order to resolve a dispute with a neighbour, room-mate, family member, or others. Primary data was collected from past program participants identified by each CMC. The secondary data was gathered from a review of background documents and a scan of literature.

The survey results came from seven of twelve members of the Ontario Community Mediation Coalition (OCMC), an umbrella organization representing community mediation services in Ontario that share a common definition of community mediation and agree on a standard of excellence and training for their volunteers. Results, therefore, can only be interpreted as relevant to the mediation and conflict coaching practices of OCMC members or centres offering similar services.

Finding #1: Results from Community Mediation in Private, Interpersonal Conflicts

Community mediation and/or conflict coaching participants who took part in the research reported that they experienced some change to the conflict situation as a result of mediation or conflict coaching.

- 98.7% felt that the situation had actually improved, and
 - 49.2% felt better as a result of having had the opportunity to have their experiences heard and validated.
- When asked why they were feeling better after mediation or coaching:
- 43.5% reported living with less stress
 - 32.3% reported having fewer conflicts
 - 24.2% reported improved relationships

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In 2019, The Winkler Institute and St. Stephen's partnered to evaluate the effectiveness of community mediation and coaching, as practiced in the 12 services of the Ontario Community Mediation Coalition (OCMC). This research was generously funded and supported by the Law Foundation of Ontario. The report was disseminated and publicized during the past year, and an [article](#) based on its findings, written by Institute Research Assistants Kiana Blake and Rachelle Paquet, was published in the Fall 2021 edition of the Canadian Arbitration and Mediation Journal under the title *The Effectiveness of Community Mediation—Narrowing the Literature Gap with Research*.



Linda Mochon, a student of Osgoode's Mediation Intensive Program and the Institute Research Assistant explored the practical ways in which artificial intelligence (AI) is used in dispute resolution and identified some of the major concerns and hesitation over value alignment, morality, and legal formalism. Her [article](#) was published in the 2021 edition of the International Journal of Online Dispute Resolution under the title, *AI in the Legal Profession: Teaching Robot Mediators Human Empathy*.

The Winkler Institute's Website and Justice Innovation Blog

If you are interested in reading more about how the Winkler Institute was formed, its mandate, initiatives and its access to justice goals, please visit Winkler Institute's website [here](#). Throughout the year, students have continued to contribute to the [Justice Innovation Blog](#) by writing about their experiences in the mediation clinic, their unique perspectives on ADR and reflections on a range of related topics.

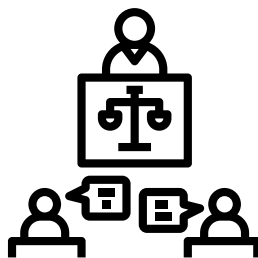
Reflecting on her experience observing a Small Claims Court proceeding, Phoebe Goldig identified the ways mediation can be an effective alternative to litigation:

1. Mediation saves both party and court resources
2. Mediation allows for meaningful communication between the parties
3. Mediation is not imposed, and the outcome is not defined by the law

"...mediation can be an effective and efficient dispute resolution tool that addresses many of the common issues faced by litigants. Rather than forcing parties to succumb to an imposed solution or remedy, it provides the parties with an opportunity to more succinctly resolve their dispute and to work together to develop a solution that both parties agree to.

Mediation Vs. Litigation: How And Why Mediation Is An Effective Alternative To Litigation

Contributor: Phoebe Goldig



JUSTICE INNOVATION BLOG

Melissa Paglialunga discussed the benefits of mediation from the perspective of a self-represented litigant (SRL). Acknowledging the procedural hurdles several SRLs must overcome in the court process, Melissa discussed how mediation can help parties understand each other's views and work towards a mutually agreed-upon resolution.

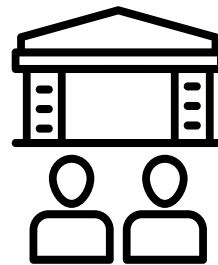
“Mediation provides a vehicle for two or more parties to be able to sit at the (virtual) table together, sharing their perspectives, hearing the viewpoints of the other parties, and being able to devise unique solutions. The process of mediation completes all these goals without the complicated court process that parties need to navigate when engaged in litigation...”

Mario Lofranco presented conflict resolution workshops to Lassonde School of Engineering Student Leaders and students enrolled in the Master of Industrial Relations and Human Resources program at U of T's Center for Industrial Relations and Human Resources. Reflecting on both workshops and the means by which they were presented, Mario explored the pros and cons of virtual mediation

“Virtual mediations or presentations are not going away anytime soon. I think they are important because they can increase the number of mediations that can be accomplished over a span of time. Although they have their cons, I think their efficiency is what makes them valuable for many types of mediations or seminars. Of course, this is a case-by-case basis, but it is something mediators will have to deal with as we enter into the post-pandemic world.”

Self-Represented Litigants: Does Mediation Provide A Better Alternative?

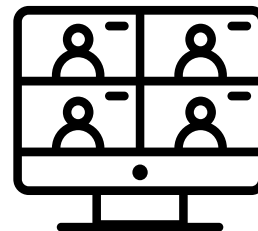
Contributor: Melissa Paglialunga



JUSTICE INNOVATION BLOG

To Zoom Or Not To Zoom, That Is The Question

Contributor: Mario Lofranco



JUSTICE INNOVATION BLOG

Mediator Spotlight Initiative

The Osgoode Mediation Clinic (OMC) allows Osgoode students the opportunity to provide free mediations, conflict resolution training, and personal conflict coaching to the community within and surrounding York University. Over the past year, members of the OMC Campus Clinic Division have committed to developing skills as mediators and negotiators with the focus of increasing access to justice for folks experiencing a wide range of conflict.

To bring greater awareness about mediation and alternative dispute resolution to the Osgoode community, the OMC launched the Mediator Spotlight initiative. Through this initiative, members of the Campus Clinic Division have conducted interviews with experienced practitioners which have been recorded and shared on our social media accounts more broadly.

There are currently four Mediator Spotlight episodes featuring Jon Fidler, Frank Gomberg, Dorna Zaboli, and Leslie Dizgun. The episodes can be access [here](#).



MEDIATOR SPOTLIGHT

Episode 1

JON FIDLER



MEDIATOR SPOTLIGHT

Episode 2

FRANK
GOMBERG



MEDIATOR SPOTLIGHT

Episode 3

DORNA
ZABOLI



MEDIATOR SPOTLIGHT

Episode 4

LESLIE
DIZGUN

Annual Conference on Mediation

Winkler Institute/IAM/OsgoodePD Annual Conference on Mediation *Closing the Deal: Effective Strategies for Advocates and Mediators*



On Thursday, May 12, the Winkler Institute for Dispute Resolution, in partnership with [Osgoode Professional Development](#) and [the International Academy of Mediators \(IAM\)](#), hosted its annual Conference on Mediation. The day's topic was Navigating Risk in Mediation: Risk Analysis & Decision Making.

The day was comprised of a host of insightful and experienced speakers along with an experiential case study. The day's emphasis was on engaging with the intangible complexities of mediation cases while mitigating risks to the mediation. Mediators must take risks in their practice, but proper preparation can allow for a broad range of content, like a client's emotions, without derailing the process.

Historically, many mediators have solely emphasized to clients the liabilities of the case and the WATNA (or the potential outcome of losing the case). These two roles of a mediator are essential but alone miss out on some of the most significant potential advantages of mediation. As the Honorable Warren Winkler put it during the conference's closing session:

We should never, in the appropriate case, fail to deal with the indirect or intangible risks ... Because of the devastating, irreparable, sometimes catastrophic harm that can occur if you fail to do so.¹¹

It can be challenging to deal with mediation's emotional or intangible components. But, the actual cost of not dealing with these aspects is often higher, even if not immediately apparent. Mediations are rarely predictable, but some tools help clients consider all relevant factors. The speakers outlined several practical tools to help understand, express, and navigate the intangibles.

International Academy of Mediators Conference

The International Academy of Mediators (IAM) is closely connected with the Winkler Institute; for example, the previous president of IAM spoke at the 2022 Winkler Conference on Mediation. IAM is an exclusive, professional organization that works to further mediation by facilitating the teaching and fellowship of the world's best commercial mediators. Their 2022 annual conference was hosted in-person in Montreal, QC, in June 2022.

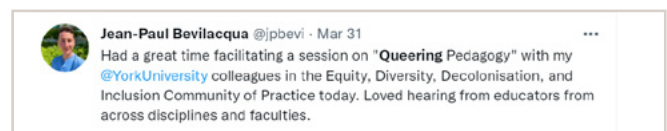
Benjamin VanderWindt, a Winkler Institute Research Assistant, attended the conference through his involvement with the Osgoode Mediation Clinic during the 2021-2022 academic year and summer research with the Winkler Institute. After the conference, he offered a reflection:

The IAM Conference offered a unique opportunity to learn from and discuss the profession of mediation with many highly trained, successful mediators from across the globe. Many of the mediators shared similar and consistent techniques, although I also learned about nuanced style changes depending on their context. Most of the mediators present were passionate and optimistic about the future of mediation as a successful method for resolving complex situations. I am eager to see how the legal community continues to embrace and evolve with mediation.

York's Equity, Diversity, Decolonisation, and Inclusion Community of Practice

Jean-Paul Bevilacqua, representing Osgoode and the Winkler Institute on York's Equity, Diversity, Decolonisation, and Inclusion in Teaching and Learning Community of Practice, led a session on Queering Pedagogy.

This Community of Practice formed in response to the complexities of teaching a diverse student body equitably and inclusively and the challenges posed by our collective need to confront systemic oppression, to decolonize our curricula and classrooms, to ensure accessibility in teaching and learning, and to respond to calls for Indigenization.



Small Claims Court Program

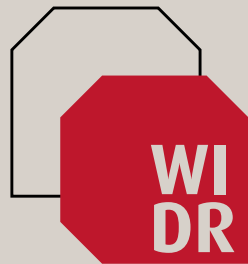
Due to changes in operations because of the pandemic, our long-running Small Claims Court Mediation Program had to be put on pause during the past academic year. We are looking forward to bringing it back in a big way this upcoming year. Stay tuned!

Shield Your Rights Project

[Shield Your Rights](https://ojen.ca/en/shield-your-rights), a youth-led and -centred collaborative project supported by the Law Foundation of Ontario, is working to develop a public legal education tool using the Seven Grandfathers' Teachings, guiding principles held by many indigenous cultures. The tool will be shared in the form of a digital game. The Winkler Institute is pleased to continue sponsoring the Shield Your Right Project. More information can be found at: <https://ojen.ca/en/shield-your-rights>

CyberJustice

The Cyberjustice Laboratory Project aims to find ways to integrate technology for dispute resolution purposes. Amongst other projects, Cyberjustice has been developing software that can help court systems integrate technology into their processes and increase access to justice. The Winkler Institute is pleased to be an institutional partner.



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