



BARRY FISHER
ARBITRATION & MEDIATION

Professional Resume

EDUCATION:

B.A., University of Toronto (1976)

LL.B., Osgoode Hall Law School (1977)

Called to Ontario Bar (1979)

Certificate in Fundamentals of Mediation from The Mediation Academy (1996)

Advanced Mediation Certificate from Harvard Law School (1996)

Advanced Mediation Workshop from ADR Associates, Linda Singer & Michael Lewis,
Washington D.C (1997)

Mediation Skills Workshop (Kathleen Kelly and Carol Albert) 1997

PROFESSIONAL MEMBERSHIPS:

Ontario Labour - Management Arbitrators' Association

Arbitration and Mediation Institute of Canada Inc.

Association for Conflict Resolution (ACR)

Canadian Bar Association Ontario (ADR Section , Labour & Employment Section)

Law Society of Upper Canada

Advocates Society ADR Committee

Council of Ontario Government Dispute Resolvers

Canadian Foundation for Dispute Resolution

TEACHING and TRAINING EXPERIENCE:

Mediator for the Canadian National Mediation Advocacy Competition, Toronto, 2008.

Coach for Lawyer as Negotiator, Osgoode Hall Law School , Toronto, 2006, 2008, and 2009.

Facilitator for the American Bar Association Section of Dispute Resolution, Fifth Annual Dispute Resolution Program, Advanced Mediation and Advocacy Skills Training , held in Toronto, Ontario , October 19-21, 2006

Instructor for Family Arbitration for Non-Lawyers, held in Toronto on November 25, 2006

Co-organiser, Speaker and Coach at “Negotiation and Mediation in the Employment Industry”, a two day course sponsored by Osgoode Hall Law School of York University, December 1 & 2, 1998

Instructor in Certificate Program in Conflict Management, Institute of Peace and Conflict Studies, Conrad Grebel University College, University of Waterloo.

Coach for “Advanced Mediation – Putting it all Together” as part of a 21 hour course on mediation by Co-operative Solutions (Toronto)

Coach for “Applied ADR Workshop” as part of a course on advanced mediation by Stit Feld Handy Houston ADR Inc.

Seminar Leader and Organizer for “Mediation for the HR Professional”, Human Resources Professional Association, April 30, 1998

POSITIONS HELD:

- Past Chair of the Ontario Bar Association, ADR Section.
- Chair of Sub-Committee on Summary Judgement , OBA Taskforce on Wrongful Dismissal, Submissions to the Honourable Warren K. Winkler, Chief Justice of Ontario, April 30, 2009
- Member of Executive, Labour & Employment Section, Ontario Bar Association
- Off-roster Mediator for the Ontario Mandatory Mediation Program (Toronto)

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- Private Arbitrator and Mediator in labour relations and employment law matters
 - Mediator & Arbitrator for OPSEU and Management Board of Cabinet in 1996 Civil Service strike
 - Part-time Vice Chairperson of the Ontario Public Service Grievance Settlement Board since 1987
 - Mediator for the Fee Dispute Mediation Service of the Canadian Bar Association - Ontario
 - Appointed as a Mediator under section 9 (2) of the Crown Employees Collective Bargaining Act
 - Appointed as an Arbitrator under the Ontario Labour Relations Act
 - Interest Arbitrator under the Hospitals Labour Disputes Arbitration Act
 - Arbitrator under the Ontario Police Arbitration Commission
 - Appointed by the Chief Justice of the Ontario Court (General Division) as a Member of the Pilot Project User Committee for the Ontario Court (General Division) Alternate Dispute Resolution Centre
 - Member of the ADR Committee of The Advocates Society

PROFESSIONAL DESIGNATION:

Off-roster Mediator for the Ontario Mandatory Mediation Program (Toronto)

Certified by the Law Society of Upper Canada as a Specialist in Civil Litigation (previous designation)

Referred to as a "Leading Practitioner in Employment Law" by Lexpert, The Canadian Legal Directory (www.lexpert.ca)

Referred to as a leading ADR provider in Best Lawyers in Canada , 2008 , 2009 and 2010 (www.BestLawyers.com)

Referred to as a top employment lawyer by Canadian HR Reporter in the 2009 Canada's Employment Lawyers Directory

PUBLICATIONS, DATABASES AND SEMINARS:

Wrongful Dismissal Database - A computerized database of over 3000 reported wrongful dismissal cases dealing with the issue of reasonable notice published by Thomson Carswell found at www.wrongfuldismissaldatabase.com

Dynamite Mediation Briefs and Minutes of Settlement in Wrongful Dismissal Mediations
10th Annual Employment Law Summit
Law Society of Upper Canada
October 29, 2009, Toronto

What We Like and Don't Like about Mediations: A Provocative Discussion between Employment Lawyers and Mediators
Ontario Bar Association: Labour and Employment Law Section
October 27, 2009, Toronto

Senior Practitioners Panel
HR Law Conference
Human Resource Professional Association
October, 28, 2009 , Toronto

Expanding the Use of Summary Judgement in Wrongful Dismissal Actions
Ontario Bar Association Taskforce on Wrongful Dismissal, Subcommittee on Summary Judgement
Submissions to The Honourable Warren Winkler, Chief Justice of Ontario , April 30, 2009

Workshop on Terminations Without Cause. What are your Options
Employment Law 2009
Osgoode Hall Law School Professional Development CLE
April 29, 2009 , Toronto, Ontario

Taking Your ADR Skills to the Next Level: Best Practices for Adjudicators in Mediation and Arbitration
Process Fairness: The Adjudicators Guide to Manage and Conduct Hearings
Incisive Media Canada Inc
March 30-31, 2001 , Ottawa, Ontario

Apply Natural Justice Theory to the Realities of the Adjudicative Practice

Running A Fair Hearing

The Canadian Institute

January 31, 2009 , Ottawa, Ontario

Employment Law for Corporate Counsel

Third Annual In-House Counsel Forum

Incisive Media Canada Inc

February 26-27, 2009 , Toronto

Radical Changes at the Ontario Human Rights Tribunal:

Advanced Institute on Employment Law

The Canadian Institute, October 16, 2008, Toronto

A New & Improved Theory of Reasonable Notice for Wrongful Dismissal Cases after
Honda Canada Ltd. v Keays

The Six Minute Employment Lawyer 2008

Law Society of Upper Canada , June 12, 2008

Also part of a report entitled “Ontario Bar Association Taskforce on Wrongful Dismissal,
Subcommittee on Summary Judgement”

Submissions to The Honourable Warren Winkler, Chief Justice of Ontario , April 30, 2009

Employment Litigation under Bill 107

Representing Clients in Ontario's New Human Rights System
Law Society of Upper Canada and the Ontario Bar Association
Toronto, June 11, 2008

Careers in ADR: Employment and Labour

Osgoode Hall Law School, Toronto, February 18, 2009

Why Some Mediations Succeed and Other Fail

Non-Culpable and Culpable Employee Terminations
Insight Information, Toronto, May 27, 2008

Workshop on Best Practices in Employment Terminations

Osgoode Hall Law School Professional Development CLE
Toronto, Ontario April 29, 2008 and April 29, 2009

Med-Arb, the New Frontier

7th Annual Employment Law Summit
Law Society of Upper Canada, November 24, 2006

Best Practices for Mediating Terminations

9th Annual Employment Terminations Best Practices
September 29, 2006 , Toronto
Federated Press

Breaking Impasse in Mediation

5th Annual Advanced Mediation and Advocacy Skills Training
American Bar Association, Dispute Resolution Section
Toronto, Ontario October 19 and 20, 2006

What Changes to the Human Rights Tribunal Mean in Practice ?

6th Advanced Forum on Employment Law
Canadian Institute , October 18 and 19, 2006

- "Notice Period - What the Numbers Tell Us"
9th Annual Six-Minute Employment Lawyer
The Law Society of Upper Canada, June 1, 2006

The Advanced Roundtable in Employment Law

The Law Society of Upper Canada
Continuing Legal Education, March 1, 2006

- Wrongful Dismissal after *Honda*: the Stakes Have Gone Up
5th Annual Advanced Forum on Employment Law
The Canadian Institute, October 18-19, 2005
- Addiction, Accommodation and Discipline: *An Arbitrator's Perspective*
3rd Annual Six-Minute Labour Lawyer
The Law Society of Upper Canada, June 2, 2005
- Arbitration and Mediation of Employment Law Disputes: What are the Pros and Cons?
INFONEX - Key Information and Practical Advice on HR Law
How to Maintain Consistent Employment Practices and Avoid Litigation
March 30 and 31, 2005
- Toronto Region Practice Direction Re: Civil Case Management
What Mediators Need to Know
Ontario Bar Association - Alternative Dispute Resolution
Volume 13, No. 2, February, 2005
- Litigating Wrongful Dismissal Cases under the New Practice Direction
Ontario Bar Association - Alternative Dispute Resolution
February 8, 2005
- Mental Health Issues in Family Law - Family
What Every Family Lawyer Needs to Know for 2005
Ontario Bar Association, Institute 2005 of Continuing Legal Education,
February 3, 2005
- Fact Situation for Mediating Complex Investigations -
Privacy Rights & Effective Workplace Investigations,
Insight Information Co., January 27-28, 2005, Toronto
- Employment Mediation: The Nightmare Case
Fifth Annual Employment Law Summit
Continuing Legal Education, The Law Society of Upper Canada
November 26, 2004

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- Critical Issues in the Law of Wrongful Dismissal
4th Annual Advanced Form on Employment Law
The Canadian Institute, November 2 and 3, 2004

 - The Use of MedArb as a Dispute Resolution Technique for Labour and Employment Law Cases
11th Annual HRPAO - HR Law Conference, October 19, 2004

 - Employment Law Mediations
Ontario Bar Association, Alternative Dispute Resolution
June 8, 2004

 - A Judge, A Mediator and Two Lawyers on a Panel...”
7th Annual Six-Minute Employment Lawyer
The Law Society of Upper Canada, June 1, 2004

 - Rule 24.1 - Keep It Confidential!
Ontario Bar Association - ADR Section Meeting
May 11, 2004

 - Employee Terminations - All the legal information, advice and strategic know-how you require to manage dismissals.
Insight Information Co., March 31- April 1, 2004, Ottawa

 - Overcoming Obstacles in Mediation
Ontario Bar Association - ADR Section Meeting
December 8, 2003

 - Employment Mediation: How to Win from Both Sides
Fourth Annual Employment Law Forum
Continuing Legal Education
The Law Society of Upper Canada, December 5, 2003

 - Structuring Settlements on Termination of Employment
Lancaster House Labour Arbitration Conference
November 22, 2003

 - The Seventh Annual Labour Arbitration Conference
Lancaster House, November 21, 2003

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- The Ninth Annual Ontario Labour Law Review
Centre For Labour-Management Development
November 20, 2003, Toronto

 - The HR Journey: Building Our Community
2003 HR Symposium, November 19, 2003

 - The Excellent Award
The Ontario Labour Management Arbitrators' Association
November 19, 2003

 - Ten Topics That Frequently Arise at Wrongful Dismissal Mediations
10th Annual HRPAO - HR Law Conference
October 21, 2003

 - Real Leasing - Strategies, Issues, Trends & Practices in Office, Retail and Industrial Leasing
Canadian Institute of Public & Private Real Estate Companies
and York Communications, September 23, 2003

 - The Effective Use of Caucus In a Mediation
Ontario Bar Association, Alternative Dispute Resolution, ADR Practice
Talks. June 11, 2003

 - Gladiator or Facilitator?
Ontario Bar Association, Alternative Dispute Resolution, Family Law, Trusts
& Estates. April 22, 2003

 - When and How to Fight – When to Settle: Preparing for Mandatory Mediation
Employee Terminations – All the legal information, advice and strategic know-how
you require to manage dismissals.
Insight Information Co., April 9-10, 2003

 - The Duty to Accommodate: Employers, Employees & Workplace Human Rights
Butterworths Seminar Series, March 31, 2003

 - Effective Mediations, Arbitrations and Pre-trial Conferences
Ministry of the Attorney General-Education Committee Seminar
Crown Law Office-Civil and Constitutional Law Branch
March 28, 2003

- Preparing An Effective Mediation Brief
Ontario Bar Association, Alternative Dispute Resolution Section
January 22, 2003

- Ontario Labour and Employment Law Roundup
The Eighth Annual Ontario Labour Law Review
Centre for Labour-Management Development, November 19 & 20, 2002

- Closing the Deal at Mediation
Ontario Bar Association, Alternative Dispute Resolution Section
November 27, 2002

- Mediation TIPS – Why Some Mediations Succeed and Others Fail
The Human Resources Professionals Association of Ontario
October 15, 2002

- OMMP and You
Ontario Bar Association, Alternative Dispute Resolution Section
June 10, 2002

- A judge, a mediator and two lawyers were on a panel...
Fifth Annual Six-Minute Employment Lawyer
The Law Society of Upper Canada, May 27, 2002

- Employment Law Mediations – Some Helpful Pointers 2002 Edition
Employee Terminations – All the legal information, advice and strategic know-how
you require to manage dismissals. Insight Information Co., April 11-12, 2002

- Who Should Go? Who Should Stay? A Framework for Decision-Making
Workforce Restructuring 2002

- Managing the Human, Financial, Legal and Organizational Challenges
The Canadian Institute, February 28 & March 1, 2002

- Successfully Using Mediation for Wrongful Dismissal Cases
Conduct of the Wrongful Dismissal File. Continuing Legal Education,
The Law Society of Upper Canada, February 15, 2002

- Med/Arb - What It Is and How It Works

Ontario Bar Association, Alternative Dispute Resolution Section
January 14, 2002

- Posting, Wages, Records and Terminations. Employment Standards Act, 2000
Ontario Employment Standards Act Update Seminar
Lorman Education Services, December 7, 2001

- Understanding the Human Resources Professional: A Guide for Lawyers
Second Annual Employment Forum
The Law Society of Upper Canada, December 6, 2001

- Disability & Termination of Employment: A Panel Discussion.
Ontario Bar Association, Pensions and Benefits/Labour Relations Sections
December 4, 2001

- Mediation of Employment Disputes
8th Annual HRPAO Fall Conference,
October 16, 2001 Toronto

- The Use of Mediation in Employment Disputes: Tips, Traps and Techniques
The Mediator's Perspective
The Canadian Institute – June 11 and 12, 2001

- Terminations, Wages, Records, Postings
The Fourth Annual Six-Minute Employment Lawyer
The Law Society of Upper Canada, May 14, 2001

- Employment Law Mediations – Some Helpful Pointers – ADR The All-terrain Vehicle:
Mediation in Different Legal Environments
Canadian Bar Association Ontario, Institute 2001, February 1, 2001

- Impact on ADR / Settlement Process
Privacy Law Primer #3 for Counsel, The Impact of Privacy Laws on Civil Litigation
Canadian Bar Association – Ontario, Privacy Law Section, January 18, 2001

- Arbitration Top Ten: What Works, What Doesn't
Insight from Counsel and Neutrals
Canadian Bar Association – Ontario, Labour Relations Section, October 17, 2000

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- Non-Competition and Non-Solicitation Contract Precedents
The Second Annual Six-Minute Employment Lawyer
The Law Society of Upper Canada, April 29, 1999

 - Arbitrating Illness and Disability Claims
Illness & Disability Claims in the Workplace, December 9 and 10, 1998
Centre for Labour-Management Development

 - The Wallace Factor. An Analysis of the Effect of the Bad Faith Dismissal Doctrine on Reasonable Notice Periods in Wrongful Dismissal Actions.
The Canadian Employment Law Super Congress, October 21-22, 1998
Canada Law Book

 - Leading Trends in Employment Law in 1998
Operation Update 98, September 25, 1998
Canadian Bar Association-Ontario

 - Deductibility of Disability Payments During the Notice Period: Sylvester v British Columbia
Canadian Bar Association-Ontario, Civil Litigation Section, May 12, 1998

 - The Calculation of Overtime under the Employment Standards Act of Ontario
Old Themes, New Decisions: An Employment Standards Update
Law Society of Upper Canada, June 2, 1998

 - Termination / Severance Pay, Service Outside Ontario - Is it Recognised?
Old Themes, New Decisions: An Employment Standards Update
Law Society of Upper Canada, June 2, 1998

 - Measuring the Rule of Thumb in Wrongful Dismissal Cases
31 Canadian Cases on Employment Law 311

 - How to Present an Effective Arbitration Case: An Arbitrator's Viewpoint
Managing in a Unionised Environment
Insight Information Inc. April 6, 1998, Toronto

 - Model Arbitration Agreement for Civil Actions in Ontario
Alternative Dispute Resolution Manual, CCH, Toronto

 - Alternative Dispute Resolution: Resolving your Dispute out of Court

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- Limiting Employers' Exposure to Workplace Liability
Insight Information Inc. March 5, 1997
 - Choosing the Appropriate Candidate for Downsizing: Legal Pitfalls of Dismissing the Wrong Employee
Telemedicine Canada, December 9, 1997
 - Mediation of Employment and Labour Law Disputes
Telemedicine Canada, February 18, 1997
 - Mediation in the HR World
Essentials of Employment Law for HR Managers – September 11, 1997
Insight Press
 - How to Represent your Clients in Mediations and Arbitrations
Co-Chair, 1997 Institute of Continuing Legal Education, ADR Section
Canadian Bar Association – Ontario February 1, 1997
 - Mediation & ADR in the Employment Law Setting
Spectrum Seminars, Employment Law: New Developments and Practical
Tips, November 6, 1996
 - The HR Manager's Guide to Employment-Related Legal Proceedings
Seminar for The Canadian Institute on "How to achieve the best results
possible for your organisation" - August 20, 1996
 - Building and Advocating Canada Labour Code Cases
LSUC Seminar "Employment Tribunals", June 14, 1996.
 - Creative Team Negotiations and Win-Win Conflict Management Strategies
Seminar for Institute of Leadership Excellence on "Developing Strategic
Team Leadership and Management Skills in Health Care Sector" - Toronto,
May 2 and 3, 1996.
 - Interest Arbitrations After Bill 26
Bargaining and Negotiating
The Canadian Institute, March 27 & 28, 1996
 - Problems in the Mediation of Employment and Labour Disputes
Labour and Employee Relations for Federally Regulated Employers
The Canadian Institute, November 29 & 30, 1995

- Mediation War Stories:
Moderator - Seminar Canadian Bar Association, ADR Section,
November 22, 1995

- The Power of the Arbitrator: A Round Table Discussion
Moderator - Seminar on Employment Standards
The Canadian Institute - Toronto - April 10 and 11, 1995

- Is Occupation Still a Relevant Factor in Determining Notice Periods in Wrongful Dismissal Cases? A Case Comment on Cronk v. Canadian General Insurance Company
6 Canadian Cases on Employment Law (2d) 29

- Terminating the Ill or Disabled Employee under the Common Law and the Employment Standards Act
Co-authored with Janice Rubin
Insight Publications – January 20, 1994

- Employment Contracts for Transferring Employees between Canada and the US
The Canadian Institute - October 28 and 29, 1993

- A Practical Guide to Evaluating Just Cause Terminations
Canadian Bar Association - Ontario, A Practical Guide to Employee
Terminations - June 7, 1993

- An Arbitrator's View of Discipline Cases - How Employers Can Improve their Chance at a Discipline Arbitration
The Canadian Institute - April 1, 1993

- Arbitrating a Wrongful Dismissal Action
Canadian Bar Association - Ontario, Alternative Disputes Resolution Section –
September 23, 1992

- Drafting the Termination Letter - A Checklist
Canadian Bar Association - Ontario, Update on Employment Law - September 25, 1992

- Packaging and Litigating Wrongful Dismissals
The Canadian Institute - Co-chairman - March 10, 1992

- Current Issues in the Assessment of Reasonable Notice Periods
The Canadian Institute - Hiring and Firing - October 23 and 24, 1991
Work, Unemployment and Justice, Canadian Institute for the Administration of Justice -
October 16 - 19, 1991

- Hot Calls About Employment Law
Canadian Bar Association - Ontario - October 2, 1991

-
- Conduct of a Wrongful Dismissal Action
Canadian Institute - August 19, 1991

 - Documenting the Successful Dismissal
Employee Termination - Avoiding Wrongful Dismissal Insight Educational Services
- January 24, 1991

 - Notice Periods - Trends in a Troubled Economy
Working It Out: A Practical Guide to Hiring and Firing
Canadian Bar Association - Ontario - December 1, 1990

 - Computerised Analysis of Notice Periods - 1990 Update:
Rightful Dismissal and Wrongful Hiring
Canadian Institute - June 11, 1990

 - Advising the Terminated Manager about the Employer's Proposed Severance Package
Avoiding Expensive Litigation Series
Canadian Bar Association - Ontario - May 8, 1990

 - Legal Issues Pertaining to the Chronically Ill Employee:
Employee Relations IV - Proactive Strategies for Altered Employee Demands
The Canadian Institute - February 20, 1989

 - Screening Job Applicants - Some Legal Pitfalls under the Ontario
Human Rights Code
Hiring and Firing - What Every Employer Needs To Know
Canadian Institute September 19, 1989

 - Contractual Arrangements Regarding Termination:
Employee Termination Strategies for Reaching Successful Dismissal
Insight Educational Services - November 29, 1989

 - Pre-termination Advice for the Employee:
Practical Aspects in a Wrongful Dismissal Action
Canadian Bar Association - Ontario - June 10, 1989

 - A Computerised Analysis of Notice Periods in Wrongful Dismissal Actions
Canadian Bar Association - Ontario
1988 Annual Institute on Continuing Legal Education
Employment Law Section

 - New Issues in Wrongful Dismissal and Employment Law
Law Society of Upper Canada - Ottawa - January 1989

 - Valuation of Fringe Benefits
Canadian Bar Association - Ontario
Continuing Legal Education Seminar on Basic Employment Law (1986)



-
- Nuts & Bolts - Factums, Records, Transcripts and Exhibits for Motion, Trial and Appeals
Canadian Bar Association - Ontario
1985 Annual Institute on Continuing Legal Education
Civil Litigation Section

 - Reducing the Cost of Employee Terminations
C.A. Magazine - June 1983

 - The Legal Implications of Being Fired
Ontario Technologist - November/December 1982

REPORTED ARBITRATION DECISIONS:

Re - I.W.A. Council Local 1-500 v. Smurfit-MBI (2005), 136 L.A.C. (4th) 331
(Ontario Health Tax Premiums)

Re - Regional Municipality of York Police Services Board and Regional Municipality of York Police Association (1997)
62 L.A.C. (4th) 70
(Promotion)

Re - The Crown in right of Ontario (Ministry of Citizenship) and Ontario Public Service Employees' Union (Grinius) Supplementary award (1995)
48 L.A.C. (4th) 345 , 21 C.C.E.L. (2d) 291
(Supplementary Award concerning gross up for income tax on damage awards)

Re - Municipality of Metropolitan Toronto and Canadian Union of Public Employees, Local 79 (Lekousheff) Final award (1995)
46 L.A.C. (4th) 110
(Discrimination - handicap - level playing field)

Re - Municipality of Metropolitan Toronto and Canadian Union of Public Employees, Local 79 (Lekousheff) (1994) Interim Award
35 L.A.C. (4th) 357
(Arbitrability - employment-related statutes; seniority - application)

Re - Ontario Jockey Club and Service Employees International Union, Local 204 (1993)
31 L.A.C. (4th) 239
(Bereavement leave)

Re - Five Counties Children's Centre and Ontario Public Service Employees Union (1993)
L.A.C. (4th) 216
(Layoff - Pay Equity Act)

Re - York County Hospital Corp. and Service Employees International Union, Local 204 (1992)
25 L.A.C. (4th) 189
(Sick leave - medical certificates)

Re - Vernon Nursing Home Services Ltd. and United Food and Commercial Workers, Local 175 (1990)
15 L.A.C. (4th) 348
(Entitlement to wages)

08 November 2009