

# How To Avoid and Resolve Disputes Before They Cost You Money

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**Presented By: David P. Lees  
Partner, Mills & Mills LLP**

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# Presented by David P. Lees, Mills & Mills LLP

Before making partner, David served his articles with Mills & Mills LLP, joining the firm in 2001. David manages a diverse practice which includes estate administration, estate planning, business law, employment law, civil litigation and advocacy before all levels of Courts in Ontario including the Divisional Court, the Court of Appeal, as well as a variety of administrative tribunals and arbitrators.

David serves as a director on several boards and is a member of the Law Society of Ontario, The Advocate's Society, Canadian Bar Association, Ontario Bar Association and the Christian Legal Fellowship.

Whether his client is an individual, shareholder, charity or corporation, David strives to resolve all conflicts creatively, practically, and efficiently.



# AGENDA

1. What are you trying to avoid?
2. Processes for resolving disputes
3. Types of Disputes
  - a. Landlord/Tenant
  - b. Employees
  - c. Associates
  - d. Partners
  - e. Patients
  - f. Estates
4. Practical Suggestions
5. Questions

# What are you trying to avoid?

## Financial Costs:

- Legal costs
- Expert costs
- Accounting costs

A lawyer is a gentleman who rescues your estate from your enemies and keeps it for himself. - Lord Brougham

# What are you trying to avoid?

Destructive Backwards-Looking process

Digging through documents

Loss of Time

Reputation

Uncertainty

# Resolving Disputes

Litigation

Arbitration

Mediation

MedArb

# Resolving Disputes

## Litigation

Small Claims Court under \$25,000  
Simplified Rules under \$100,000  
Regular Rules over \$100,000

Human Rights Tribunal of Ontario  
Ontario Labour Relations Board

# Resolving Disputes

## Litigation

Disclosure of evidence and positions

Discovery

Pretrial

Trial

## Costs



# Resolving Disputes

## **COST OF THE TYPICAL CIVIL CASE TO LITIGANT (2015)**

(assuming the plaintiff's side through a three day  
General Division Trial and a solicitor's time at \$200.00 per hour)

### **Steps:**

Initial interview, information gathering and research:	10 hours
Draft Statement of Claim:	5 hours
Prepare and Finalize Affidavit of Documents:	10 hours
Assume two motions (including prep):	15 hours
One cross-examination on Affidavits (one day plus prep):	15 hours
Discovery (two days plus prep):	25 hours
Pre-Trial:	10 hours

# Resolving Disputes

Notices including Request to Admit:	5 hours
Trial Preparation:	30 hours
Trial Time:	30 hours
Miscellaneous letters, telephone calls, reports (assume one hour per month over 3 years from start to finish):	36 hours

**TOTAL** 191 hours  
191 Hours at \$200.00  
Plus Disbursements  
Plus H.S.T. \$38,200.00

"Plus disbursements"

# Resolving Disputes

## Arbitration

- Private and binding

## Mediation

- Confidential

## MedArb

- Binding

Key Take Away: what mechanism you want to use to resolve a conflict

# Resolving Disputes

- Justice is open to everyone in the same way as the Ritz Hotel.  
~ Judge Sturgess
  
- He who fails to plan is planning to fail.  
~ Sir Winston Churchill

# Types of Disputes

## Landlord/Tenant

- Additional Rent & Reconciliation
- Non-competition
- Renewal clauses – material default
- Rates in the renewal period
- Signage
- Termination

# Types of Disputes

## Employees

- Written policies - technology
- Overtime
- Termination (*Wood v. Fred Deeley Imports Ltd.*)
- *Employment Standards Act, 2000*
- Ontario Human Rights Code
- Accommodation
- Independent contractor v. employee

# Types of Disputes

## Partners

- Expectation – hours, admin
- Profit split
- Mechanism for compensation for extra work
- Exit
- Competition and Solicitation of Patients

# Types of Disputes

## Patients

- Setting payment expectations
- Special discounts and arrangements
- Importance of maintaining good records in case of a negligence claim
- Maintaining patient privacy (health information)
- Insurance claims



# Types of Disputes

## Estates

- Prepare a will – don't let your hard-earned money go to waste!

# Practical Tips

- Get it in writing or it doesn't exist
- Send a confirming email
- Be careful of an agreement to agree
- Be wary of stand forms

# Practical Tips

- Decide in advance a way to deal with conflict
- Consider forcing a mediation
- Speak with a lawyer before making a move
- Be organized
- Use a chronology; fill in with documents and memory

# Practical Tips

- Be prepared to compromise
- A lawyer is a gentleman who rescues your estate from your enemies and keeps it for himself. - Lord Brougham
- The main business of a lawyer is to take the romance, the mystery, the irony, the ambiguity out of everything he touches.
- Antonin Scalia



David P. Lees  
Partner, Mills & Mills LLP  
david.lee@millsandmills.ca, (416) 682-7159