Pete Fowler CONSTRUCTION Services, Inc.

Audience Handout Package

Date:	08/16/2024
To:	
From:	Pete Fowler Construction Services, Inc.
Project:	Effective Expert Use in Alternative Dispute Resolution (ADR) and Mediation Webinar 8/29/2024 (PFCS 23-1168)
Regarding:	Audience Handout Package

Meet the Panel

Pete Fowler

CHIEF QUALITY OFFICER - PETE FOWLER CONSTRUCTION

Pete Fowler is a construction consultant, professional cost estimator, President and Chief Quality Officer of Pete Fowler Construction, a licensed general building contractor in California, Nevada, and Oregon. Pete received a B.S. in Construction Management from CSU, Chico. He has held certifications from AAMA, ASPE, ICBO, and others. Mr. Fowler has published articles in national magazines, has been invited to speak by the most important groups in the building industry (AAMA, APRA, ASPE, ASQ, ASTM, BETEC, CAI, CLM, DBIA, ICC, NIBS, PLRB, RCI, etc.), and has composed and delivered hundreds of educational programs on building inspection & testing, estimating, quality & construction management, project management, and claims & litigation. Pete has experience with successful expert witness testimony, including Federal Court.

Jennifer Kalvestran

PARTNER - ANDERSON, MCPHARLIN & CONNERS, LLP

Jennifer Kalvestran's practice is focused on insurance coverage analysis, bad faith claims, and coverage dispute litigation in various jurisdictions in the Western United States. Jennifer represents insurers on a broad range of coverage issues falling under primary and excess policies, with a focus on long-tail liabilities and other general liability, pollution liability, and professional liability coverage matters. Jennifer also handles first- and third-party coverage issues under business operations policies, automobile policies, and other specialty coverages. In this role, Jennifer also counsels insurers as to bad faith issues that might arise from these coverage disputes, providing a commonsense, measured approach intended to avoid such claims.

When coverage litigation is unavoidable, Jennifer represents insurers in all aspects of litigation, including trial practice, mediations, and depositions, bringing a practical perspective to planning and executing these dispute resolution and litigation strategies in various state and federal courts in the Western United States. Jennifer has also successfully represented clients in numerous matters on appeal before the California Court of Appeal and the Ninth Circuit Court of Appeals.

Finally, Jennifer has counseled insurers and otherwise participated in drafting policy language in a manner that is reasonable and legally enforceable. Jennifer is a frequent speaker at national conferences and other educational events, where she provides educational services to other attorneys and those in the insurance industry. Jennifer is AV® Preeminent™ rated by Martindale-Hubbell®, representing the highest rating in legal ability and ethical standards. She has also been named to the 2023 Southern California Super Lawyers list.

Stephen Sundvold

MEDIATOR, ARBITRATOR, AND RETIRED JUDGE - JAMS MEDIATION, ARBITRATION AND ADR SERVICES

Hon. Stephen J. Sundvold (Ret.) has enjoyed a robust practice as a mediator and arbitrator at JAMS since 2010. Prior to joining JAMS, Judge Sundvold served on a wide variety of case assignments during his distinguished 20-year tenure on the Orange County Superior Court, including on the Court's High Impact Trial (HIT) team and over eight years on the Court's Complex Civil Panel where he handled hundreds of complex matters involving construction defect, class action, eminent domain, and complex business litigation matters.

While on the Superior Court, Judge Sundvold served as a mediator or participated in settlement conferences almost every day. Numerous trial days have been saved and trips to the appellate courts have been avoided as a result of these efforts. He has earned a reputation for being a fair, hard working, tireless judge, skilled at managing a heavy caseload of complex matters and settling the difficult claims.

In his current practice, Judge Sundvold is known for his dedicated and creative approach to every matter. He is skilled in managing difficult personalities, and transforms highly emotional and complex disputes into opportunities for settlement. He frequently thinks outside of the box, and is recognized for his inquisitive demeanor. Understanding the risk of trial, Judge Sundvold is dedicated to settlement and conducts extensive follow-up to ensure the equitable resolution of every matter.

Attachments

1. Lesson Plan with links to referenced backup materials
2. Power Point Slides

Effective Expert Use in Alternative Dispute Resolution (ADR) and Mediation



OFFICES

CALIFORNIA

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29122 Rancho Viejo Road, #114
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Las Vegas, NV 89074

FLORIDA

(407) 517-0650

174 Semoran Commerce Place, #A-109
Apopka, FL 32703

TEXAS

(469) 677-8710

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Effective Expert Use in Alternative Dispute Resolution (ADR) and Mediation

INTRODUCTION

Engaging in litigation can be complex and costly, leading many to explore Alternative Dispute Resolution (ADR). The ADR landscape is nuanced, and understanding its intricacies, especially the roles of consultants and experts, is crucial. A strong grasp of ADR basics can mean the difference between a successful resolution and prolonged, unfavorable disputes. Whether you're new to ADR or a seasoned pro, there's always more to learn from those with experience.

In "Effective Use of Consultants and Experts in ADR," we will explore primary methods like mediation and arbitration, helping you choose the right approach for specific claims. The collaboration of consultants, experts, adjusters, and legal professionals significantly influences the process, shaping dispute outcomes. We'll dissect real-world claim scenarios, emphasizing effective communication and strategy.

Join us in this exploration of ADR, where you'll gain the knowledge and skills needed to navigate the complexities of dispute resolution, with a focus on the invaluable role of experts in the process.

PROGRAM OUTLINE

1. Introduction
2. Types of ADR
3. Preparing for Mediation & Setting Expectations
4. Mediation
5. Arbitration
6. Conclusion

LEARNING OBJECTIVES

- Review the different types of ADR and the benefits of each.
- Explain what should happen before ADR begins and strategies to best prepare.
- Describe how ADR is different from litigation both in process and resolution.
- Illustrate the ADR process and its post-conclusion implications.
- Discuss the difference between consultants and experts.
- Explore the use of consultants and experts in preparing for ADR, during mediation, and arbitration.

PROGRAM CONTENTS

1. Introduction – 5 Minutes
    A. Who We Are
    B. Presenter Information
    C. Program Outline
    D. Introduction
    E. Learning Objectives
2. Types of ADR - 12 Minutes
    A. Alternative Dispute Resolution Definition
    B. Arbitration
    C. Mediations
    D. Negotiations
    E. Virtual Mediation and Arbitration
3. Preparing for Mediation & Setting Expectations - 12 Minutes
    A. Parties
    B. Sharing Expert Work in Advance
    C. Expectations
4. Mediation - 13 Minutes
    A. Following the Rules
    B. How Can Experts Help?
    C. Make your Case
    D. Reasonable Expectations
5. Arbitration - 13 Minutes
    A. Arbitration Agreement
    B. Choosing an Arbitrator
    C. Expert Performance
    D. Expectations
6. Conclusion – 5 Minutes
    A. Continuing Education
    B. Backup Materials
    C. Feedback

BACKUP MATERIALS

1. Good Experts... Investigate Like Sherlock Holmes, Think Like Lawyers, Write Like Journalists, and Present Like Walter Cronkite by Pete Fowler
2. AIA A201 2017 General Conditions of the Contract for Construction. See article 15: Claims and Disputes (Pages 35 - 38)
3. Sample Subcontract Agreement. See page 6 for ADR language.
4. Sample Settlement Agreement & Mutual Release
5. Allocation of Responsibility in Construction Defect Litigation - Unabridged by Pete Fowler
6. Civil Litigation Basics for Construction Professionals by Pete Fowler
7. Insurance Basics for Construction Professionals by Pete Fowler


WEBINAR
Pete Fowler
CONSTRUCTION
Services, Inc.
THURSDAY, AUGUST 29TH, 2024 @ 10:00AM PT
Effective Expert Use in Alternative Dispute Resolution (ADR) and Mediation
With Pete Fowler, Jennifer Kalvestran, and Stephen Sundvold

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ABOUT US

Building Experts.

Helping Smart People
Make Smart Decisions



Construction Defects



Property Claims



Personal Injury Claims



Contract Claims



Quality & Construction Management

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Meet our Presenters



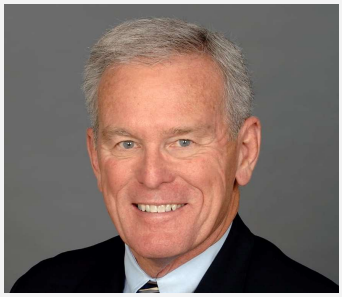
Pete Fowler

Chief Quality Officer
Pete Fowler Construction



Jennifer Kalvestran

Partner
Anderson, McPharlin & Connors, LLP



Stephen Sundvold

Judge, Mediator, and Arbitrator
Jams

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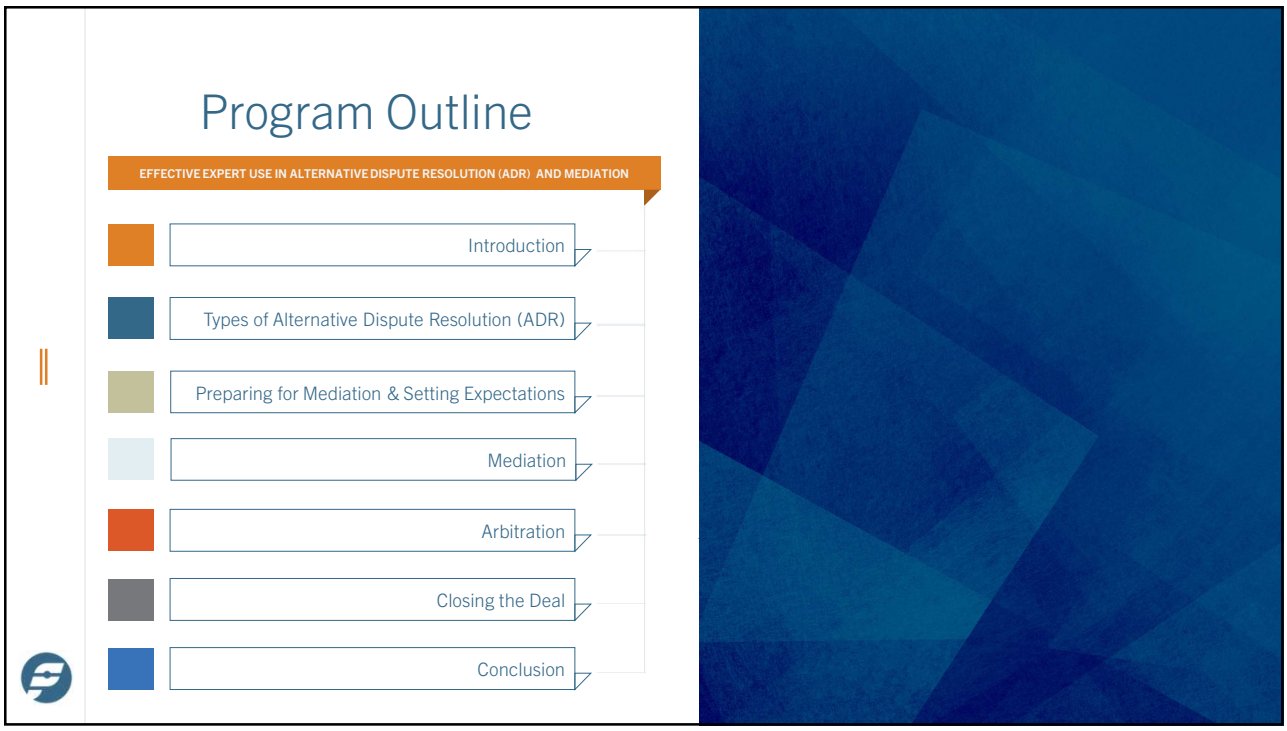
Program Outline
EFFECTIVE EXPERT USE IN ALTERNATIVE DISPUTE RESOLUTION (ADR) AND MEDIATION
Introduction
Types of Alternative Dispute Resolution (ADR)
Preparing for Mediation & Setting Expectations
Mediation
Arbitration
Closing the Deal
Conclusion

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Learning Objectives

- Review the different types of ADR and the benefits of each.
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Arbitration



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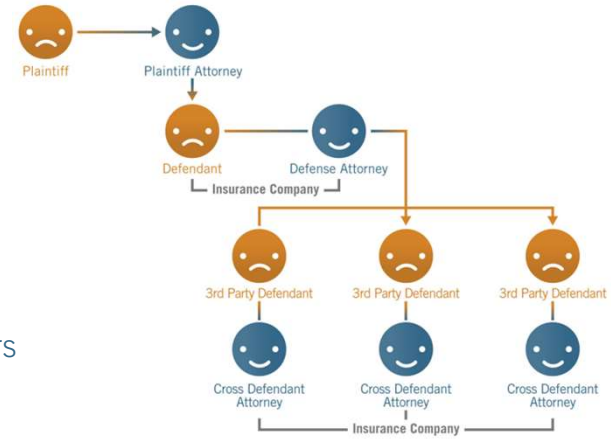
Parties

- Plaintiff's Counsel
- Plaintiff
- Direct Defendant
- Defendant's Carriers
- Cross Defendant
- Cross Defendant Carriers
- Consultants vs. Experts
- Mediator



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Sharing Expert Work in Advance



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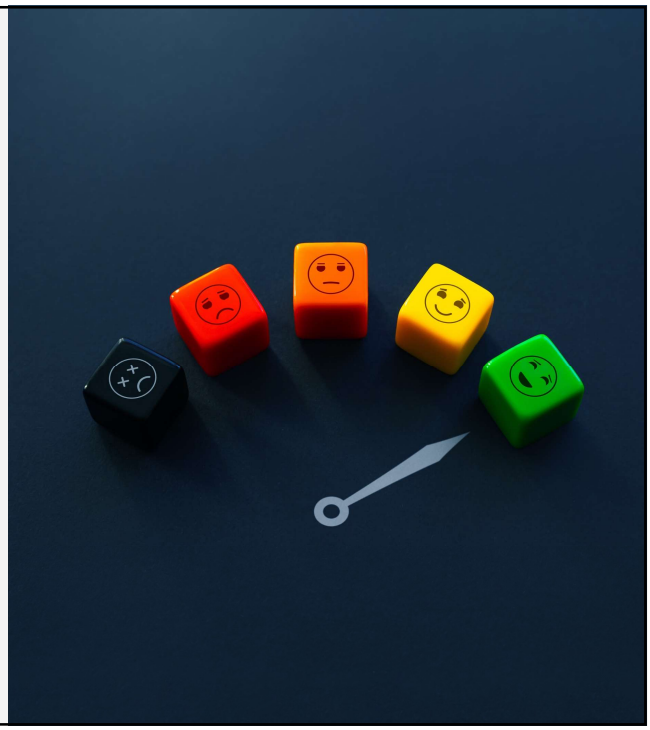
Expectations



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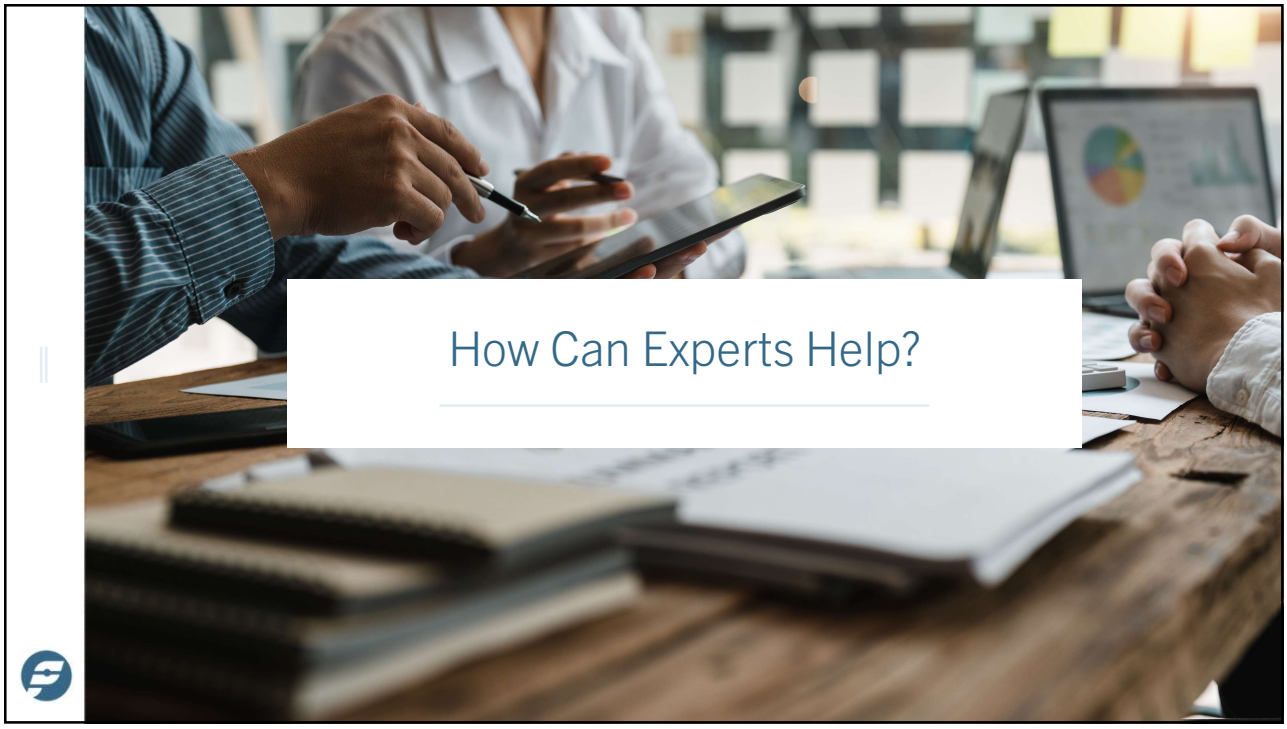

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Reasonable Expectations



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Arbitration Agreement



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Expectations



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Learning Objectives

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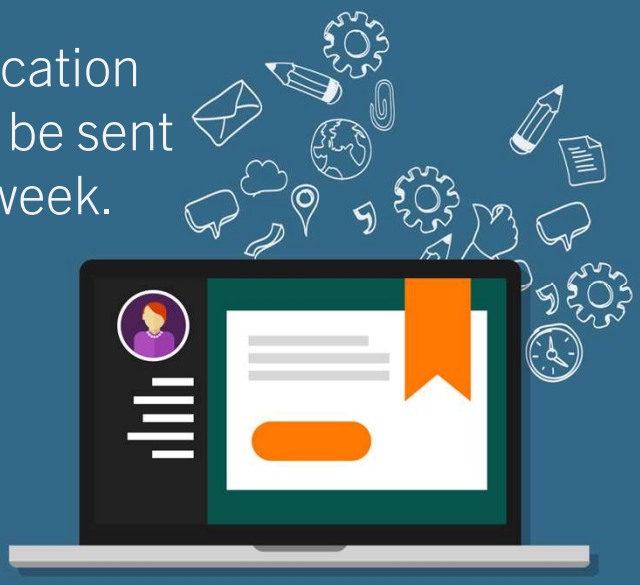
Continuing Education Certificates will be sent out within one week.



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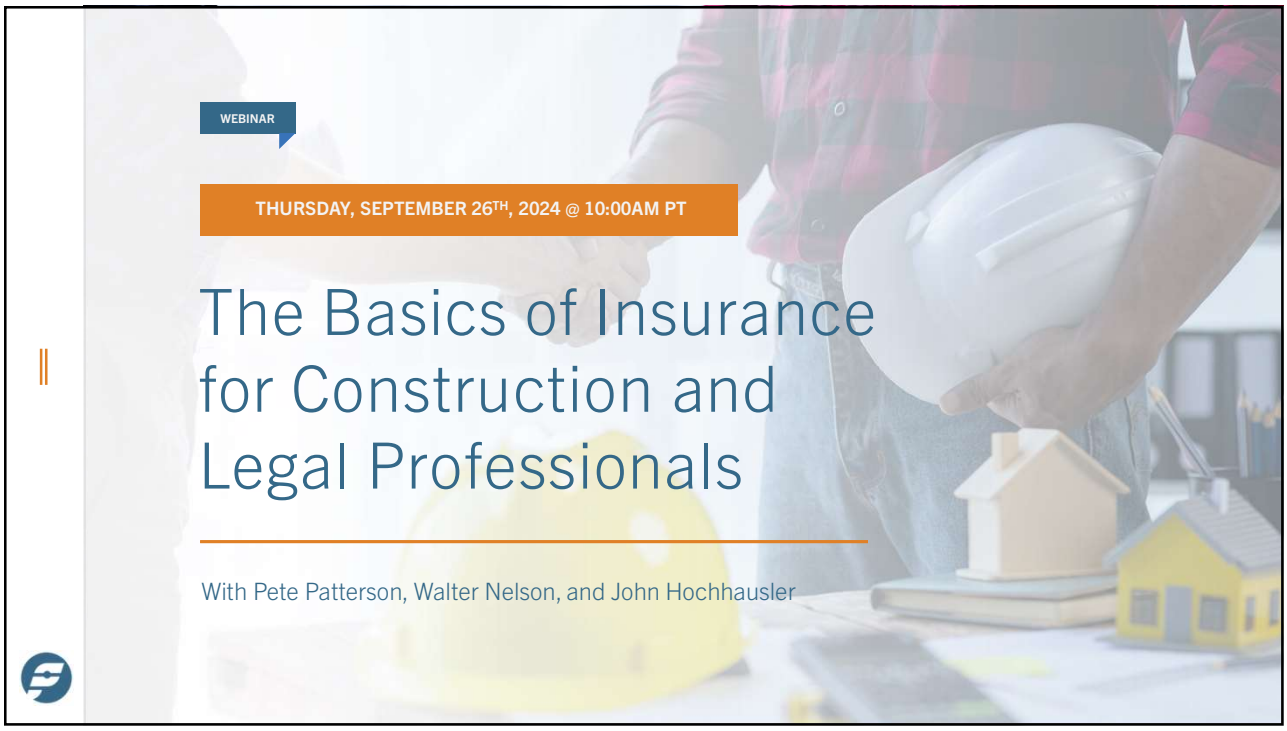
WEBINAR
THURSDAY, SEPTEMBER 26TH, 2024 @ 10:00AM PT
The Basics of Insurance for Construction and Legal Professionals
With Pete Patterson, Walter Nelson, and John Hochhausler

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