

The Clark County Bar Association Presents a CLE:

~ Controversial Issues in Mediation ~

by Richard G. Spier, Jane E. Clark, and Steven C. Andersen

**Tuesday, October 25th, 9:00 – 11:30 am (Sign In at 8:45)
Public Service Center, 1300 Franklin St, 6th Floor Training Room
⇒ *Beverages and Cookies Provided!* ⇐**

2.0 CLE Credits and 0.5 ethics credits are offered at \$35.00 per credit for a total of \$87.50. (For non CCBA members, the price is \$45.00 per credit, for a total of \$112.50). Oregon credits pending.

There is an **Early-bird discount** of \$5 per credit for those registering on or before Tuesday, October 18th.

To register: call the CCBA at (360) 695-5975, OR email: cle@ccbawashington.org, OR

FAX this flyer to (360) 737-6891 with your BAR NUMBER _____,

NAME _____ PHONE # _____,

and EMAIL (if you want to download the materials) _____.



Rich Spier received his JD from Cornell Law School in 1976. Following practice as a litigator in prominent Portland firms, he opened his full-time practice as an arbitrator and mediator in Portland, Oregon, in 1992; he has handled several thousand engagements as an arbitrator or mediator. He now limits his practice to mediation in Oregon and Washington, and maintains active memberships in both states' bars. He limits his mediation practice to cases in which all parties are represented by legal counsel.

Rich has served as Chair of the Oregon State Bar Section on Alternative Dispute Resolution, Chair of the Oregon State Bar Committee on Federal Practice and Procedure, as a member of the Oregon Board of Bar Examiners, and as a member of the Oregon State Bar Disciplinary Board Trial Panel.



Steve Andersen received his JD in 1995 from the Santa Clara University School of Law. He represents litigants in Construction, Commercial, and Real Estate disputes, and Professional Liability suits. He has been admitted to the bars of Washington, Oregon, and California, and to the US district courts of Oregon, the western district of Washington, and the northern district of California.



Jane Clark has 20 years of experience handling personal injury and Medical Malpractice actions. She is licensed in Washington, Oregon, England and Wales. She is an adjunct professor at Portland State University where she teaches a class on Psychology and the Law. She is on the board of trustees for the Clark County Bar Association and chair of the CCBA Continuing Legal Education Committee.

The focus of Jane's practice is representing plaintiffs in medical malpractice cases and personal injury cases. Jane is also a mediator in the area of Personal Injury and Medical Malpractice, and is a member of the USA&M mediation panel.

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As mediation becomes “mainstream,” counsel regularly confront difficult issues of tactics, ethics, and overall approach in handling a mediated case. This intermediate-to-advanced level program is focused on some of these controversial questions, and is intended for lawyers who already have experience representing clients as counsel in mediations.

- I. When *not* to mediate
 - Is mediation overused?
 - The disappearing jury trial
 - Credibility as litigator

- II. Approaching mediation
 - Timing/stage of the case
 - Who should be present?
 - Should plaintiffs’ counsel insist on the presence of the adjuster?
 - Should defense counsel have the insured client present, even if no coverage or limits issue?
 - Should counsel insist on an offer or response to offer before the mediation?
 - Negotiating the selection of the mediator (mediator styles and personalities)

- III. Ethics in mediation
 - Are there ethical obligations of lawyer mediators of which counsel should be aware?
 - Puffing versus fraud
 - Opinion versus fact
 - Candor with the mediator
 - Commenting on authority

- IV. Preparation and negotiation
 - Timing of Negotiation
 - Negotiation tips and tactics
 - Preparing clients for negotiation and mediation

- V. Dealing with the mediator
 - Is the mediator your friend?
 - Should counsel reveal the client’s bottom line?
 - Should counsel allow the mediator to suggest a settlement (the “mediator’s offer”)?
 - When is a deal binding?