

“The Business of ADR – What you Need to Survive and Thrive when Building a Practice”

Guest Speaker: Jeff Morris

By: Mary Korica

The ADR Institute of Ontario (“ADRIO”) presented a live program and webinar titled “The Business of ADR – What You Need to Survive and Thrive When Building a Practice” that was delivered by mediator Jeff Morris at the ADRIO office on March 3, 2015.

The session proved a treat for the in-person and online audience. When it comes to starting and growing a successful professional mediation practice, Jeff Morris’s energizing message was “I hope you believe it is possible. Does it take hard work? Does it take the right attitude? Commitment? Perseverance? Not being defeated by No’s? Holding on to what your passion is and doing what you want to do? Absolutely.” In a presentation that was equal parts hard-headed practical advice, motivational speech and compelling personal narrative, Mr. Morris drew on his own experience to outline a series of steps that can bring about a thriving mediation practice.

Mr. Morris differentiated between three categories of marketing: marketing for beginners – audience members who have not yet launched active mediation practices and would like to become full-time mediators; marketing for intermediate mediators — those with one to five years of experience in a mediation practice who want to expand it; and marketing for seasoned professionals — mediators with five or more years of substantial experience who want to take their practice to the next level.

To the beginners, Mr. Morris said



Jeff Morris

Jeff Morris has acted as a commercial and insurance Mediator, including as a Roster Mediator under the Ontario Mandatory Mediation Program-Toronto. Jeff formerly served as a mediator for the Small Claims Court, and his ADR experience includes mediating employment and wrongful dismissal claims, contract disputes, real estate and conveyancing claims, partnership and shareholder disputes, workplace conflicts, contractual disputes, construction-related claims, residential and commercial landlord and tenant disputes, accident claims and insurance claims of all forms.

“Unless the market sees you as a mediator, they’re not going to use you. It’s that simple.” He insisted on the need for an utterly professional website, including a professionally-taken photograph, testimonials from mediation or non-mediation clients attesting to who the mediator is and what they deliver to the mediation table, indication of any associations they belong to, and posting of relevant articles they’ve published. Websites of the most suc-

cessful mediators can be a useful guide. He also recommended a logo and professional stationary, and potentially even a virtual assistant to answer their telephone. “You’ve got to project the image that you are a mediator, not someone who wants to be a mediator.”

In response to an online question, Mr. Morris added that non-lawyer status need not be an obstacle to being a mediator, and that aspiring non-lawyer mediators should leverage whatever experience, background, expertise, or training they have to help them build a niche. “What is it that you as a non-lawyer mediator could bring to the process that adds value? Start there,” said Mr. Morris. He recommended building a brand on the internet by focusing all messaging around that initial area of experience to kickstart the business and establish a foundation that can be expanded on later. He noted that, even for non-lawyers, it is essential to understand and stay current on the leading cases in their area of mediation, pointing out that all legal precedents are available at the Canadian Legal Information Institute website¹. Mr. Morris also said that beginners, whether lawyers or not, need to demonstrate knowledge in any new area of mediation they want to break into, to build credibility with their prospective client base. He recommended they write articles about interesting aspects of areas of law they want their work to link with and post those on their websites or have them published in relevant media.

If necessary, beginning mediators should volunteer to get regular mediation work wherever possible, because “if you’re not mediating, then you’re not a mediator.” Mr. Morris also recommended beginners apply to the Ontario Mandatory Mediation Program² roster for assignments that, though infrequent, can build their portfolio and professional standing. When doing non-roster work, he recommended they price themselves at the low end of the pay scale or under market rates. He assured listeners that there is a market for affordable and effective mediators, and that they can raise the fees gradually as their business grows.

For intermediate mediators, Mr. Morris highlighted two pieces of advice. Firstly, they must hone their craft to take their skill level from good to above average. “If you’re not going to at least one or two professional development conferences a year then I don’t think you’re making the investment you need to take your practice to the next level.” Secondly, he said, “You’ve got to be top of mind.” He was adamant that reaching out to clients regularly is necessary to ensure you are at the top of their lists when choosing a mediator. But maintaining this kind of contact should be part and parcel of a “marketing system”.

Mr. Morris stressed that a marketing system is as relevant to beginning mediators as to intermediate ones, calling it “the secret to really launching a practice”. He talked about how a marketing system hinges on developing, and then constantly maintaining and growing, a database of all clients and prospective clients — in fact, in Mr. Morris’ words, “all your contacts in life”. He encouraged audience members to include in their lists LinkedIn contacts, members of their professional associa-

tions, friends, neighbours, relatives, contacts from past clients lists, etc. According to Mr. Morris, the successful business marketer should set aside time weekly to contact this list. Prospective clients should receive a pre-scripted “elevator pitch” voicemail introducing the mediator and indicating he or she will be following up either by mail or email. Days later, the prospective client should receive a short, professionally-designed marketing package. After some further days, and every few months after that, they should receive a follow-up call and be asked for their business. Also, the mediator should send to clients or prospective clients who have given appropriate consent some form of quality information, for example an e-newsletter, at least quarterly. Mr. Morris encouraged audience members to read “Get Clients Now!”³ a book he described as the best resource he has encountered on building a marketing system.

Addressing seasoned professionals, Mr. Morris said that “the extra special value you bring to the process is what is really going to propel you to higher fees and a busier calendar.” He provided examples of how some A-list mediators go the extra mile for their clients, like holding a pre-mediation meeting to talk about concerns, anticipate stumbling blocks, and determine the best way to ensure an effective mediation. They may arrange an information exchange or attendance by experts to avoid a gap in information that could otherwise lead to an impasse. And if a matter doesn’t settle, Mr. Morris said that A-list mediators should follow-up religiously with the parties to see if there is any mo-

mentum generated by the mediation that can be capitalized on afterwards. In response to an audience question, Mr. Morris described his own no-fee post-mediation support to clients as unlimited. “Clients value what you did at no charge after the mediation ends”, he said, and maintained that the word-of-mouth advertising this generates for his business is far more meaningful and valuable than, for example, a paid advertisement.

Mr. Morris took time to acknowledge that the hardest part of marketing is mental, and that handling rejection is a difficult hurdle at any level of marketing. He advocated keeping in mind that it is necessary to run into “No’s” before arriving at “Yes’s” from potential clients, and that each “No” in that sense is a good thing since it brings one closer to the eventual “Yes”. He emphasized that successful marketing requires setting up goals and deadlines and staying accountable for them. Helpful tools to keep on track include developing a buddy system or using an executive coach to bolster one’s own commitment. Mr. Morris added that when dealing with the mental hurdles involved in building a mediation practice, there is no replacement for having passion for the work, and he encouraged all session attendees to return to a few basic questions: What mediation niche excites me? What do I really have a passion for and why? Mr. Morris’s words of closing were “If you can hold on to what it is that touches your heart about being a mediator and if that gives you strength, then you can make it. That’s what I suggest you focus on.” 🌱

1 www.canlii.org

2 www.attorneygeneral.jus.gov.on.ca/english/courts/manmed/notice.asp

3 Get Clients Now! (TM): A 28-Day Marketing Program for Professionals, Consultants, and Coaches Paperback – May 8, 2013 by C. J. Hayden.