

# ICMRESOLUTIONS

## IMPASSE BREAKING SKILLS FOR MEDIATORS AND ADVOCATES: TRAPS, TIPS, AND TOOLS

This is a “nuts and bolts” program. Learn **tips** to overcome impasse. Learn practical **tools** to navigate around **traps**. Learn how to help participants reach “resolution,” not just “settlement.” This is not the typical “talking head” CLE. It is interactive and designed to promote conversations between mediators and advocates on how, together, they can best serve the parties. As a condition of attendance, please take one of the following surveys before 10/6/19. **If primarily an Advocate:** <https://www.surveymonkey.com/r/advocatesNH> **If primarily a Mediator:** <https://www.surveymonkey.com/r/mediator> **If 50-50, pick one.**

### Tentative Agenda Subject to Survey Results:

#### 1) “... and the Survey Says:” Overview of Results to Set the Training Stage

*Mediators “nudge” negotiations with impasse-breaking tools in order to help parties reach settlement. Advocates appreciate some of those tools and dislike others. Here’s what you said!*

#### 2) Managing Cognitive Biases, Risk, and “Truth” Decay: Help Participants Navigate the Intersection of Logic and Emotion

*Parties spin when the law and their emotions collide. This is especially challenging given the erosion of civil discourse and disengagement from civic institutions. The ability of participants to make good decisions declines and they occasionally blame their attorneys and the mediator. Learn how to guide them through the uncertainty, fear, and frustration they experience when they believe the likely outcome is unfair or the process is too long and expensive. Explore their risk tolerance and manage their “cognitive biases.” Help them make better decisions.*

#### 3) Breaking Impasse: The Mechanics

*Mediation is a process – not an event. Impasse-breaking starts with the first contact and continues after a settlement is reached. Gain practical tools for each stage and learn how to get the “deal” done. In the real world, each party wants the mediator to be “facilitative” with them and “evaluative” of the other side’s position. Most mediators do a little of each, so when and how is more important than the debate around the competing mediation models. Advocates will learn how to better represent their clients by understanding the methods to the mediator’s madness!*

#### 4) The Great Debate: So, What Should We do and How Should We do it?

*Mediators and advocates do not often have thoughtful conversations about what specific tools should be used, when, and how in each mediation. Using your survey results and drawing on the experience of the group, we will explore: 1) what mediators really do and why; 2) what advocates want mediators to do and why; 3) what tactics approach an ethical line; and 4) what we can do to increase mediation success.*

**TRAINER: SAM IMPERATI, JD**, is the Executive Director of **ICMRESOLUTIONS** is a national provider of mediation and training services. [www.ICMresolutions.com](http://www.ICMresolutions.com). His experience includes: Assistant Corporate Counsel at Nike; private practice representing individuals and unions; Judge Pro Tem; Chair of OSB’s ADR Section; and 2018 “ADR in Oregon” Editorial Board. He has taught leadership, negotiation, ethics, and decision-making at Willamette MBA, and environmental mediation at Lewis & Clark Law. He has mediated everything from “Admiralty to Zoning.” 2006 – 2020 Best Lawyers in America - ADR, Martindale-Hubbell AV Preeminent, and standup comedy winner! BA, Santa Clara. JD, UC Davis. Articles: [www.mediate.com/icm/pg23.cfm](http://www.mediate.com/icm/pg23.cfm)