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# Summer 2013 Newsletter

## Center for Negotiation and Dispute Resolution



### *Comminique*

#### **We're Turning 10!!**



It's hard to believe it's only been 10 years since UC Hastings launched the Center for Negotiation and Dispute Resolution, fondly referred to as CNDR. In that relatively short time we have risen among the ranks of alternative dispute resolution programs in the country and have established our presence world wide as a leader in dispute resolution training, as evidenced by the success of our Negotiation and Mediation Team and the number of countries that have benefited from our trainings and technical assistance. Success has come through the dedication and hard work of many people and we invite you to celebrate with us our diamond anniversary.

Wanting to reach out to a wide diverse audience, we have put together a series of events which will recognize and celebrate our accomplishments and look forward to a future of dispute resolution, education and service.

#### **Please Save These Dates:**

**September 30, 5:30 pm to 7:30 pm, UC Hastings Skyroom – Director's Reception**

Current and former CNDR Directors will celebrate the past 10 years with community stakeholders and present the first **CNDR Exceptional Service Award** to Howard Herman, UC Hastings '83 and Director of the ADR Program at the U.S. District Court for the Northern District of California, for his outstanding and significant contributions to the field of ADR and to CNDR.



**October 1, 7:30 am to 9:30 am, UC Hastings Alumni Reception Center – Breakfast with Peter Sims**

Peter Sims is the best selling author of “Little Bets: How Breakthrough Ideas Emerge from Small Discoveries”. Based on extensive research, Sims discovered that productive thinkers and doers practice a set of often counterintuitive experimental methods that free their minds, opening them up to making unexpected connections and having valuable insights. He will discuss the concepts in his book and participate in a Q and A over breakfast.



**October 2, 3:30 to 5:30, UC Hastings Alumni Reception Center – Comedy, Conflict and Cookies**

Debra Gerardi, RN, MPH, JD will lead this workshop for UC Hastings students. Trained at Second City and Bay Area Theater Sports, Debra applies improvisation as a means of tapping into each person's capacity for engaging authentically and spontaneously, releasing their creativity, insight, humor and strengths.

## **CNDR Spring Fever**

Now that our collective temperatures are cooling down after a very busy spring and summer, we have the opportunity to reflect back on 2013 thus far. With CLE offerings, conferences, guest speakers and international guests, we had our hands full. The following are highlights of our activities since we last checked in with you in March.



The **Queen's Bench**, also known as the Women's Bar Association of San Francisco, hosted the panel presentation “**Careers in ADR: Pitfalls, Challenges and Triumphs from the Trenches.**” CNDR Director Sheila Purcell and other

ADR professionals from the Bay Area shared with young attorneys steps to take (and to avoid!) in becoming a mediator or arbitrator.

Professor Carol Izumi helped organize and moderated a panel at the **UC Hastings Criminal Justice Conference**. The panel, which focused on juvenile justice, including restorative justice, included Barry Krisberg, Director of Research and Policy, Earl Warren Institute, Berkeley School of Law, Dan Macallair, Executive Director, Center on Juvenile and Criminal Justice, Judge Elizabeth Lee, Superior Court, San Mateo County, Julia Sabory, San Francisco Juvenile Probation Department and Senator Leland Yee.



The **ABA Section of Dispute Resolution** held its annual spring conference in Chicago this year, and CNDR's faculty took advantage of the latest in ADR research, thinking, publications and innovative teaching methods. In addition, CNDR "waved its flag" by sponsoring a booth in the exhibitors' hall with information on UC Hastings and the many ADR services we enjoy and provide here in San Francisco.



Patrick Cavanagh, mediator, consultant and Adjunct Professor of Law at Bond University in Australia presented "**Commercial Negotiation Tips: Down and Dirty from Down Under**", a lively MCLE offering to UC Hastings alumni in Hastings' fabulous Skyroom. As Senior Advisor to the National Mediation Centre in Jakarta, Mr. Cavanagh was responsible for the drafting and implementation of mandatory civil court-annexed mediation programs together with associated judicial training and certification and accreditation schemes for commercial and court-appointed mediators.



CNDR presented "**Negotiating Solutions to Your eDiscovery Problems**", a symposium bringing together experts in eDiscovery law, technology and dispute resolution to discuss the fundamentals of eDiscovery and how ADR can be used in sorting out the myriad issues related to discovery in this modern legal era. See Michael Carbone's article.

CNDR Director Sheila Purcell spoke on a panel regarding mediation and facilitation at the **Peninsula Conflict Resolution Center (PCRC)**. PCRC is a community mediation program serving San Mateo County in the Bay Area.



**Professor Melissa Nelken**, who spearheaded the creation of CNDR in 2003 and has been its Faculty Chair since then (as well as Acting Director from 2010-2012), retired from UC Hastings effective July 1, 2013. Professor Nelken has been a member of the full time Hastings faculty since 1984; and in 1980, as a member of the adjunct faculty, she taught the first negotiation class ever offered at the law school. Professor Nelken will continue as Faculty Chair in 2013-14, and she intends to remain involved in various CNDR activities going forward.



The **U.S. Department of State's International Visitor Leadership Program** asked CNDR to host a delegation of young leaders from Bulgaria to learn more about ADR within the US justice system. 24 lawyers, junior judges, prosecutors and other judicial professionals from Bulgaria attended lunch and a presentation by CNDR Director Sheila Purcell and Claudia Bernard, Chief Circuit Mediator for the U.S. Court of Appeals for the Ninth Circuit and co-faculty for CNDR's International Court ADR System Design Institute.



**“Mastering the Fundamentals of Mediation,”** a 40 hour certificate training program for professionals and J.D. students, was a resounding success as participants raved about Adjunct Professor Jessica Notini’s “methods, experience & teaching style.” Participants said they not only learned “how to mediate but how to best advocate on behalf of clients in

mediation.” The program included many role plays for lots of practice with the useful tools taught.



Finally, at the end of June CNDR wrapped up its **2013 International Court ADR System Design Institute**, hosting 10 judges, attorneys and court administrators from Armenia, Cameroon, Egypt, China, Nigeria and the Philippines. Made possible by a generous grant from the JAMS Foundation, the

intensive six-day program delved into such topics as Rule of Law and ADR, Identifying Resources, Creating a Plan for ADR Development, Ethics, Program Evaluation and Change Leadership. Participants visited local court connected ADR programs and received individualized technical assistance for their jurisdictions. Follow up assistance will be provided by the faculty in 6 months.

### **CNDR Symposium Explores Use of ADR in eDiscovery by Michael P. Carbone**

A group of thirty-two lawyers and other professionals gathered at Hastings on May 16 for a first-ever eDiscovery Symposium, entitled “Negotiating Solutions to Your eDiscovery Problems.”

Sponsored by the Center for Negotiation and Dispute Resolution, the purpose of the Symposium was to identify eDiscovery issues that can lead to disputes and to explore the ways to resolve them. Courts require the parties to negotiate. When negotiations break down, the use of a neutral may be needed.



The format for the day was primarily interactive discussion. The faculty included several individuals with national reputations in eDiscovery, and almost all of the other participants had substantial experience in the field.

Hastings Professor Richard Marcus led the two morning panels that included Jonathan Redgrave of Redgrave LLP, Maura Grossman of Wachtell Lipton Rosen and Katz LLP, and San Francisco County Superior Judge E.A. Curtis Karnow. They were joined by Symantec eDiscovery lawyers Allison Walton and Matt Nelson.



The first afternoon panel, chaired by Allison Walton, who was again joined by Matt Nelson and Maura Grossman, provided a stimulating discussion about new methods and technologies that are being used for organization, preservation, search, review and retrieval of electronically stored information. Because they are unfamiliar

to many people, these methods often lead to controversies.

Maura Grossman shared her depth of knowledge about predictive coding. Jerone English, a lawyer with Intel, and Steve VanLiere of H5, an information retrieval firm, provided their insights on technology-assisted review (TAR) and related topics.



The final panel, consisting of Martin Quinn and Cathy Yanni of JAMS and Michael Carbone of MPC Dispute Resolution, dealt with the use of special masters in federal court, discovery referees in state court, and the emerging use of e-discovery mediation.

Following the panels, three groups of skilled negotiators engaged in mock meet and confer sessions. Each one focused on a different issue, including preservation of ESI, scope of discovery, and use of TAR.

Many of the participants are now forming the Northern California Friends of eDiscovery, which will be a forum for further dialogue. Membership will be open to experienced professionals who are able to contribute their time and talents. Further information is available from the author at [mcabone@mpcdisputeresolution.com](mailto:mcabone@mpcdisputeresolution.com).

## 2012-2013 ADR Team Results

As we prepare for another school year, which starts with the Negotiation and Mediation Team Tryouts, we want to officially publish the team's results from last year. As you will see, Head

Coach Clint Waasted and the team had another fantastic year. Thanks to all who gave their support by coaching and judging. We're looking forward to another successful year.



**Thomas Jefferson School of Law National Sports Law Negotiation Competition, San Diego CA**

3<sup>rd</sup> Place – Olivera Jovanovic and Sarah Mohammadi

**Jeffry Abrams National Mediator Competition, Houston TX**

1<sup>st</sup> Place – Edward Matta

**Liberty University National Negotiation**

**Competition, Lynchburg VA**

1<sup>st</sup> Place – Robert McBride and Kyle Gertridge

4<sup>th</sup> Place – Kathryn Miller and Nicholas Yu



**International Chamber of Commerce International Commercial Mediation Competition, Paris France**

Best Opening Statements – Grant Shubin, Michael LaFond and Edward Matta

Best Teamwork – Michael LaFond, Edward Matta and Grant Shubin

**Cooley School of Law Great Lakes Mediation Tournament, Ann Arbor MI**

**Individual Awards:**

1st Place Advocacy – Robert McBride and Elisabeth

Aultman

2nd Place Overall – Ida Khamsi

5th Place Advocacy - Ida Khamsi and Robert McBride

5th Place Mediation - Ida Khamsi

**Team Advocacy:**

1st Place - Robert McBride, Ida Khamsi, and Elisabeth Aultman

3rd Place -Grant Shubin, Stacy Boven and Kevin Morrissey



### **Team Mediation**

4th Place - Ida Khamsi, Elisabeth Aultman and Robert McBride

### **Team Overall**

3rd Place - Elisabeth Aultman, Robert McBride, and Ida Khamsi

5th Place - Kevin Morrissey, Grant Shubin and Stacy Boven

### **International Competition for Mediation Advocacy, Toronto Canada**

3<sup>rd</sup> Place – Ari Cover, Nicholas Campbell, Olivera Jovanovic and Sarah Mohammadi



### **International Academy of Dispute Resolution Mediation Competition, Dublin Ireland**

4<sup>th</sup> Place Team Advocacy – Brooke Barnum-Roberts, Erika Schmidt and Julia Graeser

4<sup>th</sup> Place Individual Advocacy – Erika Schmidt and Brooke Barnum-Roberts

7<sup>th</sup> Place Individual Mediation – Brooke Barnum-Roberts

### **Negotiation Competition, Portland OR**

1<sup>st</sup> Place – Ryan Witthans and Justin Schultz

### **Western Regional Environmental Law**